As filed with the Securities and Exchange Commission on November 15, 2013

Registration No. 333-

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

## FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

# SEMLER SCIENTIFIC, INC.
(Exact name of registrant as specified in its charter)

| Delaware | 3845 | 26-1367393 |
|---|---|---|
| (State or other jurisdiction of incorporation or organization) | (Primary Standard Industrial Classification Code Number) | (I.R.S. Employer Identification No.) |

**2330 NW Everett St.**
**Portland, OR 97210**
**Telephone: (877) 774-4211**
(Address, including zip code, and telephone number, including area code, of registrant's principal executive office)

**Douglas Murphy-Chutorian, M.D.**
**Chief Executive Officer**
**Semler Scientific, Inc.**
**2330 NW Everett St.**
**Portland, OR 97210**
**Telephone: (877) 774-4211**
(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 after this Registration Statement is declared effective.

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

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act Registration Statement number of the earlier effective Registration Statement for the same offering: ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, please check the following box and list the Securities Act Registration Statement number of the earlier effective Registration Statement for the same offering: ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act Registration Statement number of the earlier effective Registration Statement for the same offering: ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

| | |
|---|---|
| Large accelerated filer ☐ | Accelerated filer ☐ |
| Non-accelerated filer ☐ (Do not check if smaller reporting company) | Smaller reporting company ☒ |

**CALCULATION OF REGISTRATION FEE**

| Title of Each Class of Securities to be Registered | Proposed Maximum Aggregate Offering Price[1] | Amount of Registration Fee[2] |
|---|---|---|
| Common Stock, par value $0.001 per share[3][4] | $ 15,000,000 | $ 1,932 |
| Representative's Warrants to Purchase Common Stock[5] | — | — |
| Common Stock Underlying Representative's Warrants[3][6][7] | 815,217 | 105 |
| Total Registration Fee | $ 15,815,217 | $ 2,037 |

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act.

(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

(3) Pursuant to Rule 416 under the Securities Act, the shares of common stock registered hereby also include an indeterminate number of additional shares of common stock as may from time to time become issuable by reason of stock splits, stock dividends, recapitalizations or other similar transactions.

(4) Includes shares of common stock the underwriters have the option to purchase to cover over-allotments, if any.

(5) No registration fee pursuant to Rule 457(g) under the Securities Act.

(6) The warrants are exercisable at a per share exercise price equal to 125% of the public offering price. As estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(g) under the Securities Act, based on an estimated proposed maximum aggregate offering price of $815,217, or 125% of $652,174 (5% of $13,043,478).

(7) The common stock underlying the warrants is being registered solely in connection with the Securities and Exchange Commission's Compliance and Disclosure Interpretations for Securities Act Sections, Question 139.05. No "offer" of such common stock exists as defined in Section 2(a)(3) of the Securities Act because the warrants are not exercisable until one year following their issuance.

**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 or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to Section 8(a), may determine.**

**PRELIMINARY PROSPECTUS SUBJECT TO COMPLETION DATED , 2013**

# Shares
# Common Stock


This is a firm commitment initial public offering of shares of common stock by Semler Scientific, Inc. No public market currently exists for our common stock. We anticipate that the initial public offering price of our common stock will be between $ and $ per share.

We have applied to list our common stock on The NASDAQ Capital Market under the symbol "SMLR." No assurance can be given that our application will be approved.

We are an "emerging growth company" as that term is used in the Jumpstart Our Business Startups Act of 2012 and have elected to comply with certain reduced public company disclosure standards.

**Investing in our common stock involves risks that are described in the "Risk Factors" section beginning on page 11 of this prospectus.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

| | Per Share | Total |
|---|---|---|
| Public offering price | $ | $ |
| Underwriting discounts and commissions[(1)] | $ | $ |
| Proceeds, before expenses, to us | $ | $ |

(1) The underwriters will receive compensation in addition to the underwriting discount. See "Underwriting" beginning on page 73 of this prospectus for a description of compensation payable to the underwriters.

We have granted the underwriters a 45-day option to purchase up to additional shares of common stock solely to cover over-allotments, if any.

The underwriters expect to deliver the shares against payment therefor on or about , 2013.

**Aegis Capital Corp**

, 2013

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FloChec™
Digital ABI System

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You should rely only on the information contained in this prospectus or in any free writing prospectus that we may specifically authorize to be delivered or made available to you. We have not, and the underwriters have not, authorized anyone to provide you with any information other than that contained in this prospectus or in any free writing prospectus we may authorize to be delivered or made available to you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus may only be used where it is legal to offer and sell our securities. The information in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of our securities. Our business, financial condition, results of operations and prospects may have changed since that date. We are not, and the underwriters are not, making an offer of these securities in any jurisdiction where the offer is not permitted.

For investors outside the United States: We have not and the underwriters have not done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of securities and the distribution of this prospectus outside the United States.

## PROSPECTUS SUMMARY

*This summary highlights information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our securities, you should carefully read this entire prospectus, including our financial statements and the related notes and the information set forth under the headings "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in each case included elsewhere in this prospectus. Unless otherwise stated or the context requires otherwise, references in this prospectus to "Semler Scientific," "we," "us," or "our" refer to Semler Scientific, Inc.*

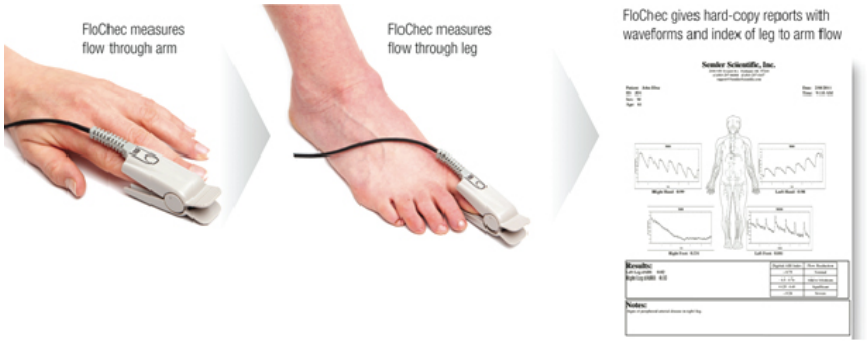
### Semler Scientific, Inc.

**Business Overview**

We are an emerging medical risk-assessment company. Our mission is to develop, manufacture and market patented products that identify the risk profile of medical patients to allow healthcare providers to capture full reimbursement potential for their services. Our first patented and U.S. Food and Drug Administration, or FDA, cleared product, is FloChec™. FloChec™ is used in the office setting to allow providers to measure arterial blood flow in the extremities and is a useful tool for internists and primary care physicians for whom it was previously impractical to conduct blood flow measurements. FloChec™ received FDA 510(k) clearance in February 2010, we began Beta testing in the third quarter of 2010, and we began commercially leasing FloChec™ in January 2011. In the year ended December 31, 2012 we had total revenue of $1,199,000 and a net loss of $2,741,000 compared to $316,000 and $1,876,000, respectively, in 2011. In the first nine months of 2013 we had total revenue of $1,493,000 and a net loss of $1,707,000 compared to $772,000 and $2,085,000, respectively, in the same period in 2012. Our net loss attributable to common stockholders was $1,707,000 for the nine months ended September 30, 2013 compared to $2,170,000 for the same period 2012, and was $2,826,000 for the year ended December 31, 2012 as compared to $1,876,000 for 2011.

**Our Product**

We currently have only one patented and FDA cleared product, FloChec™, that we market and lease to our customers. FloChec™ is a four-minute in-office blood flow test. Healthcare providers can use blood flow measurements as part of their examinations of a patient's vascular condition, including assessments of patients who have vascular disease. The following diagram illustrates the use of FloChec™:




FloChec™ features a sensor clamp that is placed on the toe or finger much like current pulse oximetry devices. Infrared light emitted from the clamp on the dorsal surface of the digit is scattered and reflected by the red blood cells coursing through the area of illumination. Returning light is 'sensed' by the sensor. A blood flow waveform is instantaneously constructed by the software algorithm and displayed on the video

monitor. Both index fingers and both large toes are interrogated, which takes about 30 seconds for each. A hardcopy report form is generated that displays four waveforms and the ratio of each leg measurement compared with the arms. Results are classified as Flow Obstruction, Borderline Flow Obstruction and No Flow Obstruction.

**Market Opportunity**

In March 2010, President Obama signed into law the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively, the Health Care Reform Law. The Health Care Reform Law has brought a new way of doing business for providers and health insurance plans. We believe that fee-for-service programs will be reduced in favor of capitated programs that pay a monthly fee per patient. Fee-for-service is a payment model where services are unbundled and paid for separately. In health care, it gives an incentive for physicians to provide more treatments because payment is dependent on the quantity of care, rather than quality of care. Capitation is a payment arrangement that pays a physician or group of physicians a set amount for each enrolled person assigned to them, per period of time, whether or not that person seeks care. The amount of remuneration is based on the average expected health care utilization of that patient, with greater payment for patients with significant medical history. For Medicare Advantage patients, Centers for Medicare & Medicaid Services, or CMS, pays the fee per patient. CMS uses risk adjustment to adjust capitation payments to health plans, either higher or lower, to account for the differences in expected health costs of individuals. Accordingly, under CMS guidelines, risk adjustments per patient will provide payment that is higher for sicker patients who have conditions that are codified. The coding system used by CMS for the Medicare Advantage program is a hierarchical condition category, or HCC, diagnostic classification system that begins by classifying over 14,000 diagnosis codes into 805 diagnostic groups, or DXGs. Each code maps to exactly one DXG, which represents a well-specified medical condition, such as DXG 96.01 precerebral or cerebral arterial occlusion with infarction. DXGs are further aggregated into 189 condition categories or CCs. CCs describe a broader set of similar diseases. Diseases within a CC are related clinically and with respect to cost. An example is CC96 Ischemic or Unspecified Stroke, which includes DXGs 96.01 and 96.02 acute but ill-defined cerebrovascular disease. We believe that quality of care measured by completeness and wellness will induce higher payments per patient. These changes are already in place for the approximately 14 million participants in the Medicare Advantage program and are expected to expand to more types of insured patients as healthcare reform is deployed.

Undiagnosed vascular disease of the legs has been called a major under-diagnosed health problem in the United States by the National Institute of Health and the Wall Street Journal. Known as peripheral artery disease, or PAD, this condition is a common and deadly cardiovascular disease that is often undiagnosed. PAD develops when the arteries in the legs become clogged with plaque — fatty deposits — that limit blood flow to the legs. Published studies have shown that persons with PAD are four times more likely to die of heart attack, and two to three times more likely to die of stroke. According to a study by P.G. Steg published in the Journal of the American Medical Association, or JAMA, patients with PAD have a 21% event rate of cardiovascular death, heart attack, stroke or cardiovascular hospitalization within 12 months. The SAGE Group has estimated that as many as 18 million people are affected with PAD in the United States alone and A.T. Hirsch et al. in a JAMA published article further estimate that more than 75% are without classic symptoms of PAD, such as leg pain on exertion. One can lower the risks associated with PAD if the disease is detected, with early detection providing the greatest benefit.

We believe medical personnel who care for those older than 50 years are the target market for FloChec™. Based on U.S. Census data, we believe there are more than 80 million older Americans who could be evaluated for the presence of PAD. According to the Agency for Healthcare Research and Quality, there are over 200,000 internists, family practitioners and gerontologists in the United States. In addition, based on American Heart Association data, there are over 20,000 cardiologists and 7,500 vascular and cardiovascular surgeons. Also, there are millions of diabetic patients seen routinely by endocrinologists. Many podiatrists who see patients with these problems and orthopedic surgeons may see value in screening patients for circulation issues prior to leg procedures. Neurologists may need a tool to differentiate leg pain from vascular versus neurologic etiology. Nephrologists see patients with kidney disease, who have a higher frequency of PAD. Wound care centers need to know the adequacy of limb perfusion. We expect that each

physician will have thousands of patient visits annually from people older than 50 years. While it is standard practice to ask about symptoms of PAD and to feel for diminished pulses on physical exam, we believe that it is often in the case in busy practices that the questions go unasked. In addition, the physical exam of the extremities is generally cursory in the absence of a patient complaint. Given the ease of use and speed of FloChec™, we believe that many doctors will incorporate its use in their practice as a routine annual test. It is our intent that FloChec™ be incorporated as a tool in the routine physical exam of adult patients by primary care providers in a similar fashion to the use of a thermometer or stethoscope. Providers do not request payment for using a stethoscope during the physical examination. Similarly, we do not expect (or intend) for providers that use our FloChec™ to seek such a reimbursement approval.

**Our Business Strategy**

Our mission is to develop, manufacture and market patented products that identify the risk profile of medical patients to allow healthcare providers to capture full reimbursement potential for their services, while growing revenues and becoming and maintaining profitability. We intend to do this by:

- ***Capitalizing on opportunities provided by the Health Care Reform Law.*** Under the Health Care Reform Law, for capitated programs, payment is higher for sicker patients who have conditions that are codified. We believe a provider would prefer to have more remuneration for taking care of a patient. A provider expects to spend less time caring for a healthy patient than for a sicker patient. If payment per month was the same for both types of patients, there would be a perverse incentive for the provider to only want to care for healthy persons. Accordingly, CMS anticipated this situation and pays more per month for “sicker” patients who have chronic conditions that are identified on the medical record through use of an established coding system. This creates a business opportunity in finding low-cost, effective means to identify the conditions, which have been established in coding systems for risk adjustment of payments (higher payments paid to providers and healthcare plans to compensate them for caring for sicker or more risky patients). The more common and more dangerous a condition is, the greater the opportunity for profit. The goal is to provide cost-effective wellness.
- ***Targeting customers with patients at risk of developing PAD.*** Healthcare providers use blood flow measurements as part of their assessment of a patient’s vascular condition. Our strategy is to keep marketing our FloChec™ system, on a lease-based service model, to medical personnel who care for those older than 50, including cardiologists, internists, nephrologists, endocrinologist, podiatrists, and family practitioners. Specifically, we believe there are more than 250,000 physicians and other potential customers in the United States alone, many of the patients of whom will be more than 50 years old and at increased risk of developing PAD. Based on U.S. Census data, the evaluable patient population for FloChec™ is estimated to be more than 80 million patients in the United States annually.
- ***Expanding the tools available to internists and non-peripheral vascular experts.*** Our intention is to provide a tool to internists and non-peripheral vascular experts, for whom it was previously impractical to conduct a blood flow measurement unless in a specialized vascular laboratory. For vascular specialists, FloChec™ does not require the use of blood pressure cuffs (which should not be used on some breast cancer patients), and measures without blood pressure in obese patients and patients with non-compressible, hard, calcified arteries. Currently, these patients often are unable to be measured satisfactorily with traditional analog ankle brachial index, or ABI, devices.
- ***Developing additional products that allow healthcare providers to capture the full reimbursement potential for their services.*** We are currently developing several new products in conjunction with our consultant engineering groups that are intended to provide cost-effective wellness solutions for our growing, established customer base. The new products under development or to be developed may incorporate some of our current technology or new technology. The goal is to achieve a reputation for outstanding service and sell new cost effective wellness solutions to leverage our gains in the marketplace for such product offerings.

**Risks**

Since inception, we have incurred substantial losses. Our business and our ability to execute our business strategy are subject to a number of risks of which you should be aware before you decide to buy

our common stock. In particular, you should carefully consider the following risks, which are discussed more fully in "Risk Factors" beginning on page 11 of this prospectus.

- We have incurred significant losses since inception. There is no assurance that we will ever achieve or maintain profitability.
- If we do not successfully implement our business strategy, our business and results of operations will be adversely affected.
- We currently only have one product, FloChec™; FloChec™ may not achieve broad market acceptance or be commercially successful.
- Physicians may not widely adopt FloChec™ unless they determine, based on experience, long-term clinical data and published peer reviewed journal articles, that the use of FloChec™ provides a safe and effective alternative to other existing ABI devices.
- If healthcare providers are unable to obtain adequate coverage and reimbursement either for procedures performed using our product or patient care incorporating the use of our product, it is unlikely that our product will gain widespread acceptance.
- Our product, FloChec™, is not formally approved for reimbursement under an applicable third-party payor code; if third-party payors refuse to reimburse our customers for their use of our product, it could have a material adverse effect on our business.
- We have limited experience marketing FloChec™, are dependent on our distribution partner and we may not be able to generate anticipated sales.
- We face challenges and risk in managing and maintaining our distribution network and the parties who make up that network.
- To adequately commercialize FloChec™, we may need to increase our sales and marketing network, which will require us to hire, train, retain and supervise employees.
- We do not require our customers to enter into long-term leases or maintenance contracts for FloChec™ and may therefore lose customers on short notice.
- We rely heavily upon the talents of our Chief Executive Officer and Chief Operating Officer, the loss of either could severely damage our business.
- We rely on a sole independent supplier and single facility for the manufacturing of FloChec™. Any delay or disruption in the supply of the product or facility, may negatively impact our operations.
- Because we operate in an industry with significant product liability risk, and we may not be sufficiently insured against this risk, we may be subject to substantial claims against our product.
- We may implement a product recall or voluntary market withdrawal due to product defects or product enhancements and modifications, which would significantly increase our costs.
- If we fail to properly manage our anticipated growth, our business could suffer.
- Fluctuations in insurance cost and availability could adversely affect our profitability or our risk management profile.
- We will need to generate significant revenues to become and remain profitable.
- Our future financial performance will depend in part on the successful improvements and software updates to FloChec™ on a cost-effective basis.
- We operate in an intensely competitive and rapidly changing business environment, and there is a substantial risk our products could become obsolete or uncompetitive.

- One of our business strategies is developing additional products that allow healthcare providers to capture the full reimbursement potential for their services. The development of new products involves time and expense and we may never realize the benefits of this investment.
- Our business is subject to many laws and government regulations governing the manufacture and sale of medical devices, including the FDA's 510(k) clearance process.
- The FDA may change its policies, adopt additional regulations, or revise existing regulations, in particular relating to the 510(k) clearance process.
- Our business is subject to unannounced inspections by FDA to determine our compliance with FDA requirements.
- Although part of our business strategy is based on certain advantageous new payment provisions enacted under the current government healthcare reform, we also face significant uncertainty in the industry regarding the implementation of the Health Care Reform Law.
- Our business may be adversely impacted by the recent sequestration signed into law in the United States.
- The applicable healthcare fraud and abuse laws and regulations, along with the increased enforcement environment, may lead to an enforcement action targeting us, which could adversely affect our business.
- Changes in, or interpretations of, tax rules and regulations may adversely affect our effective tax rates.
- We are an "emerging growth company," and the reduced disclosure requirements applicable to emerging growth companies may make our common stock less attractive to investors.
- We will incur increased costs as a result of operating as a public company, and our management will be required to devote substantial time to new compliance initiatives and corporate governance practices.
- We currently have material weaknesses in our internal control over financial reporting. If we are unable to successfully remediate these material weaknesses in our internal control over financial reporting, it could have an adverse effect on our company.
- Our success largely depends on our ability to obtain and protect the proprietary information on which we base our product.
- We may need to license intellectual property from third parties, and such licenses may not be available or may not be available on commercially reasonable terms.
- We may be subject to claims by third parties asserting that our employees or we have misappropriated their intellectual property, or claiming ownership of what we regard as our own intellectual property.
- Intellectual property litigation could cause us to spend substantial resources and distract our personnel from their normal responsibilities.
- If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.
- After this offering, our executive officers, Directors and principal stockholders, if they choose to act together, will continue to have the ability to control all matters submitted to stockholders for approval.
- Provisions in our corporate charter documents and under Delaware law could make an acquisition of our company, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management.

- If you purchase shares of common stock in this offering, you will suffer immediate dilution of your investment.
- An active trading market for our common stock may not develop.
- The price of our common stock may be volatile and fluctuate substantially, which could result in substantial losses for purchasers of our common stock in this offering.
- We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.
- A significant portion of our total outstanding shares are eligible to be sold into the market in the near future, which could cause the market price of our common stock to drop significantly, even if our business is doing well.
- Because we do not anticipate paying any cash dividends on our capital stock in the foreseeable future, capital appreciation, if any, will be your sole source of gain.

**Corporate Information**

We were founded in Portland, Oregon as an Oregon corporation in August 2007. In March 2012, we converted from an S-Corporation to a C-Corporation and in September 2013, we reincorporated as a Delaware corporation. Our executive offices are located at 2330 NW Everett St., Portland, OR 97210 and our telephone number is (877) 774-4211. Our website address is semlerscientific.com. Information contained in our website does not form part of the prospectus and is intended for informational purposes only.

**Implications of Being an Emerging Growth Company**

As a company with less than $1.0 billion in revenue during our last fiscal year, we qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from specified disclosure requirements that are applicable to other public companies that are not emerging growth companies. These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced “Management’s Discussion and Analysis of Financial Condition and Results of Operations” disclosure;
- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements;
- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved.

We may take advantage of these provisions, including the extended adoption period for new or revised accounting pronouncements described below, for up to five years or such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company if we have more than $1.0 billion in annual revenues, have more than $700.0 million in market value of our capital stock held by non-affiliates or issue more than $1.0 billion of non-convertible debt over a three-year period. Even if we cease to be an emerging growth company, we may still enjoy reduced reporting obligations insofar as we remain a smaller reporting company. As an emerging growth company, we may choose to take advantage of

some, but not all, of the available exemptions. We have taken advantage of some reduced reporting burdens in this prospectus. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this exemption from new or revised accounting standards and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. However, if we later decide to opt out of the extended period for adopting new accounting standards, we would need to disclose such decision and it would be irrevocable.

**THE OFFERING**

| | |
|---|---|
| Common Stock offered by us | shares. |
| Common stock to be outstanding immediately after this offering | shares. If the underwriter's over-allotment option is exercised in full, the total number of shares of common stock outstanding immediately after this offering would be . |
| Over-allotment option | The underwriters have an option for a period of 45 days to purchase up to additional shares of our common stock to cover over-allotments, if any. |
| Use of proceeds | We intend to use the net proceeds received from this offering for working capital and general corporate purposes. See "Use of Proceeds" on page 27. |
| Risk factors | See "Risk Factors" beginning on page 11 and the other information included in this prospectus for a discussion of factors you should carefully consider before investing in our securities. |
| Proposed Symbol and Listing | We have applied to list our common stock on The NASDAQ Capital Market under the symbol "SMLR." |

Unless we indicate otherwise, all information in this prospectus:

- is based on 786,750 shares of common stock issued and outstanding as of November 14, 2013;
- assumes the automatic conversion into 2,012,152 shares of common stock of all of our outstanding shares of convertible preferred stock effective upon the closing of this offering;
- assumes the cashless exercise of outstanding warrants for 228,656 shares of our Series A-1 Preferred Stock and 1,067,210 shares of our Series A Preferred Stock in accordance with their terms, all of which shares of convertible preferred stock will be automatically converted into shares of our common stock, resulting in the issuance of an aggregate of shares of common stock effective upon the closing of this offering assuming an offer price of $ per share (which is the mid-point of the range set forth on the cover page of this prospectus);
- excludes 288,214 shares of common stock issuable upon exercise of outstanding warrants to acquire 25,000 shares of our Series A-2 Preferred Stock at a purchase price of $2.00 per share, 16,875 shares of our Series A-1 Preferred Stock at a purchase price of $4.00 per share, and 246,339 shares of our Series A Preferred Stock at a purchase price of $4.50 per share, which will become exercisable for common stock rather than convertible preferred stock upon closing of this offering in accordance with their terms;
- assumes no exercise by the underwriters of their option to purchase up to an additional shares of common stock to cover over-allotments, if any; and
- excludes shares of common stock underlying the warrants to be issued to the underwriters in connection with this offering.

## SUMMARY FINANCIAL DATA

The following table sets forth our summary statement of operations data for the fiscal years ended December 31, 2012 and 2011 derived from our audited financial statements and related notes included elsewhere in this prospectus. The summary financial data for the nine months ended September 30, 2013 and 2012, and as of September 30, 2013, are derived from our unaudited financial statements appearing elsewhere in this prospectus and are not indicative of results to be expected for the full year. Our financial statements are prepared and presented in accordance with generally accepted accounting principles in the United States. The results indicated below are not necessarily indicative of our future performance. You should read this information together with the sections entitled "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes included elsewhere in this prospectus.

| | (unaudited) Nine Months Ended September 30, | | Year Ended December 31, | |
|---|---|---|---|---|
| | 2013 | 2012 | 2012 | 2011 |
| **Revenue** | $ 1,493,000 | $ 772,000 | $ 1,199,000 | $ 316,000 |
| **Operating expenses:** | | | | |
| Cost of revenue | 276,000 | 232,000 | 364,000 | 145,000 |
| Engineering and product development | 254,000 | 220,000 | 277,000 | 246,000 |
| Sales and marketing | 1,585,000 | 1,312,000 | 1,718,000 | 647,000 |
| General and administrative | 958,000 | 995,000 | 1,255,000 | 1,057,000 |
| Total | 3,073,000 | 2,759,000 | 3,614,000 | 2,095,000 |
| **Loss from operations** | (1,580,000) | (1,987,000) | (2,415,000) | (1,779,000) |
| **Other Income (expenses)** | | | | |
| Interest expense | (83,000) | (90,000) | (120,000) | (64,000) |
| Other expense | (34,000) | (3,000) | (203,000) | (31,000) |
| **Loss before income tax expense** | (1,697,000) | (2,080,000) | (2,738,000) | (1,874,000) |
| **Income tax expense** | 10,000 | 5,000 | 3,000 | 2,000 |
| **Net loss** | $ (1,707,000) | $ (2,085,000) | $ (2,741,000) | $ (1,876,000) |
| **Deemed dividend** | — | (85,000) | (85,000) | — |
| **Net loss attributable to common stockholders** | $ (1,707,000) | $ (2,170,000) | $ (2,826,000) | $ (1,876,000) |
| **Net loss per share, basic and diluted** | $ (2.17) | $ (1.77) | $ (2.54) | $ (1.40) |
| **Weighted average share outstanding** | 786,750 | 1,223,777 | 1,113,622 | 1,341,629 |
| **Weighted average number of shares excluded in basic and diluted net loss per share:** | | | | |
| Convertible preferred stock | 1,480,042 | 226,790 | 542,678 | — |
| Preferred stock warrants | 1,285,839 | 196,617 | 471,161 | — |
| Common stock warrants | — | 227,493 | 170,152 | 175,963 |
| Options | 337,500 | 259,112 | 267,758 | 212,505 |
| **Total** | 3,103,381 | 910,012 | 1,451,749 | 388,468 |

| | As of September 30, 2013 | | |
|---|---|---|---|
| | Actual | Pro Forma[1] | Pro Forma, As Adjusted[2][3] |
| **Balance Sheet Data:** | | | |
| Cash and cash equivalents | $ 1,504,000 | $ | $ |
| Total assets | 2,382,000 | | |
| Total liabilities | 1,963,000 | | |
| Total stockholders' equity | 419,000 | | |

(1) Pro forma, as adjusted amounts give effect to (i) the issuance of shares of common stock from October 1, 2013 through and immediately prior to the date of this prospectus, including the automatic conversion into 2,012,152 shares of common stock of all our outstanding shares of convertible preferred stock and the issuance of shares of common stock upon the cashless exercise at the assumed initial public offering price of $ per share (the midpoint of the price range set forth on the cover page of this prospectus) of outstanding warrants for convertible preferred stock and subsequent automatic conversion of that convertible preferred stock into common, each upon the closing of this offering, and (ii) the sale of the shares in this offering at the assumed initial public offering price of $ per share (the midpoint of the price range set forth on the cover page of this prospectus), and after deducting underwriting discounts and commissions and other estimated offering expenses payable by us.

(2) The pro forma as adjusted balance sheet data reflects the items described in footnote (1) above and gives effect to our receipt of estimated net proceeds from the sale of shares of common stock that we are offering at an assumed initial public offering price of the common stock of $ per share, the midpoint of the price range on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) each of cash and cash equivalents, working capital, total assets, additional paid-in capital, and total stockholders' equity by $ , assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting the estimated underwriting discounts and commissions.

(3) The pro forma as adjusted data is illustrative only and will be adjusted based on the actual initial public offering price and other terms of this offering determined at pricing.

## RISK FACTORS

*Any investment in our securities involves a high degree of risk. Investors should carefully consider the risks described below and all of the information contained in this prospectus before deciding whether to purchase our common stock. Our business, financial condition or results of operations and trading price or value of our securities could be materially adversely affected by these risks if any of them actually occur. This prospectus also contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks we face as described below and elsewhere in this prospectus.*

### Risks Related to our Business

***We have incurred significant losses since inception. There is no assurance that we will ever achieve or maintain profitability.***

Since inception, we have incurred significant operating losses. Our net loss was $1,707,000 for the nine months ended September 30, 2013 compared to $2,085,000 for the nine months ended September 30, 2012, and $2,741,000 for the year ended December 31, 2012 compared to $1,876,000 for the year ended December 31, 2011. Our net loss attributable to common stockholders was $1,707,000 for the nine months ended September 30, 2013 compared to $2,170,000 for the same period 2012, and was $2,826,000 for the year ended December 31, 2012 as compared to $1,876,000 for 2011. As of September 30, 2013, we had an accumulated deficit of $8,826,000. To date, we have financed our operations primarily through private placements of our equity securities and, to a limited extent, bank financing. In the current economic environment, financing for technology and medical device companies has become increasingly difficult to obtain. Additional financing may not be available in the amount that we need or on terms favorable to us, if at all. If we raise additional funds through the issuance of equity or convertible debt securities, the percentage ownership of us by our stockholders would be diluted. In addition, in order to raise additional funds we may have to issue equity or debt securities that have rights, preferences and privileges senior to our existing securities. We have devoted substantially all of our financial resources and efforts to research and development and marketing of our FloChec™ system. There can be no assurance that we will be able to achieve or maintain profitability.

***If we do not successfully implement our business strategy, our business and results of operations will be adversely affected.***

Our business strategy was formed based on assumptions about the peripheral arterial disease, or PAD, market that might prove wrong. We believe that various demographics and industry-specific trends, including the aging of the general population, growth of capitated payment programs, numbers of undiagnosed patients with PAD and the importance of codifying vascular disease will help drive growth in the PAD market and our business. However, these demographics and trends, and our assumptions about them, are uncertain. Actual demand for our product could differ materially from projected demand if our assumptions regarding these factors prove to be incorrect or do not materialize, or if alternatives to FloChec™ gain widespread acceptance.

In addition, we may not be able to successfully implement our business strategy. To implement our business strategy we need to, among other things, find new applications for and improve FloChec™ and educate healthcare providers about the clinical and cost benefits of our product, all of which we believe could increase acceptance of our product by physicians. In addition, we are seeking to increase our sales and, in order to do so, will need to expand our direct and distributor sales forces in existing and new territories, all of which could result in our becoming subject to additional or different regulatory requirements, with which we may not be able to comply. Moreover, even if we successfully implement our business strategy, our operating results may not improve or may decline. We may decide to alter or discontinue aspects of our business strategy and may adopt different strategies due to business or competitive factors not currently foreseen, such as new medical technologies that would make our product obsolete. Any delay or failure to implement our business strategy may adversely affect our business, results of operations and financial condition.

***We currently only have one product, FloChec™; FloChec™ may not achieve broad market acceptance or be commercially successful.***

We currently only have one product. Accordingly, we expect that revenues from FloChec™ will account for the vast majority of our revenues for at least the next several years. FloChec™ may not gain broad market acceptance unless we continue to convince physicians of its benefits. Moreover, even if physicians understand the benefits of FloChec™, they still may elect not to use FloChec™ for a variety of reasons, such as the familiarity of the physician with other devices and approaches.

If physicians do not perceive FloChec™ as an attractive alternative to other products and procedures, we will not achieve significant market penetration or be able to generate significant revenues. To the extent that FloChec™ is not commercially successful or is withdrawn from the market for any reason, our revenues will be adversely impacted, and our business, operating results and financial condition will be harmed.

***Physicians may not widely adopt FloChec™ unless they determine, based on experience, long-term clinical data and published peer reviewed journal articles, that the use of FloChec™ provides a safe and effective alternative to other existing ABI devices.***

We believe that physicians will not widely adopt FloChec™ unless they determine, based on experience, long-term clinical data and published peer reviewed journal articles, that the use of FloChec™ provides a safe and effective alternative to other existing ABI devices.

We cannot provide any assurance that the data collected from our past, current and any future clinical trials will be sufficient to demonstrate that FloChec™ is an attractive alternative to other ABI devices or procedures. If we fail to demonstrate safety and efficacy that is at least comparable to other ABI devices that are available on the market, our ability to successfully market FloChec™ will be significantly limited. Even if the data collected from clinical studies or clinical experience indicate positive results, each physician's actual experience with FloChec™ will vary. We also believe that published per-reviewed journal articles and recommendations and support by influential physicians regarding FloChec™ will be important for market acceptance and adoption, and we cannot assure you that we will receive these recommendations and support, or that supportive articles will be published. Accordingly, there is a risk that FloChec™ may not be adopted by many physicians, which would negatively impact our business, financial condition and results of operations.

***If healthcare providers are unable to obtain adequate coverage and reimbursement either for procedures performed using our product or patient care incorporating the use of our product, it is unlikely that our product will gain widespread acceptance.***

Maintaining and growing revenues from FloChec™ depends on the availability of adequate coverage and reimbursement from third-party payors, including government programs such as Medicare and Medicaid, private insurance plans and managed care programs. Healthcare providers that use medical devices such as FloChec™ to test their patients generally rely on third-party payors to pay for all or part of the costs and fees associated with the procedures performed with these devices, or to compensate them for their patient care services. The existence of adequate coverage and reimbursement for the procedures or patient care performed with FloChec™ by government and private insurance plans is central to the acceptance of FloChec™ and any future products. During the past several years, third-party payors have undertaken cost-containment initiatives including different payment methods, monitoring healthcare expenditures, and anti-fraud initiatives. We may not be able to achieve or maintain profitability if third-party payors deny coverage or reduce their current levels of payment, or if our costs of production increase faster than increases in reimbursement levels. Further, many private payors use coverage decisions and payment amounts determined by the Centers for Medicare and Medicaid Services, or CMS, which administers the Medicare program, as guidelines in setting their coverage and reimbursement policies. Future action by CMS or other government agencies may diminish payments to physicians, outpatient centers and/or hospitals. Those private payors that do not follow the Medicare guidelines may adopt different coverage and reimbursement policies for procedures or patient care performed with FloChec™. For some governmental programs, such as Medicaid, coverage and reimbursement differ from state to state, and some state Medicaid programs may not pay an adequate amount for the procedures or patient care performed with FloChec™ if any payment is made at all. As the portion of the U.S. population over the age

of 65 and eligible for Medicare continues to grow, we may be more vulnerable to coverage and reimbursement limitations imposed by CMS. Furthermore, the healthcare industry in the United States has experienced a trend toward cost containment as government and private insurers seek to control healthcare costs by imposing lower payment rates and negotiating reduced contract rates with service providers. Therefore, we cannot be certain that the procedures or patient care performed with our product will be reimbursed at a cost-effective level.

***Our product, FloChec™, is not formally approved for reimbursement under an applicable third-party payor code; if third-party payors refuse to reimburse our customers for their use of our product, it could have a material adverse effect on our business.***

Our product, FloChec™, is purchased by healthcare providers, who bill various third-party payors, including governmental healthcare programs, such as Medicare and Medicaid, private insurance plans and managed care programs for procedures in which FloChec™ is used. Reimbursement is a significant factor considered by healthcare providers in determining whether to acquire medical devices or systems such as FloChec™. Although it is our intent that FloChec™ be incorporated as a tool in the routine physical exam of adult patients by primary care providers in a similar fashion to the use of a thermometer or stethoscope (such that reimbursement is not sought), we cannot control whether or not providers who use FloChec™ will seek reimbursement. Therefore, our ability to successfully commercialize FloChec™ could depend on the adequacy of coverage and reimbursement from these third-party payors.

Currently, FloChec™ is not formally approved for any particular reimbursement code. Although most of our customers report being covered and reimbursed by third-party payors consistently for procedures using a variety of different reimbursement codes, there is a risk that third party payors may disagree with the reimbursement under a particular code. In addition, some potential customers have deferred renting our product given the uncertainty regarding reimbursement. We do not track denial of requests for reimbursement made by the users of our product. It is our belief that such denials have occurred and might occur in the future with more or less frequency. Even if our product and procedures are often currently covered and reimbursed by third-party payors and Medicare, problems for customers to receive reimbursement or adverse changes in payors' coverage and reimbursement policies that affect our product could harm our ability to market FloChec™. Obtaining approval for a particular reimbursement code is timely and can be costly. Accordingly, at this time, and given the way we intend FloChec™ to be used, we do not intend to pursue formal approval for FloChec™ for any particular code.

Moreover, we are unable to predict what changes will be made to the reimbursement methodologies used by third-party payors. We cannot be certain that under current and future payment systems, in which healthcare providers may be reimbursed a set amount based on the type of procedure performed, such as those utilized by Medicare and in many privately managed care systems, the cost of our product will be justified and incorporated into the overall cost of the procedure.

***We have limited experience marketing FloChec™ and may not be able to generate anticipated sales.***

Because we launched FloChec™ in the first quarter of 2011, we have limited experience marketing our product. As of November 8, 2013, our U.S. sales force consisted of 4 exclusive sales representatives. In August 2012, we signed a co-exclusive supply and distribution agreement with Bard Peripheral Vascular, Inc., a large medical device company, to distribute FloChec™. Our operating results are directly dependent upon our sales and marketing efforts and to a lesser extent, the efforts of our co-exclusive contract distributor. While we expect our sales representatives and our co-exclusive contract distributor to develop long-lasting relationships with the physicians and healthcare providers they serve and provide services in accordance with our standards. However, we do not control our co-exclusive contract distributor, and it operates and oversees its own daily operations. There is a risk that our co-exclusive contract distributor will not always act consistent with our best interests. If our co-exclusive contract distributor fails to adequately promote and market FloChec™, our revenues could decrease and we might not be able to achieve or maintain profitability and it could have a material adverse effect on our business and financial condition.

***We face challenges and risk in managing and maintaining our distribution network and the parties who make up that network.***

We face significant challenges and risks in managing our distribution network and retaining the parties who make up that network. If any of our direct sales representatives were to leave us, or if our distributor

were to cease to do business with us, our sales could be adversely affected. Our co-exclusive distributor accounted for less than 20% of our revenue for the year ended December 31, 2012 and nine months ended September 30, 2013. If our co-exclusive distributor were to cease to distribute our product, it would slow down our efforts to gain widespread market acceptance of FloChec™. Although we have a good relationship with our co-exclusive distributor and have no reason to believe that our current contract will not be renewed when it expires at the end of 2014, or that our co-exclusive distributor will terminate our arrangement prior to expiration (which it is permitted to do upon 90 days' notice under our contract), we may need to seek out alternatives, such as increasing our direct sales force or contracting with external independent sales representatives or enter another distributor relationship. There is no guarantee that we would be successful in our efforts to find independent sales representatives or another large distributor, or that we would be able to negotiate contract terms favorable to us. Failure to hire or retain qualified direct sales representatives or independent distributors would prevent us from expanding our business and generating revenues, which would have a material adverse effect on our ability to achieve or maintain profitability.

***To adequately commercialize FloChec™, we may need to increase our sales and marketing network, which will require us to hire, train, retain and supervise employees.***

If we increase our marketing efforts with respect to FloChec™, or launch new products we will need to expand the reach of our marketing and sales network. Our future success will depend largely on our ability to continue to hire, train, retain and motivate skilled direct sales representatives, independent sales representatives or distributors with significant technical knowledge about our product. New hires require training, supervision and take time to achieve full productivity. If we fail to train and supervise new hires adequately, or if we experience high turnover in our sales force in the future, we cannot be certain that new hires will become as productive as may be necessary to maintain or increase our sales. If we are unable to expand our sales and marketing capabilities, we may not be able to effectively commercialize FloChec™ which would adversely affect our business, results of operations and financial condition.

***We do not require our customers to enter into long-term leases or maintenance contracts for FloChec™ and may therefore lose customers on short notice.***

Our business is based on a service model rather than an outright sale of our FloChec™ product. Our service model pricing is based on data collected on use rates of FloChec™ and third-party payment rates to physicians and facilities using our product. We require no down payment, long-term commitment or maintenance contract or fees from our customers and replace damaged products free of charge in the service model. If we lose current customers on short notice, we may not be able to find new customers to replace them with in a timely manner and that could adversely affect our business, results of operations and financial condition. In addition, our business model of replacing damaged products free of charge may prove to be costly and affect the profitability of our service model.

***We rely heavily upon the talents of our Chief Executive Officer and Chief Operating Officer, the loss of either could severely damage our business.***

Our performance depends to a large extent on a small number of key scientific, technical, managerial and marketing personnel. In particular, we believe our success is highly dependent upon the services and reputation of our Chief Executive Officer, Dr. Douglas Murphy-Chutorian, and our Chief Operating Officer, Robert G. McRae. Dr. Murphy-Chutorian and Mr. McRae each provide highly valuable contributions in instituting a strong focus of specification methods, test method development and improved product quality. In particular, Mr. McRae has defined our product development pipeline and budget, provided design controls and enhanced the customer support functions. Although we have key man insurance for Mr. McRae, we do not have such insurance for Dr. Murphy-Chutorian. The loss of either Dr. Murphy-Chutorian or Mr. McRae's services could still severely damage our business prospects, which could have a material adverse effect on our financial condition and results of operations.

***We rely on a sole independent supplier and single facility for the manufacturing of FloChec™. Any delay or disruption in the supply of the product or facility, may negatively impact our operations.***

We manufacture our product, FloChec™, through a sole independent contractor. The loss or disruption of our relationships with outside vendors could subject us to substantial delays in the delivery of

our product to customers. Significant delays in the delivery of our product could result in possible cancellation of orders and the loss of customers. Although we expect our vendor to comply with our contract terms, we do not have control over our vendor. Our inability to provide a product that meets delivery schedules could have a material adverse effect on our reputation in the industry, which could have a material adverse effect on our financial condition and results of operations.

Further, we manufacture FloChec™ through this sole contract manufacturer in one single facility. If an event occurred that resulted in material damage to this manufacturing facility or our manufacturing contractor lacked sufficient labor to fully operate the facility, we may be unable to transfer the manufacture of FloChec™ to another facility or location in a cost-effective or timely manner, if at all. This potential inability to transfer production could occur for a number of reasons, including but not limited to a lack of necessary relevant manufacturing capability at another facility, or the regulatory requirements of the FDA or other governmental regulatory bodies. Even if there are many qualified contract manufacturers available around the country and our product is relatively easy to manufacture, such an event could have a material adverse effect on our financial condition and results of operations.

***Because we operate in an industry with significant product liability risk, and we may not be sufficiently insured against this risk, we may be subject to substantial claims against our product.***

The development, manufacture and sale of products used in a medical setting entails significant risks of product liability claims. Although we maintain product liability insurance to cover us in the event of liability claims, and as of the date of this prospectus, no such claims have been asserted or threatened against us, our insurance may not be sufficient to cover all possible future product liabilities. Accordingly, we may not be adequately protected from any liabilities, including any adverse judgments or settlements, we might incur in connection with the development, clinical testing, manufacture and sale of our product. A successful product liability claim or series of claims brought against us that result in an adverse judgment against or settlement by us in excess of any insurance coverage could seriously harm our financial condition or reputation. Moreover, even if no judgments, fines, damages or liabilities are imposed on us, our reputation could suffer, which could have a material adverse effect on our business, financial condition and results of operations. In addition, product liability insurance is expensive and may not always be available to us on acceptable terms, if at all.

***We may implement a product recall or voluntary market withdrawal due to product defects or product enhancements and modifications, which would significantly increase our costs.***

The manufacturing and marketing of FloChec™ and any future products that we may develop involves an inherent risk that our products may prove to be defective. In that event, we may voluntarily implement a recall or market withdrawal or may be required to do so by a regulatory authority. A recall of FloChec™ or one of our future products, or a similar product manufactured by another manufacturer, could impair sales of the products we market as a result of confusion concerning the scope of the recall or as a result of the damage to our reputation for quality and safety.

***If we fail to properly manage our anticipated growth, our business could suffer.***

Our growth has placed, and will continue to place, a significant strain on our management and on our operational and financial resources and systems. Failure to manage our growth effectively could cause us to over-invest or under-invest, and result in losses or weaknesses. Additionally, our anticipated growth will increase the demands placed on our supplier, resulting in an increased need for us to carefully monitor for quality assurance. Any failure by us to manage our growth effectively could have an adverse effect on our ability to achieve our development and commercialization goals.

***Fluctuations in insurance cost and availability could adversely affect our profitability or our risk management profile.***

We hold a number of insurance policies, including product liability insurance, directors' and officers' liability insurance, and workers' compensation insurance. If the costs of maintaining adequate insurance coverage increase significantly in the future, our operating results could be materially adversely affected. Likewise, if any of our current insurance coverage should become unavailable to us or become economically

impractical, we would be required to operate our business without indemnity from commercial insurance providers. If we operate our business without insurance, we could be responsible for paying claims or judgments against us that would have otherwise been covered by insurance, which could adversely affect our results of operations or financial condition.

***We will need to generate significant revenues to become and remain profitable.***

We intend to increase our operating expenses substantially as we add sales representatives to increase our geographic sales coverage, increase our marketing capabilities, pursue research and new product development and increase our general and administrative functions to support our growing operations. We will need to generate significant sales to achieve and maintain profitability and we might not be able to do so. Even if we do generate significant sales, we might not be able to become profitable or sustain or increase profitability on a quarterly or annual basis in the future. If our sales grow more slowly than we anticipate or if our operating expenses exceed our expectations, our financial performance will likely be adversely affected.

***Our future financial performance will depend in part on the successful improvements and software updates to FloChec™ on a cost-effective basis.***

Our future financial performance will depend in part on our ability to influence, anticipate, identify and respond to changing consumer preferences and needs and the technologies relating to the care and treatment of vascular problems. We can provide no assurances that FloChec™ will achieve significant commercial success as in the past and that it will gain meaningful market share. We may not correctly anticipate or identify trends in consumer preferences or needs, or may identify them later than competitors do. In addition, difficulties in manufacturing or in obtaining regulatory approvals may delay or prohibit improvements to FloChec™. Further, we may not be able to develop improvements and software updates to FloChec™ at a cost that allows us to meet our goals for profitability. Service costs relating to our product may be greater than anticipated, rentals may be returned prior to the end of the lease term, and we may be required to devote significant resources to address any quality issues associated with FloChec™.

Failure to successfully introduce improve or update FloChec™ on a cost-effective basis, or delays in customer decisions related to the evaluation of FloChec™ could cause us to lose market acceptance and could materially adversely affect our business, financial condition and results of operations.

***We operate in an intensely competitive and rapidly changing business environment, and there is a substantial risk our products could become obsolete or uncompetitive.***

The market for medical systems, equipment and other devices is highly competitive. We compete with many medical service companies in the United States and internationally in connection with FloChec™ and products under development. We face competition from numerous companies in the diagnostic area, as well as competition from academic institutions, government agencies and research institutions. Most of our current and potential competitors have, and will continue to have, substantially greater financial, technological, research and development, regulatory and clinical, manufacturing, marketing and sales, distribution and personnel resources than we do. There can be no assurance that we will have sufficient resources to successfully commercialize FloChec™ or any other future products that we may develop, if and when they are approved for sale or lease. Our future success will depend largely upon our ability to anticipate and keep pace with developments and advances. Current or future competitors could develop alternative technologies or products that are more effective, easier to use or more economical than what we or any potential licensee develop. If our technologies or products become obsolete or uncompetitive, our related product sales and licensing revenue would decrease. This would have a material adverse effect on our business, financial condition and results of operations.

***One of our business strategies is developing additional products that allow healthcare providers to capture the full reimbursement potential for their services. The development of new products involves time and expense and we may never realize the benefits of this investment.***

As part of our business strategy, we intend to develop additional products that allow healthcare providers to capture the full reimbursement potential for their services. Such product development may require substantial investments and we may commit significant resources and time before knowing whether

our efforts will translate into profits for our company. It is possible that our development efforts will not be successful and that we will not be able to develop new products, or if developed that such products will obtain the necessary regulatory approvals for commercialization. Even if approved, there is no guarantee that such products will achieve market acceptance and we may never realize the benefits of any investment in this strategy.

**Risks Related to our Legal and Regulatory Environment**

***Our business is subject to many laws and government regulations governing the manufacture and sale of medical devices, including the FDA's 510(k) clearance process.***

FloChec™ and any future are medical devices that we may develop are subject to extensive regulation in the United States by the federal government, including by the FDA. The FDA regulates virtually all aspects of a medical device's design, development, testing, manufacturing, labeling, storage, record keeping, adverse event reporting, sale, promotion, distribution and shipping. We must report to the FDA when evidence suggests that one of our devices may have caused or contributed to death or serious injury or has malfunctioned and the device or a similar device would be likely to cause or contribute to death or serious injury if the malfunction were to recur. If such adverse event occurred, we could incur substantial expense and harm to our reputation and our business and results of operations could be adversely affected.

Before a new medical device can be marketed in the United States, it must first receive either premarket approval or 510(k) clearance from the FDA, unless an exemption exists. The same rule applies when a manufacturer plans to market a medical device for a new use. The process can be costly and time-consuming. The FDA is expected to respond to a section 510(k) notification in 90 days, but often takes much longer. The premarket approval process usually takes six months to three years, but may take longer. We cannot assure that any new medical devices or new use for FloChec™ that we develop will be cleared or approved in a timely or cost-effective manner, if cleared or approved at all. Even if such devices are cleared or approved, the products may not be cleared or approved for all indications. Because medical devices may only be marketed for cleared or approved indications, this could significantly limit the market for that product and may adversely affect our results of operations.

FloChec™ was cleared through the 510(k) clearance process in February 2010. However, any modification to a cleared 510(k) device that could significantly affect its safety or efficacy, or that would constitute a significant change in its intended use, will require a new clearance process. The FDA requires device manufacturers to make their own determination regarding whether a modification requires a new clearance; however, the FDA can review and invalidate a manufacturer's decision not to file for a new clearance. We cannot guarantee that the FDA will agree with our decisions not to seek clearances for particular device modifications or that we will be successful in obtaining 510(k) clearances for modifications. Any such additional clearance processes with the FDA could delay our ability to market a modified product and may adversely affect our results of operations.

***The FDA may change its policies, adopt additional regulations, or revise existing regulations, in particular relating to the 510(k) clearance process.***

The FDA also may change its policies, adopt additional regulations, or revise existing regulations, each of which could prevent or delay premarket approval or 510(k) clearance of a device, or could impact our ability to market our currently cleared device. We anticipate significant changes in the near future that will affect the way the 510(k) clearance program will operate. On August 3, 2010, the FDA released for public comment two internal working group reports with numerous recommendations to improve the 510(k) clearance process and utilize science in regulatory decision making to encourage innovation yet maintain predictability of the clearance process. In July, 2011, the Institute of Medicine, which was asked by the FDA to evaluate and make recommendations on the 510(k) clearance program, released its report entitled "Medical Devices and the Public's Health, The FDA 510(k) Clearance Process." The report contained numerous and broad recommendations that, if followed, will have a significant impact on the medical device industry. Also in July, 2011, the FDA issued a draft guidance titled "510(k) Device Modifications: Deciding When to Submit a 510(k) for a Change to an Existing Device." This draft guidance document was withdrawn on July 17, 2012 in accordance with Section 510(n)(2)(B) of the Federal Food, Drug, and

Cosmetic Act as amended by the Food and Drug Administration Safety and Innovation Act. An existing 1997 guidance on the same topic therefore remains in effect, but any future reforms could require us to file new 510(k) clearances and could increase the total number of 510(k) clearance to be filed. We cannot predict what effect these reforms will have on our ability to obtain 510(k) clearances in a timely manner. We also cannot predict the nature of other regulatory reforms and their resulting effects on our business.

***Our business is subject to unannounced inspections by FDA to determine our compliance with FDA requirements.***

FDA inspections can result in inspectional observations on FDA's Form-483, warning letters or other forms of more significant enforcement action. More specifically, if FDA concludes that we are not in compliance with applicable laws or regulations, or that FloChec™ or any future medical device we develop is ineffective or pose an unreasonable health risk, the FDA could:

- require us to notify health professionals and others that our devices present unreasonable risk of substantial harm to public health;
- order us to recall, repair, replace or refund the cost of any medical device that we manufactured or distributed;
- detain, seize or ban adulterated or misbranded medical devices;
- refuse to provide us with documents necessary to export our product;
- refuse requests for 510(k) clearance or premarket approval of new products or new intended uses;
- withdraw 510(k) clearances that are already granted;
- impose operating restrictions, including requiring a partial or total shutdown of production;
- enjoin or restrain conduct resulting in violations of applicable law pertaining to medical devices; and/or
- assess criminal or civil penalties against our officers, employees or us.

If the FDA concludes that we failed to comply with any regulatory requirement during an inspection, it could have a material adverse effect on our business and financial condition. We could incur substantial expense and harm to our reputation, and our ability to introduce new or enhanced products in a timely manner could be adversely affected.

***Although part of our business strategy is based on certain advantageous new payment provisions enacted under the current government healthcare reform, we also face significant uncertainty in the industry regarding the implementation of the Health Care Reform Law.***

Political, economic and regulatory influences are subjecting the healthcare industry to fundamental changes. In March 2010, President Obama signed into law the Health Care Reform Law. The Health Care Reform Law has brought a new way of doing business for providers and health insurance plans. We believe that fee for service programs will be reduced in favor of capitated programs that pay a monthly fee per patient. Risk factor adjustments per patient will provide payment that is higher for sicker patients who have conditions that are codified. Quality of care measured by completeness and wellness will induce higher payments per patient. These changes are already in place for 14 million participants in the Medicare Advantage program and are expected to expand to more types of insured patients as healthcare reform is deployed. Although we expect these measures to be mainly positive for our business given the ability of FloChec™ to measure blood flow in an in-office setting, which can assist doctors and other providers to suspect PAD and other vascular diseases, due to uncertainties regarding the ultimate features of the new federal legislation and its implementation, we cannot predict what impact the Health Care Reform Law may have on us, our customers or our industry. If the Health Care Reform Law is not implemented as we anticipate, or if changes are made in the implementation of the Health Care Reform Law such that there are no incentives for identifying sicker patients, it would negatively affect our business prospects and strategy, and could materially adversely affect our business, financial condition and results of operations.

In addition, the Health Care Reform Law imposes a 2.3% excise tax on the sale of any taxable human medical device after December 31, 2012, subject to certain exclusions, by the manufacturer, producer or importer of such device. The total cost to the industry is expected to be approximately $30 billion over ten years. This new and significant tax burden could have a negative impact on our results of our operations. Further, the Health Care Reform Act encourages hospitals and physicians to work collaboratively through shared savings programs, such as accountable care organizations, as well as other bundled payment initiatives, which may ultimately result in the reduction of medical device acquisitions and the consolidation of medical device suppliers used by hospitals. While passage of the Health Care Reform Law may ultimately expand the pool of potential patients for FloChec™, the above-discussed changes could adversely affect our financial results and business.

***Our business may be adversely impacted by the recent sequestration signed into law in the United States.***

On March 1, 2013, most agencies of the federal government automatically reduced their budgets according to an agreement made by Congress in 2012 known as “sequestration.” Originally devised as an incentive to force Congressional agreement on budget issues, the sequestration order was approved on March 1, 2013 by the President of the United States. For claims submitted with dates of service or dates of discharge after April 1, 2013, these cuts will result in Medicare payments to health care providers, health care plans and drug plans being reduced by 2%.

***The applicable healthcare fraud and abuse laws and regulations, along with the increased enforcement environment, may lead to an enforcement action targeting us, which could adversely affect our business.***

We are subject to healthcare fraud and abuse laws and regulations including, but not limited to, the Federal Anti-Kickback Statute, state anti-kickback statutes, the Federal False Claims Act, and state false claims acts. Additionally, to the extent we maintain financial relationships with physicians and other healthcare providers, we may be subject to Federal and state physician payment sunshine laws and regulations, which require us to track and disclose these financial relationships. These and other laws regulate interactions amongst health care entities and with sources of referrals of business, among other things. The Federal Anti-Kickback Statute is a criminal statute that imposes substantial penalties on persons or entities that offer, solicit, pay or receive payments in return for referrals, recommendations, purchases or orders of items or services that are reimbursable by Federal healthcare programs. The False Claims Act imposes liability, including treble damages and per claim penalties, on any person or entity that submits or causes to be submitted a claim to the Federal government that he or she knows (or should know) is false. The Health Care Reform Law further provides that a claim submitted for items or services, the provision of which resulted from a violation of the Anti-Kickback Statute, is “false” under the False Claims Act and certain other false claims statutes.

We may be subject to liability under these laws and may also be subject to liability for any future conduct that is deemed by the government or the courts to violate these laws. Additionally, over the past ten years, partially as the result of the passage of the Health Insurance Portability and Accountability Act of 1996 and of the Health Care Reform Law, the government has pursued an increasing number of enforcement actions. This increased enforcement environment may increase scrutiny of us, directly or indirectly, and could increase the likelihood of an enforcement action targeting us. We have entered into a supply and distribution agreement with Bard Peripheral Vascular, Inc., as well as purchase agreements with a number of our customers, including parties that bill Federal healthcare programs for use of our product, all of whom may be subject to government scrutiny. Finally, to the extent that any of the agreements are breached or terminated, our business may experience a decrease in revenues. In addition, to the extent that our customers, many of whom are providers, may be affected by this increased enforcement environment, our business could correspondingly be affected. It is possible that a review of our business practices or those of our customers by courts or government authorities could result in a determination with an adverse effect on our business. We cannot predict the effect of possible future enforcement actions on our business.

***Changes in, or interpretations of, tax rules and regulations may adversely affect our effective tax rates.***

We are subject to income and other taxes in the United States. Significant judgment is required in evaluating our provision for income taxes. During the ordinary course of business, there are many transactions for which the ultimate tax determination is uncertain. For example, there could be changes in

the valuation of our deferred tax assets and liabilities or changes in the relevant tax, accounting, and other laws, regulations, principles and interpretations. Although we believe our tax estimates are reasonable, the final determination of tax audits and any related litigation could be materially different from our historical income tax provisions and accruals. The results of an audit or litigation, or the effects of a change in tax policy in the United States, could have a material effect on our operating results in the period or periods for which that determination is made.

***We are an "emerging growth company," and the reduced disclosure requirements applicable to emerging growth companies may make our common stock less attractive to investors.***

We are an "emerging growth company," as defined in the JOBS Act, and may remain an emerging growth company for up to five years. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not emerging growth companies. These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced "Management's Discussion and Analysis of Financial Condition and Results of Operations" disclosure;
- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements;
- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved.

We have taken advantage of reduced reporting burdens in this prospectus. In particular, in this prospectus, we have not included all of the executive compensation related information that would be required if we were not an emerging growth company. We cannot predict whether investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of these accounting standards until they would otherwise apply to private companies. We have elected to avail ourselves of this exemption and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. As a result of this election, our financial statements may not be comparable to other companies that comply with public company effective dates.

***We will incur increased costs as a result of operating as a public company, and our management will be required to devote substantial time to new compliance initiatives and corporate governance practices.***

As a public company, and particularly after we are no longer an emerging growth company, we will incur significant legal, accounting and other expenses that we did not incur as a private company. The Sarbanes-Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the listing requirements of The NASDAQ Capital Market and other applicable securities rules and regulations impose various requirements on public companies, including establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Our management and other personnel will need to devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. For example, we expect that these rules and regulations may make it more difficult and more expensive for us to obtain director and officer liability insurance, which in turn could make it more difficult for us to attract and retain qualified members of our Board of Directors.

We are evaluating these rules and regulations, and cannot predict or estimate the amount of additional costs we may incur or the timing of such costs. These rules and regulations are often subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, we will be required to furnish a report by our management on our internal control over financial reporting. However, while we remain an emerging growth company, we will not be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. To achieve compliance with Section 404 within the prescribed period, we will be engaged in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, potentially engage outside consultants and adopt a detailed work plan to assess and document the adequacy of internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing that controls are functioning as documented and implement a continuous reporting and improvement process for internal control over financial reporting. Despite our efforts, there is a risk that we will not be able to conclude, within the prescribed timeframe or at all, that our internal control over financial reporting is effective as required by Section 404. If we identify one or more material weaknesses, it could result in an adverse reaction in the financial markets due to a loss of confidence in the reliability of our financial statements.

***We currently have material weaknesses in our internal control over financial reporting. If we are unable to successfully remediate these material weaknesses in our internal control over financial reporting, it could have an adverse effect on our company.***

In connection with the audit of our financial statements for the year ended December 31, 2012, our management and independent registered public accounting firm identified certain material weaknesses in our internal control over financial reporting. These material weaknesses related to our lack of a sufficient complement of personnel with an appropriate level of knowledge and experience in the application of U.S. generally accepted accounting principles, or GAAP, commensurate with our financial reporting requirements and the fact that policies and procedures with respect to the review, supervision, and monitoring of our accounting and reporting functions were either not designed and in place or not operating effectively. As a result, numerous audit adjustments to our financial statements were identified during the course of the audit. Our management and independent registered public accounting firm did not perform an evaluation of our internal control over financial reporting as of December 31, 2012 in accordance with the provisions of the Sarbanes-Oxley Act. Had we and our independent registered public accounting firm performed an evaluation of our internal control over financial reporting in accordance with the provisions of the Sarbanes-Oxley Act, additional control deficiencies may have been identified by management or our independent registered public accounting firm, and those control deficiencies could have also represented one or more material weaknesses.

In an effort to remediate these material weaknesses, soon after the closing of the initial public offering, we intend to increase the number of our finance and accounting personnel, including hiring a Chief Financial Officer with public company experience. We cannot assure you that these measures will significantly improve or remediate the material weakness described above. We also cannot assure you that we have identified all or that we will not in the future have additional material weaknesses. Accordingly, material weaknesses may still exist when we report on the effectiveness of our internal control over financial reporting for purposes of our attestation when required by reporting requirements under the Exchange Act or Section 404 of the Sarbanes-Oxley Act after this offering. If we are not able to remedy these material weaknesses in our internal control over financial reporting, or if we have additional material weaknesses in our internal control over financial reporting in the future, it could have an adverse effect on our company.

**Risks Related to Our Intellectual Property**

***Our success largely depends on our ability to obtain and protect the proprietary information on which we base our product.***

Our success depends in large part upon our ability to establish and maintain the proprietary nature of our technology through the patent process, as well as our ability to license from others patents and patent

applications necessary to develop our product. If our patent or any future patents are successfully challenged, invalidated or circumvented, or our right or ability to manufacture our product was to be limited, our ability to continue to manufacture and market our product could be adversely affected. In addition to patents, we rely on trade secrets and proprietary know-how, which we seek to protect, in part, through confidentiality and proprietary information agreements. The other parties to these agreements may breach these provisions, and we may not have adequate remedies for any breach. Additionally, our trade secrets could otherwise become known to or be independently developed by competitors.

As of November 14, 2013, we have been issued, or have rights to, one U.S. patent. In addition, we have filed for three U.S. patents and one international patent that are still pending. The patent we hold may be successfully challenged, invalidated or circumvented, or we may otherwise be unable to rely on this patent. These risks are also present for the process we use for manufacturing our product. In addition, our competitors, many of whom have substantial resources and have made substantial investments in competing technologies, may apply for and obtain patents that prevent, limit or interfere with our ability to make, use and sell our product, either in the United States or in international markets. The medical device industry has been characterized by extensive litigation regarding patents and other intellectual property rights. We may institute, become party to, or be threatened with, future adversarial proceedings or litigation regarding intellectual property rights with respect to our product and technology, including interference or derivation proceedings before the U.S. Patent and Trademark Office, or USPTO. Third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future. If we are found to infringe a third party's intellectual property rights, we could be required to obtain a license from such third party to continue developing and marketing our product and technology. However, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if we were able to obtain a license, it could be non-exclusive, thereby giving our competitors access to the same technologies licensed to us. We could be forced, including by court order, to cease commercializing the infringing technology or product. In addition, we could be found liable for monetary damages, including treble damages and attorneys' fees if we are found to have willfully infringed a patent. A finding of infringement could prevent us from commercializing our product or force us to cease some of our business operations, which could materially harm our business. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business. The defense and prosecution of intellectual property suits, USPTO proceedings and related legal and administrative proceedings are both costly and time consuming. Any litigation or interference proceedings involving us may require us to incur substantial legal and other fees and expenses and may require some of our employees to devote all or a substantial portion of their time to the proceedings.

***We may need to license intellectual property from third parties, and such licenses may not be available or may not be available on commercially reasonable terms.***

A third party may hold intellectual property, including patent rights that are important or necessary to the development of FloChec™ or any future products. It may be necessary for us to use the patented or proprietary technology of a third party to commercialize our own technology or products, in which case we would be required to obtain a license from such third party. A license to such intellectual property may not be available or may not be available on commercially reasonable terms, which could have a material adverse effect on our business and financial condition.

***We may be subject to claims by third parties asserting that our employees or we have misappropriated their intellectual property, or claiming ownership of what we regard as our own intellectual property.***

Although we try to ensure that we and our employees and independent contractors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or that these employees or independent contractors or we have used or disclosed intellectual property in violation of the rights of others. These claims may cover a range of matters, such as challenges to our trademarks, as well as claims that our employees or independent contractors are using trade secrets or other proprietary information of any such employee's former employer or independent contractors. Although we do not expect the resolution of the proceeding to have a material adverse effect on our business or financial condition, litigation to defend ourselves against claims can be both costly and time consuming, and divert management's attention away from growing our business.

In addition, while it is our policy to require our employees and independent contractors who may be involved in the development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who in fact develops intellectual property that we regard as our own. Our and their assignment agreements may not be self-executing or may be breached, and we may be forced to bring claims against third parties, or defend claims they may bring against us, to determine the ownership of what we regard as our intellectual property.

If we fail in prosecuting or defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we are successful in prosecuting or defending against such claims, litigation could result in substantial costs and be a distraction to management.

***Intellectual property litigation could cause us to spend substantial resources and distract our personnel from their normal responsibilities.***

Even if resolved in our favor, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses, and could distract our technical and management personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. Such litigation or proceedings could substantially increase our operating losses and reduce the resources available for development activities or any future sales, marketing or distribution activities. We may not have sufficient financial or other resources to conduct such litigation or proceedings adequately. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could compromise our ability to compete in the marketplace.

***If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.***

In addition to seeking patents for some of our technology and product, we also rely on trade secrets, including unpatented know-how, technology and other proprietary information, to maintain our competitive position. We seek to protect these trade secrets, in part, by entering into non-disclosure and confidentiality agreements with parties who have access to them, such as our employees, corporate collaborators, outside scientific collaborators, contract manufacturers, consultants, advisors and other third parties. We also generally enter into confidentiality and invention or patent assignment agreements with our employees and consultants. Despite these efforts, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party infringed a patent or illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them, or those to whom they communicate it, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed.

**Risks Related to our Common Stock and this Offering**

***After this offering, our executive officers, Directors and principal stockholders, if they choose to act together, will continue to have the ability to control all matters submitted to stockholders for approval.***

Upon the closing of this offering, our executive officers and Directors, combined with our other existing stockholders who owned more than 5% of our outstanding common stock before this offering will, in the aggregate, beneficially own shares representing approximately % of our capital stock. As a result, if these stockholders were to choose to act together, they would be able to control all matters submitted to our stockholders for approval, as well as our management and affairs. For example, these persons, if they choose to act together, would control the election of directors and approval of any merger, consolidation or sale of all or substantially all of our assets. This concentration of ownership control may:

- delay, defer or prevent a change in control;

- entrench our management and the Board of Directors; or
- impede a merger, consolidation, takeover or other business combination involving us that other stockholders may desire.

***Provisions in our corporate charter documents and under Delaware law could make an acquisition of our company, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management.***

Provisions in our corporate charter and our bylaws may discourage, delay or prevent a merger, acquisition or other change in control of our company that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, because our Board of Directors is responsible for appointing the members of our management team, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our Board of Directors. Among other things, these provisions:

- allow the authorized number of our Directors to be changed only by resolution of our board of directors;
- establish advance notice requirements for stockholder proposals that can be acted on at stockholder meetings and nominations to our Board of Directors;
- require that stockholder actions must be effected at a duly called stockholder meeting; and
- limit who may call stockholder meetings.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibits a person who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner.

***If you purchase shares of common stock in this offering, you will suffer immediate dilution of your investment.***

The initial public offering price of our common stock will be substantially higher than the net tangible book value per share of our common stock. Therefore, if you purchase shares of our common stock in this offering, you will pay a price per share that substantially exceeds our net tangible book value per share after this offering. To the extent shares subsequently are issued, you will incur further dilution. Based on an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, you will experience immediate dilution of $ per share, representing the difference between our pro forma net tangible book value per share, after giving effect to this offering, and the assumed initial public offering price. In addition, purchasers of common stock in this offering will have contributed approximately % of the aggregate price paid by all purchasers of our stock but will own only approximately % of our common stock outstanding after this offering.

***An active trading market for our common stock may not develop.***

Prior to this offering, there has been no public market for our common stock. The initial public offering price for our common stock will be determined through negotiations with the underwriters. Although we have applied to have our common stock approved for listing on The NASDAQ Capital Market, an active trading market for our shares may never develop or be sustained following this offering. If an active market for our common stock does not develop, it may be difficult for you to sell shares you purchase in this offering without depressing the market price for the shares or at all.

***The price of our common stock may be volatile and fluctuate substantially, which could result in substantial losses for purchasers of our common stock in this offering.***

Our stock price is likely to be volatile. The stock market in general and the market for smaller medical device companies in particular have experienced extreme volatility that has often been unrelated to the

operating performance of particular companies. As a result of this volatility, you may not be able to sell your common stock at or above the initial public offering price. The market price for our common stock may be influenced by many factors, including:

- the success of competitive products, services or technologies;
- regulatory or legal developments in the United States and other countries;
- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- actual or anticipated changes in estimates as to financial results, development timelines or recommendations by securities analysts;
- variations in our financial results or those of companies that are perceived to be similar to us;
- changes in the structure of healthcare payment systems;
- market conditions in the medical device sector;
- general economic, industry and market conditions; and
- the other factors described in this “Risk Factors” section.

***We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.***

Our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our common stock. The failure by our management to apply these funds effectively could result in financial losses that could have a material adverse effect on our business, and cause the price of our common stock to decline. Pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value.

***A significant portion of our total outstanding shares are eligible to be sold into the market in the near future, which could cause the market price of our common stock to drop significantly, even if our business is doing well.***

Sales of a substantial number of shares of our common stock in the public market, or the perception in the market that the holders of a large number of stockholders intend to sell shares, could reduce the market price of our common stock. After this offering, we will have outstanding shares of common stock based on the number of shares outstanding as of November 14, 2013 and reflecting the automatic conversion of all of our outstanding shares of convertible preferred stock and the cashless exercise of warrants to acquire additional shares of our convertible preferred stock (which will convert into common stock) in connection with the offering. This number includes the shares that we are selling in this offering, which may be resold in the public market immediately without restriction, unless purchased by our affiliates or existing stockholders. All of the remaining outstanding shares of our common stock are currently restricted as a result of securities laws or lock-up agreements but will become eligible to be sold at various times after the offering. In addition, the current holders of our outstanding shares of common stock and convertible preferred stock have certain registration rights with respect to their shares of common stock, including shares of common stock issuable upon conversion thereof and shares of common stock issued as a dividend or other distribution with respect to or in exchange for or in replacement of the foregoing shares. See “Description of Securities — Registration Rights.”

***Because we do not anticipate paying any cash dividends on our capital stock in the foreseeable future, capital appreciation, if any, will be your sole source of gain.***

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all of our future earnings, if any, to finance the growth and development of our business. In addition, the terms of any future debt agreements may preclude us from paying dividends. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS AND INDUSTRY DATA

This prospectus contains forward-looking statements. Such forward-looking statements include those that express plans, anticipation, intent, contingency, goals, targets or future development and/or otherwise are not statements of historical fact. These forward-looking statements are based on our current expectations and projections about future events and they are subject to risks and uncertainties known and unknown that could cause actual results and developments to differ materially from those expressed or implied in such statements.

In some cases, you can identify forward-looking statements by terminology, such as “expects,” “anticipates,” “intends,” “estimates,” “plans,” “believes,” “seeks,” “may,” “should,” “continue,” “could” or the negative of such terms or other similar expressions. Accordingly, these statements involve estimates, assumptions and uncertainties that could cause actual results to differ materially from those expressed in them. Any forward-looking statements are qualified in their entirety by reference to the factors discussed throughout this prospectus.

You should read this prospectus and the documents that we reference herein and therein and have filed as exhibits to the registration statement, of which this prospectus is part, completely and with the understanding that our actual future results may be materially different from what we expect. You should assume that the information appearing in this prospectus is accurate as of the date on the front cover of this prospectus only. Because the risk factors referred to above could cause actual results or outcomes to differ materially from those expressed in any forward-looking statements made by us or on our behalf, you should not place undue reliance on any forward-looking statements. These risks and uncertainties, along with others, are described above under the heading “Risk Factors.” Further, any forward-looking statement speaks only as of the date on which it is made, and we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for us to predict which factors will arise. In addition, we cannot assess the impact of each factor on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. We qualify all of the information presented in this prospectus, and particularly our forward-looking statements, by these cautionary statements.

This prospectus includes statistical and other industry and market data that we obtained from industry publications and research, surveys and studies conducted by third parties. Industry publications and third party research, surveys and studies generally indicate that their information has been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. While we believe these industry publications and third party research, surveys and studies are reliable, we have not independently verified such data.

## USE OF PROCEEDS

We estimate that the net proceeds from our issuance and sale of shares of our common stock in this offering will be approximately $ , assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters exercise their over-allotment option in full, we estimate that the net proceeds from this offering will be approximately $ .

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, would increase (decrease) the net proceeds from this offering by approximately $ , assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

We currently intend to use the net proceeds from this offering for working capital and general corporate purposes. We anticipate using the proceeds from this offering to continue to grow and invest in our business. We currently anticipate that we will use the proceeds to invest in our sales and marketing efforts to commercialize our product, as well as make expenditures related to addressing compliance with U.S. public company requirements, including hiring additional personnel and investing in our corporate infrastructure. We also anticipate using a portion of the proceeds on research and development efforts.

This expected use of the net proceeds from this offering represents our intentions based upon our current plans and business conditions. As of the date of this prospectus, we cannot predict with certainty all of the particular uses for the net proceeds to be received upon the closing of this offering or the amounts that we will actually spend on the uses set forth above. The amounts and timing of our actual expenditures may vary significantly depending on numerous factors. As a result, our management will retain broad discretion over the allocation of the net proceeds from this offering.

Pending our use of the net proceeds from this offering, we intend to invest the net proceeds in a variety of capital preservation investments, including short-term, investment grade, interest bearing instruments and U.S. government securities.

## DIVIDEND POLICY

We have not declared or paid any cash dividends on our common stock, and we do not anticipate declaring or paying cash dividends for the foreseeable future. We are not subject to any legal restrictions respecting the payment of dividends, except that we may not pay dividends if the payment would render us insolvent. Any future determination as to the payment of cash dividends on our common stock will be at our Board of Directors' discretion and will depend on our financial condition, operating results, capital requirements and other factors that our Board of Directors considers to be relevant.

## DETERMINATION OF OFFERING PRICE

The offering price of the common stock has been arbitrarily determined and bears no relationship to any objective criterion of value. The price does not bear any relationship to our assets, book value, historical earnings or net worth. No valuation or appraisal has been prepared for our business.

Prior to this offering, there has been no public market for our shares. The public offering price will be determined through negotiations between us and Aegis Capital Corp., as representative of the underwriters. The factors to be considered in determining the public offering price may include our future prospects and those of our industry in general, sales, earnings and certain of our other financial operating information in recent periods, and the market prices of securities and certain financial and operating information of companies engaged in activities similar to those we engage in. The estimated public offering price range set forth on the cover page of this preliminary prospectus is subject to change as a result of market conditions and other factors.

We cannot assure you that the public offering price will correspond to the price at which the shares will trade in the public market subsequent to the offering or that an active trading market for the shares will develop and continue after the offering.

## DILUTION

If you invest in our common stock in this offering, your interest will be immediately and substantially diluted to the extent of the difference between the public offering price per share of our common stock and the pro forma net tangible book value per share of our common stock after giving effect to this offering.

Our historical net tangible book value as of September 30, 2013 was $ , or $ per share of our common stock. Historical net tangible book value per share represents the amount of our total tangible assets less total liabilities, divided by the number of shares of our common stock outstanding as of September 30, 2013.

Our pro forma net tangible book value as of September 30, 2013 was $ , or $ per share of our common stock. Pro forma net tangible book value per share represents the amount of our total tangible assets less our total liabilities, divided by the pro forma number of shares of our common stock outstanding as of September 30, 2013, which includes shares after giving effect to the automatic conversion of all outstanding shares of our convertible preferred stock into an aggregate of 2,012,152 shares of our common stock upon the closing of this offering and the cashless exercise (at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus) of outstanding warrants for shares of convertible preferred stock resulting in the issuance of an aggregate of shares of common stock upon exercise and subsequent conversion thereof effective upon the closing of this offering.

After giving effect to the sale of the shares in this offering at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and other estimated offering expenses payable by us, our pro forma as adjusted net tangible book value at September 30, 2013 would have been approximately $ , or $ per share. This represents an immediate increase in pro forma net tangible book value of approximately $ per share to our existing stockholders, and an immediate dilution of $ per share to investors purchasing shares of common stock in this offering.

Dilution in pro forma net tangible book value per share represents the difference between the amount per share paid by purchasers of our common stock in this offering and the pro forma net tangible book value per share of our common stock immediately after this offering.

The following table illustrates the per share dilution to investors purchasing shares in the offering:

| | | |
|---|---|---|
| Assumed initial public offering price per share | | $ |
| Historical net tangible book value per share as of September 30, 2013 | $ | |
| Decrease attributable to the conversion of outstanding convertible preferred stock and cashless exercise of warrants to acquire shares of convertible preferred stock | $ | |
| Pro forma net tangible book value per share as of September 30, 2013 | $ | |
| Increase in net tangible book value per share attributable to new investors | $ | |
| Pro forma net tangible book value per share after this offering | | $ |
| Dilution per share to new investors | | $ |

If the underwriter exercises its over-allotment option in full, the pro forma as adjusted net tangible book value will increase to $ per share, representing an immediate dilution of $ per share to new investors, assuming that the initial public offering price will be $ per share, which is the midpoint of the range set forth on the cover page of this prospectus.

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) the pro forma as adjusted net tangible book value by $ , the pro forma as adjusted net tangible book value per share by $ per share, and the dilution in pro forma as adjusted net tangible book value per share to investors in this offering by $ per share, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

| | Shares Purchased | | Total Consideration | | Average Price Per Share |
|---|---|---|---|---|---|
| | Number | Percentage | Amount | Percentage | |
| Existing stockholders | | % | $ | % | $ |
| New investors | | | | | |
| Total | | 100% | $ | 100% | |

## CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization, as of September 30, 2013:

- on an actual basis;
- on a pro forma basis to give effect to the issuance of shares of common stock from October 1, 2013 through and immediately prior to the date of this offering, which reflects (i) the automatic conversion of all such outstanding shares of our convertible preferred stock into an aggregate of 2,012,152 shares of our common stock and (ii) the issuance of an aggregate of shares of common stock as result of the cashless exercise at the assumed initial public offering price of $ per share (the mid-point of the price range set forth on the cover page of this prospectus) of outstanding warrants for convertible preferred stock and the automatic conversion of such convertible preferred stock into common stock effective upon the closing of this offering;
- on a pro forma as adjusted basis to give further effect to the sale of the shares of our common stock in this offering at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and other estimated offering expenses payable by us.

You should consider this table in conjunction with our financial statements and the notes to those financial statements included elsewhere in this prospectus.

| | As of September 30, 2013 | | |
|---|---|---|---|
| | Actual | Pro Forma | Pro Forma As Adjusted |
| Stockholders' equity: | | | |
| Convertible Preferred Stock, $0.001 par value per share: | | | |
| Series A Preferred Stock | $ 6,020,000 | $ | $ |
| Series A-1 Preferred Stock | 482,000 | | |
| Series A-2 Preferred Stock | 208,000 | | |
| Common Stock, $0.001 par value | 1,000 | | |
| Additional paid-in capital | 2,534,000 | | |
| Accumulated deficit | (8,826,000) | | |
| Total stockholders' equity | $ 419,000 | $ | $ |

A $1.00 increase or decrease in the assumed initial public offering price of $ per share would increase or decrease each of cash and cash equivalents, additional paid-in capital, total stockholders' deficit on a pro forma as adjusted basis by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions.

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

*The following discussion and analysis should be read together with our financial statements and the related notes appearing elsewhere in this prospectus. This discussion contains forward-looking statements reflecting our current expectations that involve risks and uncertainties. See "Forward-Looking Statements" for a discussion of the uncertainties, risks and assumptions associated with these statements. Actual results and the timing of events could differ materially from those discussed in our forward-looking statements as a result of many factors, including those set forth under "Risk Factors" and elsewhere in this prospectus.*

### Overview

We are an emerging medical risk-assessment company. Our mission is to develop, manufacture and market patented products that identify the risk profile of medical patients to allow healthcare providers to capture full reimbursement potential for their services. Our first patented and U.S. Food and Drug Administration, or FDA, cleared product, is FloChec™. FloChec™ is used in the office setting to allow providers to measure arterial blood flow in the extremities and is a useful tool for internists and primary care physicians for whom it was previously impractical to conduct blood flow measurements. We received FDA 510(k) clearance for FloChec™ in February 2010, began Beta testing in the third quarter of 2010, and began commercially leasing FloChec™ in January 2011. In the year ended December 31, 2012 we had total revenue of $1,199,000 and a net loss of $2,741,000 compared to $316,000 and $1,876,000, respectively, in 2011. In the first nine months of 2013 we had total revenue of $1,493,000 and a net loss of $1,707,000 compared to $772,000 and $2,085,000, respectively, in the same period in 2012. Our net loss attributable to common stockholders was $1,707,000 for the nine months ended September 30, 2013 compared to $2,170,000 for the same period 2012, and was $2,826,000 for the year ended December 31, 2012 as compared to $1,876,000 for 2011.

### Sources of Revenues and Expenses

*Revenue*

We generate revenue from the rental of our FloChec™ system to our customers. We expect physicians and other providers that use FloChec™ to provide a recurring source of revenue during the lease term. We recognize revenue from the rental of our FloChec™ product as earned, on a month-to-month basis. FloChec™ rentals are billed at the rates established in our lease agreements.

*Cost of revenue*

Our cost of revenue consists primarily of three components: the depreciation expense of our FloChec™ systems for lease; the write-off of the residual value of FloChec™ systems retired from active leasing; and other miscellaneous items, such as freight, that are not directly related to FloChec™ production. Each FloChec™ unit has a depreciation schedule based on the cost of the unit. The cost of each unit is depreciated on a straightline basis over 36 months. Each unit has its own cost of production, which varies from time to time. We believe that the cost of each unit is a function of manufacturing efficiencies, supply costs and fixed overhead expense as affected by volume of units produced, which change from time to time. When costs of production is lower, the new units have a lower monthly depreciation and decrease the average depreciation per unit per month, which means our cost of revenue is lower. Similary, if cost of production is higher, the new units will have a higher monthly depreciation and increase the average depreciation per unit per month, which means our cost of revenue is higher. We believe growth in the number of monthly depreciation charges is predominately due to our sales and marketing efforts, which add new customers to an established customer base. The retirement of units from active leasing is primarily a function of the aggregate number of FloChec™ units rented and the occurrence from time to time of system upgrades. The other costs of revenue vary primarily as a function of the aggregate number of FloChec™ units rented and changes in operations such as manufacturing, delivery or maintenance.

*Engineering and product development expense*

Our engineering and product development expense consists of costs associated with the design, development, testing and enhancement of our FloChec™ product and other products in development. We

also include salaries and related employee benefits, research-related overhead expenses and fees paid to external service providers in our engineering and product development expense.

*Sales and marketing expense*

Our sales and marketing expense consists primarily of sales commissions and support costs, salaries and related employee benefits, travel, education, trade show and marketing costs.

*General and administrative expense*

Our general and administrative expense consists primarily of salaries and related employee benefits, professional service fees, associated travel costs and depreciation and amortization expense.

*Total other income (expense)*

Our total other income (expense) primarily reflects excise tax payments, other taxes and fees as well as interest income and expense.

**Critical Accounting Policies and Estimates**

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires the use of estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures in the financial statements. Critical accounting policies are those accounting policies that may be material due to the levels of subjectivity and judgment necessary to account for highly uncertain matters or the susceptibility of such matters to change, and that have a material impact on financial condition or operating performance. While we base our estimates and judgments on our experience and on various other factors that we believe to be reasonable under the circumstances, actual results may differ from these estimates under different assumptions or conditions. We believe the following critical accounting policies used in the preparation of our financial statements require significant judgments and estimates. For additional information relating to these and other accounting policies, see Note 2 to our audited financial statements, appearing elsewhere in this prospectus.

*Revenue Recognition*

We recognize revenue for renting our FloChec™ product to customers as earned, on a month-to-month basis. FloChec™ rent is billed at our established rates.

*Stock-Based Compensation*

We recognize compensation expense in an amount equal to the estimated grant date fair value of each option grant, or stock award over the estimated period of service and vesting. This estimation of the fair value of each stock-based grant or issuance on the date of grant involves numerous assumptions by management. Although we calculate the fair value under the Black Scholes option pricing model, which is a standard option pricing model, this model still requires the use of numerous assumptions, including, among others, the expected life (turnover), volatility of the underlying equity security, a risk free interest rate and expected dividends. The model and assumptions also attempt to account for changing employee behavior as the stock price changes and capture the observed pattern of increasing rates of exercise as the stock price increases. The use of different values by management in connection with these assumptions in the Black Scholes option pricing model could produce substantially different results. As of September 30, 2013, all outstanding stock options are fully vested.

*Accounting for Income Taxes*

Deferred income taxes result primarily from temporary differences between financial and tax reporting. Deferred tax assets and liabilities are determined based on the difference between the financial statement basis and tax basis of assets and liabilities using enacted tax rates. Future tax benefits are subject to a valuation allowance when management is unable to conclude that our deferred tax assets will more-likely-than-not be realized from the results of operations. Our estimate for the valuation allowance for

deferred tax assets requires management to make significant estimates and judgments about projected future operating results. If actual results differ from these projections or if management's expectations of future results change, it may be necessary to adjust the valuation allowance.

*Emerging Growth Company Elections*

The JOBS Act provides that an emerging growth company, such as our company, can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of these accounting standards until they would otherwise apply to private companies. We have elected to avail ourselves of this exemption. As a result, our financial statements may not be comparable to other public companies that comply with public company effective dates. In the future, we may elect to opt out of the extended period for adopting new accounting standards. If we do so, we would need to disclose such decision and it would be irrevocable.

**Factors Affecting Future Results**

We have not identified any factors that have a recurring effect that are necessary to understand period to period comparisons as appropriate, nor any one-time events that have an effect on the financials.

**Results of Operations**

***Nine Months Ended September 30, 2013 Compared to Nine Months Ended September 30, 2012***

*Revenue*

We had revenue of $1,493,000 for the nine months ended September 30, 2013, an increase of $721,000 or 93%, compared to $772,000 in the same period in 2012. We invoice rental revenue monthly for each unit installed with a customer. The average amount per invoice is affected by the mix of units rented by direct customers or distributors, by price changes and by discounts. The primary reasons for the increase in revenue were that the number of monthly invoices grew 83% and the average amount per invoice grew 6% compared to the same period in 2012. We believe that growth in the number of monthly invoices is predominately due to our sales and marketing efforts, which add new customers to an established customer base.

*Operating expenses*

We had total operating expenses of $3,073,000 for the nine months ended September 30, 2013, an increase of $314,000, or 11%, compared to $2,759,000 in the same period in 2012. The primary reason for the increase was increased sales and marketing expense. The changes in the various components of our operating expenses are described below.

*Cost of revenue*

We had cost of revenue of $276,000 for the nine months ended September 30, 2013, an increase of $44,000, or 19%, from $232,000 for the same period in 2012. The primary reasons for the increase were that aggregate depreciation of our FloChec™ systems for lease increased $39,000, or 83%, in the 2013 period compared to the 2012 period as there was an 83% increase in the number of monthly depreciation charges corresponding to the 83% increase in number of monthly rental invoices. Average depreciation per unit per month was unchanged. Other cost of revenue items, such as freight and other miscellaneous items, which are not associated with FloChec™ system production, were $27,000 higher in the 2013 period compared to the 2012 period, which was partially offset by $20,000 less cost of units that were retired. There was a system upgrade in 2012 that was responsible for more units retired in that period.

*Engineering and product development expense*

We had engineering and product development expense of $254,000 for the nine months ended September 30, 2013, an increase of $34,000, or 15%, compared to $220,000 in the same period in 2012. The increase was primarily due to increased consulting costs, offset by lower cost of product development.

*Sales and marketing expense*

We had sales and marketing expense of $1,585,000 for the nine months ended September 30, 2013, an increase of $273,000, or 21%, compared to $1,312,000 in the same period in 2012. The primary reasons for the increase in sales and marketing expense were $174,000 higher sales commissions associated with higher rental revenue and $81,000 higher salary expense compared to the corresponding prior period.

*General and administrative expense*

We had general and administrative expense of $958,000 for the nine months ended September 30, 2013, a decrease of $37,000, or 4%, compared to $995,000 in the same period in 2012. The decrease was primarily due to less salaries and fees for employees and consultants than the corresponding prior period, which was partially offset by stock compensation expense associated with accelerating the vesting of stock options.

*Net loss*

For the foregoing reasons, we had a net loss of $1,707,000 for the nine months ended September 30, 2013, a decrease of $378,000, or 18%, compared to a net loss of $2,085,000 for the nine months ended September 30, 2012, and had a net loss attributable to common stockholders of $1,707,000 for the nine months ended September 30, 2013 compared to $2,170,000 for the nine months ended September 30, 2012.

***Year Ended December 31, 2012 Compared to Year Ended December 31, 2011***

*Revenue*

We had revenue of $1,199,000 for the year ended December 31, 2012, an increase of $883,000 or 279% compared to $316,000 in the same period in 2011. We invoice rental revenue monthly for each unit installed with a customer. The average amount per invoice is affected by the mix of units rented by direct customers or distributors, by price changes and by discounts. The primary reasons for the increase in revenue were that the number of monthly invoices grew 218% and the average amount per invoice grew 19% compared to 2011. We believe that growth in the number of monthly invoices is predominately due to our sales and marketing efforts, which add new customers to an established customer base.

*Operating expenses*

We had total operating expenses of $3,614,000 for the year ended December 31, 2012, an increase of $1,519,000, or 73%, compared to $2,095,000 in the same period in 2011. The primary reason for the increase was increased sales and marketing expense. The changes in the various components of our operating expenses are described below.

*Cost of revenue*

We had cost of revenue of $364,000 for the year ended December 31, 2012, an increase of $219,000 or 151%, compared to $145,000 for the same period in 2011. The primary reasons were that aggregate depreciation of our FloChec™ systems for lease increased $46,000, or 197%, in 2012 compared to 2011 as there was a 218% increase in the number of monthly depreciation charges corresponding to the 218% increase in number of monthly rental invoices. Average depreciation per unit per month in was 8% lower in 2012 as compared to 2011. Cost of units that were retired increased $198,000 in 2012 as compared to 2011, as 245% greater number of units were retired due to a system upgrade in 2012. This increase was partially offset by lower other cost of revenue items, such as freight and other miscellaneous items, which are not associated with FloChec™ system production, which were $26,000 lower.

*Engineering and product development expense*

We had engineering and product development expense of $277,000 for the year ended December 31, 2012, an increase of $31,000, or 13%, compared to $246,000 in the same period in 2011. The primary reason for the increase in engineering and product development expense was $70,000 more of consulting expenses performing updates to our FloChec™ system offset by $42,000 lower wages and salaries for employees, compared to the corresponding period of 2011.

*Sales and marketing expense*

We had sales and marketing expense of $1,718,000 for the year ended December 31, 2012, an increase of $1,071,000, or 166%, compared to $647,000 in the same period in 2011. The primary reasons for the increase in marketing expense were $123,000 more consulting fees, $111,000 more trade show expenses and $28,000 more marketing material costs compared to the corresponding period of 2011. The primary reasons for increase in sales expenses were $282,000 higher sales commissions associated with higher rental revenue, $412,000 in sales salaries, benefits and payroll taxes, and $131,000 in travel and related expenses, compared to the corresponding period of 2011.

*General and administrative expense*

We had general and administrative expense of $1,255,000 for the year ended December 31, 2012, an increase of $198,000, or 19%, compared to $1,057,000 in the same period in 2011. The primary reason for the increase is due to $191,000 reserve for the principal and interest on the Company's long-term note receivable to a related party.

*Net loss*

For the foregoing reasons, we had a net loss of $2,741,000 for the year ended December 31, 2012 compared to a net loss of $1,876,000 for the year ended December 31, 2011,and had a net loss attributable to common stockholders of $2,826,000 for the year ended December 31, 2012 as compared to $1,876,000 for the year ended December 31, 2011.

**Liquidity and Capital Resources**

We had cash and cash equivalents of $1,504,000 at September 30, 2013 compared to $731,000 at December 31, 2012, and total current liabilities of $1,773,000 at September 30, 2013 compared to $1,179,000 at December 31, 2012. As of September 30, 2013 we had a working capital deficit of approximately $36,000.

Our principal sources of cash have included the issuance of equity and borrowings under loan agreements. We expect that as our revenues grow, our operating expenses will continue to grow and, as a result, we will need to generate significant additional net revenues to achieve profitability. We believe that cash on hand plus cash from our operating activities will be sufficient to fund our operations for at least the next 12 months. Although we do not have any current capital commitments, we expect that we will increase our expenditures following completion of this offering once we have additional capital on hand in order to continue our efforts to grow our business and commercialize FloChec™. Accordingly, following completion of the offering, we expect to make additional expenditures in both sales and marketing, as well as general and administrative to address the material weaknesses in our internal control over financial reporting, and invest in our corporate infrastructure. We also expect to invest in our research and development efforts. However, we do not have any definitive plans as to the exact amounts or particular uses at this time, and the exact amounts and timing of any expenditures may vary signficantly from our current intentions. See ''Use of Proceeds'' and ''Risk Factors — We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.''

*Operating activities*

We used $956,000 of net cash in operating activities for the nine months ended September 30, 2013. Non-cash adjustments to reconcile net loss to net cash provided by operating activities plus changes in operating assets and liabilities provided $751,000 of cash in the nine months ended September 30, 2013. These non-cash adjustments primarily reflect deferred revenue, accrued expenses, accounts payable and stock-based compensation expense, slightly offset by higher trade accounts receivable.

We used $1,821,000 of net cash in operating activities for the year ended December 31, 2012. Non-cash adjustments to reconcile net loss to net cash provided by operating activities plus changes in operating assets and liabilities provided $920,000 of cash in the year ended December 31, 2012. These adjustments primarily reflect accrued expenses, a provision for non-payment of long-term notes receivable – related party, stock based compensation expense, and amortization of deferred financing costs.

We used $1,275,000 of net cash in operating activities for the year ended December 31, 2011. Non-cash adjustments to reconcile net loss to net cash provided by operating activities plus changes in operating assets and liabilities provided $601,000 of cash in the year ended December 31, 2011. These adjustments primarily reflect accrued expenses, warrants issued in exchange for services and amortization of deferred financing costs.

*Investing activities*

We used $121,000 of net cash in investing activities for the nine months ended September 30, 2013, primarily for purchases of our FloChec™ systems for lease.

We used $381,000 of net cash in investing activities for the year ended December 31, 2012, reflecting the loan extended to Semler HealthPerks, Inc., as well as the purchase of our FloChec™ systems for lease.

We used $187,000 of net cash in investing activities for the year ended December 31, 2011, primarily due to the purchase of our FloChec™ systems for lease.

*Financing activities*

We generated $1,850,000 of net cash from financing activities during the nine months ended September 30, 2013, primarily from proceeds from sales of shares of our Series A Preferred Stock and warrants to acquire our Series A Preferred Stock in the quarter ending September 30, 2013, which proceeds were partially offset by offering costs and payment of current portion of long-term liabilities.

We generated $2,905,000 of net cash from financing activities during the year ended December 31, 2012, primarily from sales of equity, offset by offering costs and payment of current portion of long-term liabilities.

We generated $1,157,000 of net cash from financing activities during the year ended December 31, 2011, primarily from sales of equity and proceeds from advances payable from investors that would acquire shares of our Series A Preferred Stock and warrants to acquire our Series A Preferred Stock in the quarter ended September 30, 2012, proceeds from loans payable and leases payable, offset by offering costs and payment of current portion of long-term liabilities.

**Description of Indebtedness**

We currently have no material outstanding indebtedness. See Note 7 to our audited financial statements appearing elsewhere in this prospectus for description of our outstanding indebtedness.

**Off-Balance Sheet Arrangements**

As of each of September 30, 2013 and December 31, 2012, we had no off-balance sheet arrangements.

**Commitments and Contingencies**

As of each of September 30, 2013 and December 31, 2012, other than employment/consulting agreements with key executive officers, we had no material commitments other than the liabilities reflected in our financial statements.

**JOBS Act**

In April 2012, the JOBS Act was enacted. Section 107 of the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. Thus, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected to avail ourselves of this extended transition period, and, as a result, we will not adopt new or revised accounting standards on the relevant dates on which adoption of such standards is required for other public companies.

**Internal Control Over Financial Reporting**

In connection with the audit of our financial statements for the year ended December 31, 2012, our management and independent registered public accounting firm identified certain material weaknesses in our internal control over financial reporting. These material weaknesses related to our lack of a sufficient complement of personnel with an appropriate level of knowledge and experience in the application of U.S. generally accepted accounting principles, or GAAP, commensurate with our financial reporting requirements and the fact that policies and procedures with respect to the review, supervision, and monitoring of our accounting and reporting functions were either not designed and in place or not operating effectively. As a result, numerous audit adjustments to our financial statements were identified during the course of the audit. Our management and independent registered public accounting firm did not perform an evaluation of our internal control over financial reporting as of December 31, 2012 in accordance with the provisions of the Sarbanes-Oxley Act. Had we and our independent registered public accounting firm performed an evaluation of our internal control over financial reporting in accordance with the provisions of the Sarbanes-Oxley Act, additional control deficiencies may have been identified by management or our independent registered public accounting firm, and those control deficiencies could have also represented one or more material weaknesses.

In an effort to remediate these material weaknesses, soon after the closing of the initial public offering, we intend to increase the number of our finance and accounting personnel, including hiring a Chief Financial Officer with public company experience. Assessing our procedures to improve our internal control over financial reporting is an ongoing process. We are currently not required to comply with Section 404 of the Sarbanes-Oxley Act, and are therefore not required to make an assessment of the effectiveness of our internal control over financial reporting. As a result, our management did not perform an evaluation of our internal control over financial reporting as of December 31, 2012. Further, our independent registered public accounting firm has not been engaged to express, nor have they expressed, an opinion on the effectiveness of our internal control over financial reporting. We currently do not have an internal audit function.

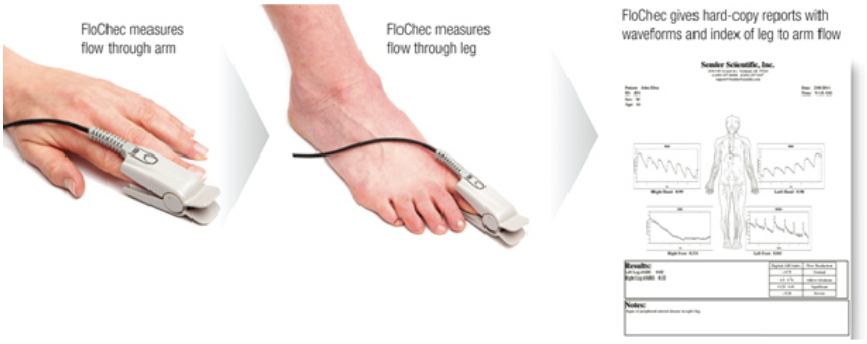
## BUSINESS

### General

We are an emerging medical risk-assessment company. Our mission is to develop, manufacture and market patented products that identify the risk profile of medical patients to allow healthcare providers to capture full reimbursement potential for their services. Our first patented and U.S. Food and Drug Administration, or FDA, cleared product, is FloChec™. FloChec™ is used in the office setting to allow providers to measure arterial blood flow in the extremities and is a useful tool for internists and primary care physicians for whom it was previously impractical to conduct blood flow measurements. FloChec™ received FDA 510(k) clearance in February 2010, we began Beta testing in the third quarter of 2010, and we began commercially leasing FloChec™ in January 2011. In the year ended December 31, 2012 we had total revenue of $1,199,000 and a net loss of $2,741,000 compared to $316,000 and $1,876,000, respectively, in 2011. In the first nine months of 2013 we had total revenue of $1,493,000 and a net loss of $1,707,000 compared to $772,000 and $2,085,000, respectively, in the same period in 2012. Our net loss attributable to common stockholders was $1,707,000 for the nine months ended September 30, 2013 compared to $2,170,000 for the same period 2012, and was $2,826,000 for the year ended December 31, 2012 as compared to $1,876,000 for 2011.

### Our Product

We currently have only one patented and FDA cleared product, FloChec™, that we market and lease to our customers. FloChec™ is a four-minute in-office blood flow test. Healthcare providers can use blood flow measurements as part of their examinations of a patient's vascular condition, including assessments of patients who have vascular disease. The following diagram illustrates the use of FloChec™:




FloChec™ features a sensor clamp that is placed on the toe or finger much like current pulse oximetry devices. Infrared light emitted from the clamp on the dorsal surface of the digit is scattered and reflected by the red blood cells coursing through the area of illumination. Returning light is 'sensed' by the sensor. A blood flow waveform is instantaneously constructed by the software algorithm and displayed on the video monitor. Both index fingers and both large toes are interrogated, which takes about 30 seconds for each. A hardcopy report form is generated that displays four waveforms and the ratio of each leg measurement compared with the arms. Results are classified as Flow Obstruction, Borderline Flow Obstruction and No Flow Obstruction.

We have developed a service model rather than an outright sales model for FloChec™. Our service model pricing is based on data collected on use rates of FloChec™ and third-party payment rates to physicians and facilities using our product. The pricing model eliminates the need to make a capital equipment sale. Consequently, we require no down payment, long-term commitment or maintenance contract or fees from our customers. We replace damaged products free of charge in the service model. FloChec™ has an expected average lifetime of at least three years. We intend to reevaluate the monthly price periodically in consideration of the revenue generation associated with FloChec™. To date, we roughly estimated that routine office usage of the FloChec™ has ranged from a few tests per week up to 10 tests per day.

Our Chairman and co-founder, Dr. Herbert Semler, is an inventor of the technology behind FloChec™. Dr. Semler formed Semler Scientific, Inc., in 2007 to further develop and commercialize his idea. We were assigned all of the rights in the patent and published pending patent application for the technology used in FloChec™ at the time of filing of the patent applications in 2007 and 2011. FloChec™ received FDA 510(k) clearance in February 2010, we began Beta testing in the third quarter of 2010, and we began commercially leasing FloChec™ in January 2011. We have placed our FloChec™ product with cardiologists, internists, nephrologists, endocrinologists, podiatrists and family practitioners. Many of the 50 years or older patients under the care of these physicians have cardiovascular risk factors such as diabetes, cigarette smoking, high cholesterol or hypertension that lead to the development of PAD.

**Market Opportunity**

In March 2010, President Obama signed into law the Health Care Reform Law, a sweeping law intended to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add new transparency requirements for healthcare and health insurance industries, impose new taxes and fees on the health industry and impose additional health policy reforms. This legislation includes reforms and reductions that could affect Medicare reimbursements and health insurance coverage for certain services and treatments. The Health Care Reform Law has brought a new way of doing business for providers and health insurance plans. We believe that fee-for-service programs will be reduced in favor of capitated programs that pay a monthly fee per patient. Fee-for-service is a payment model where services are unbundled and paid for separately. In health care, it gives an incentive for physicians to provide more treatments because payment is dependent on the quantity of care, rather than quality of care. Capitation is a payment arrangement that pays a physician or group of physicians a set amount for each enrolled person assigned to them, per period of time, whether or not that person seeks care. The amount of remuneration is based on the average expected health care utilization of that patient, with greater payment for patients with significant medical history. For Medicare Advantage patients, CMS pays the fee per patient. CMS uses risk adjustment to adjust capitation payments to health plans, either higher or lower, to account for the differences in expected health costs of individuals. Accordingly, under CMS guidelines, risk factor adjustments per patient will provide payment that is higher for sicker patients who have conditions that are codified. The coding system used by CMS for the Medicare Advantage program is a hierarchical condition category, or HCC, diagnostic classification system that begins by classifying over 14,000 diagnosis codes into 805 diagnostic groups, or DXGs. Each code maps to exactly one DXG, which represents a well-specified medical condition, such as DXG 96.01 precerebral or cerebral arterial occlusion with infarction. DXGs are further aggregated into 189 condition categories or CCs. CCs describe a broader set of similar diseases. Diseases within a CC are related clinically and with respect to cost. An example is CC96 Ischemic or Unspecified Stroke, which includes DXGs 96.01 and 96.02 acute but ill-defined cerebrovascular disease.We believe that quality of care measured by completeness and wellness will induce higher payments per patient. These changes are already in place for the approximately 14 million participants in the Medicare Advantage program and are expected to expand to more types of insured patients as healthcare reform is deployed.

Undiagnosed vascular disease of the legs has been called a major under-diagnosed health problem in the United States by the National Institute of Health and the Wall Street Journal. Known as peripheral artery disease, or PAD, this condition is a common and deadly cardiovascular disease that is often undiagnosed. PAD develops when the arteries in the legs become clogged with plaque — fatty deposits — that limit blood flow to the legs. As with clogged arteries in the heart, clogged arteries in the legs place patients at an increased risk of heart attack and stroke. Published studies have shown that persons with PAD are four times more likely to die of heart attack, and two-three times more likely to die of stroke. According to a study by P.G. Steg published in the JAMA, patients with PAD have a 21% event rate of cardiovascular death, heart attack, stroke or cardiovascular hospitalization within 12 months. The SAGE Group has estimated that as many as 18 million people are affected with PAD in the United States alone and A.T. Hirsch et al. in a JAMA published article further estimate that more than 75% are without classic symptoms of PAD, such as leg pain on exertion. One can lower the risks associated with PAD if the disease is detected, with early detection providing the greatest benefit.

Many people affected with PAD do not have noticeable symptoms. When symptoms of PAD are present, they often include fatigue, heaviness, cramping or pain in the legs during activity, leg or foot pain,

sores, wounds or ulcers on the toes, feet, or legs, which are slow to heal. Persons with PAD may become disabled and not be able to work, and can even lead to amputations. According to the SAGE Group, there are approximately 160,000 amputations due to PAD per year and, according to the National Limb Loss Information Center, an estimated 2.0 million Americans are amputees.

Risk factors for developing PAD include:

- Age (over 50 years)
- Race (African-American)
- History of smoking
- Diabetes
- High blood pressure
- High blood cholesterol
- Personal history of vascular disease, heart attack, or stroke.

We believe medical personnel who care for those older than 50 years are the target market for FloChec™. Based on U.S. Census data, we believe there are more than 80 million older Americans who could be evaluated for the presence of PAD.

According to the Agency for Healthcare Research and Quality, there are over 200,000 internists, family practitioners and gerontologists in the United States. In addition, based on American Heart Association data, there are over 20,000 cardiologists and 7,500 vascular and cardiovascular surgeons. Also, there are millions of diabetic patients seen routinely by endocrinologists. Many podiatrists who see patients with these problems and orthopedic surgeons may see value in screening patients for circulation issues prior to leg procedures. Neurologists may need a tool to differentiate leg pain from vascular versus neurologic etiology. Nephrologists see patients with kidney disease, who have a higher frequency of PAD. Wound care centers need to know the adequacy of limb perfusion. We expect that each physician will have thousands of patient visits annually from people older than 50 years. While, it is standard practice to ask about symptoms of PAD and to feel for diminished pulses on physical exam, we believe that it is often the case in busy practices, that the questions go unasked. In addition, the physical exam of the extremities is generally cursory in the absence of a patient complaint. Given the ease of use and speed of FloChec™, we believe that many doctors will incorporate its use in their practice as a routine annual test to measure blood flow in an extremity. It is our intent that FloChec™ be incorporated as a tool in the routine physical exam of adult patients by primary care providers in a similar fashion to the use of a thermometer or stethoscope. Providers do not request payment for using a stethoscope during the physical examination. Similarly, we do not expect (or intend) for providers that use our FloChec™ to seek such a reimbursement approval.

**Strategy**

Our mission is to develop, manufacture and market patented products that identify the risk profile of medical patients to allow healthcare providers to capture full reimbursement potential for their services, while growing revenues and becoming and maintaining profitability. We intend to do this by:

- ***Capitalizing on opportunities provided by the Health Care Reform Law.*** Under the Health Care Reform Law, for capitated programs, payment is higher for sicker patients who have conditions that are codified. We believe a provider would prefer to have more remuneration for taking care of a patient. A provider expects to spend less time caring for a healthy patient than for a sicker patient. If payment per month was the same for both types of patients, there would be a perverse incentive for the provider to only want to care for healthy persons. Accordingly, CMS anticipated this situation and pays more per month for “sicker” patients who have chronic conditions that are identified on the medical record through use of an established coding system. This creates a business opportunity in finding low-cost, effective means to identify the conditions, which have been established in coding systems for risk adjustment of payments (higher payments paid to providers and healthcare plans to compensate them for caring for sicker or more risky patients). The more common and more dangerous a condition is, the greater the opportunity for profit. The goal is to provide cost-effective wellness.
- ***Targeting customers with patients at risk of developing PAD.*** Healthcare providers use blood flow

measurements as part of their assessment of a patient's vascular condition. Our strategy is to keep marketing FloChec™ on a lease-based service model, to medical personnel who care for those older than 50, including cardiologists, internists, nephrologists, endocrinologist, podiatrists, and family practitioners. Specifically, we believe there are more than 250,000 physicians and potential customers in the United States alone, many of the patients of whom will be more than 50 years old and at increased risk of developing PAD. Based on U.S. Census data, the evaluable patient population for FloChec™ is estimated to be more than 80 million patients in the United States annually.

- ***Expanding the tools available to internists and non-peripheral vascular experts.*** Our intention is to provide a tool to internists and non-peripheral vascular experts, for whom it was previously impractical to conduct a blood flow measurement unless in a specialized vascular laboratory. For vascular specialist, FloChec™ does not require the use of blood pressure cuffs (which should not be used on some breast cancer patients), and measures without blood pressure in obese patients and patients with non-compressible, hard, calcified arteries. Currently, these patients often are unable to be measured satisfactorily with traditional analog ABI devices.
- ***Developing additional products that allow healthcare providers to capture the full reimbursement potential for their services.*** We are currently developing several new products in conjunction with our consultant engineering groups that are intended to provide cost-effective wellness solutions for our growing, established customer base. The new products under development or to be developed may incorporate some of our current technology or new technology. The goal is to achieve a reputation for outstanding service and sell new cost effective wellness solutions to leverage our gains in the marketplace for such product offerings.

**Sales and Marketing**

We provide our FloChec™ product and services to our customers through our salespersons and through our co-exclusive distributor, Bard Peripheral Vascular, Inc., or Bard, a large medical device company with a worldwide presence in both interventional cardiology and dialysis. We signed a co-exclusive supply and distribution agreement with Bard in late 2012 in an effort to increase our sales and marketing reach, which agreement accounted for less than 20% of our revenues in each of 2012 and the first nine months of 2013. With certain exceptions, we appointed Bard on a co-exclusive basis to lease FloChec™ to certain customers, and we retained the right to lease directly to such customers as well. In addition to our co-exclusive distributor, we have direct sales representatives who have experience in the fields of family practice and podiatry.

We generally make available to our sales team (including our distributor) an inventory of FloChec™ products consistent with their needs. Our product is then directly delivered to our customer by the salesperson at the time he/she conducts in-service training to the customer. Because FloChec™ is relatively easy to use, training can generally be accomplished in less than 15 minutes.

Our customers generally pay by credit card on the 15th of each month as an advance for usage during the next 30 days. We provide technical support daily, coupled directly to the manufacturing operation so that replacement products, if needed, can be shipped overnight directly to the customer. The majority of the support is over the telephone and focuses on software and connectivity issues, rather than hardware. We plan to upgrade FloChec™ operating systems as appropriate by direct shipments. In the future, we plan to ship directly to customers and handle the installation and training remotely if appropriate.

**Manufacturing**

We manufacture our product, FloChec™ through an independent contractor. We entered into our service and supply agreement with the contract manufacturer in April 2011 and pay our manufacturer for finished goods. The contract provides for subassemblies, product final assembly, test, serialization, finished goods, inventory and shipping operations. Our current contract will remain in force until terminated by us upon three months written notice, or until terminated by either party for cause. Although we believe we have a good working relationship with our current contract manufacturer, there are many such qualified contract manufacturers available around the country should we need to replace them or if they are not able

to meet demand as we grow our business as anticipated. We believe FloChec™ is relatively easy to manufacture. We employ a consultant vendor qualification expert to monitor and test the quality controls and quality assurance procedures of our contract manufacturer.

**Competition**

The principal competitor for FloChec™ is the standard blood pressure cuff ankle-brachial index, or ABI, device. FloChec™ does not include a blood pressure cuff. We are not aware of another product that performs digital ABI without the use of a blood pressure cuff. There are several companies that manufacture the traditional ABI device, which range in price from $2,500 to $20,000. Some of these companies are much larger than us and have more financial resources and their own distributor network. The traditional ABI devices are differentiated by the degree of automation designed into each product. ABI devices that rely more heavily on operator assessment (*i.e.*, listening to the return of pulse while decreasing cuff pressure), are thought to have less objectivity in their measurement. We know of no direct 'digital ABI' competitor to FloChec™. Because standard ABI devices require a better trained operator, the products are usually sold to specialized vascular labs that are supervised by a vascular surgeon, with the tests performed by a licensed vascular technician. It is not uncommon for such ABI devices to be marketed to the offices of internists, podiatrists, endocrinologists or most cardiologists.

Our intention is to provide a tool to internists and non-peripheral vascular experts, for whom it was previously impractical to conduct a blood flow measurement unless in a specialized vascular laboratory. For vascular specialists, FloChec™ does not require the use of blood pressure cuffs (which should not be used on some breast cancer patients), and measures without blood pressure in obese patients and patients with non-compressible, hard, calcified arteries. Currently, these patients often are unable to be measured with traditional analog ABI devices.

**Research and Development Program**

We have dedicated, engineering consultants that are well integrated into our overall business, ranging from customer requirements to technical support. The engineering group uses our in-house quality system as its framework for new product development and release. The majority of the engineering is circuit design and software development, as FloChec™ is PC-based. We are currently developing several new products in conjunction with our consultant engineering groups. These new products are being designed to provide cost-effective wellness solutions for our growing, established customer base. The new products under development or that may be developed may incorporate some of our current technology or new technology. We are also directing much of our activity to building our patent portfolio and protecting proprietary positions.

There have been three clinical studies of the FloChec™ system, two published internally as white papers and one published in a peer-reviewed journal. In these studies, the FloChec™ system evaluated blood flow to the extremities and results were frequently concordant with analog ABI and imaging studies.

**Patents and Licenses**

We have been issued one patent for our apparatus and method, which expires December 7, 2026. Three other U.S. patent applications and one international patent application are pending. Other patents are in process.

**Governmental Regulation**

FloChec™ received FDA 510(k) clearance in February, 2010 as a Class II Medical Device. This designation means that FloChec™ is a commercial device and is currently being sold in the United States. Class II devices are subject to FDA's general controls, and any other special controls as deemed necessary by FDA to provide reasonable assurance of the safety and effectiveness of the device. Pre-market review and clearance by FDA for Class II devices are generally accomplished through the 510(k) pre-market notification procedure. Pre-market notification submissions are subject to user fees, unless a specific exemption applies.

As our business is subject to extensive federal, state, local and foreign regulations, we currently employ an established regulatory consultant specializing in medical devices to maintain our regulatory filings, monitor our on-going activities, and ensure compliance with all federal and state regulations.

Some of the pertinent laws have not been definitively interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of subjective interpretations. In addition, these laws and their interpretations are subject to change. Both federal and state governmental agencies continue to subject the healthcare industry to intense regulatory scrutiny, including heightened civil and criminal enforcement efforts. We believe that we have structured our business operations and relationships with our customers to comply with all applicable legal requirements. However, it is possible that governmental entities or other third parties could interpret these laws differently and assert otherwise. We discuss below the statutes and regulations that are most relevant to our business.

*U.S. Food and Drug Administration Regulation*

FloChec™ is a medical device subject to extensive regulation by the FDA and other federal, state, local and foreign regulatory bodies. FDA regulations govern, among other things, the following activities that we or our partners perform and will continue to perform:

- product design and development;
- product testing;
- product manufacturing;
- product safety;
- post-market adverse event reporting;
- post-market surveillance;
- product labeling;
- product storage;
- record keeping;
- pre-market clearance or approval;
- post-market approval studies;
- advertising and promotion; and
- product sales and distribution.

*FDA's Pre-market Clearance and Approval Requirements*

To commercially distribute in the United States, FloChec™ or any future medical device we develop requires or will require either prior 510(k) clearance or prior approval of a premarket approval, or PMA, application from the FDA. The FDA classifies medical devices into one of three classes. Devices deemed to pose lower risk are placed in either class I or II, which requires the manufacturer to submit to the FDA a pre-market notification requesting permission for commercial distribution. This process is known as 510(k) clearance. Some low risk devices are exempt from this requirement. Devices deemed by the FDA to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices, or devices deemed not substantially equivalent to a previously cleared 510(k) device are placed in class III, requiring approval of a PMA application. Both pre-market clearance and PMA applications are subject to the payment of user fees, paid at the time of submission for FDA review. The FDA can also impose restrictions on the sale, distribution or use of devices at the time of their clearance or approval, or subsequent to marketing.

*510(k) Clearance Pathway*

To obtain 510(k) clearance, a medical device manufacturer must submit a pre-market notification demonstrating that the proposed device is substantially equivalent to a previously cleared 510(k) device or a device that was in commercial distribution before May 28, 1976 for which the FDA has not yet called for the

submission of PMA applications. The FDA's 510(k) clearance pathway usually takes from three to 12 months from the date the application is completed, but it can take significantly longer and clearance is never assured. Although many 510(k) pre-market notifications are cleared without clinical data, in some cases, the FDA requires significant clinical data to support substantial equivalence. In reviewing a pre-market notification, the FDA may request additional information, including clinical data, which may significantly prolong the review process. After a device receives 510(k) clearance, any modification that could significantly affect its safety or effectiveness, or that would constitute a major change in its intended use, will require a new 510(k) clearance or could require a PMA application. The FDA requires each manufacturer to make this determination initially, but the FDA can review any such decision and can disagree with a manufacturer's determination. If the FDA disagrees with a manufacturer's determination regarding whether a new pre-market submission is required for the modification of an existing device, the FDA can require the manufacturer to cease marketing and/or recall the modified device until 510(k) clearance or approval of a PMA application is obtained. If the FDA requires us to seek 510(k) clearance or approval of a PMA application for any modifications to FloChec™ we may be required to cease marketing or recall the modified device until we obtain this clearance or approval. Also, in these circumstances, we may be subject to significant regulatory fines or penalties for failure to submit the requisite PMA application(s). We have made and plan to continue to make minor additional product enhancements that we believe do not require new 510(k) clearances. In addition, the FDA is currently evaluating the 510(k) clearance process and may make substantial changes to industry requirements, including which devices are eligible for 510(k) clearance, the ability to rescind previously granted 510(k) clearance and additional requirements that may significantly impact the process.

*Pre-market Approval Pathway*

A PMA application must be submitted if the device cannot be cleared through the 510(k) clearance process and requires proof of the safety and effectiveness of the device to the FDA's satisfaction. Accordingly, a PMA application must be supported by extensive data including, but not limited to, technical information regarding device design and development, preclinical and clinical trials, data and manufacturing and labeling to support the FDA's determination that the device is safe and effective for its intended use. After a PMA application is complete, the FDA begins an in-depth review of the submitted information, which generally takes between one and three years, but may take significantly longer. During this review period, the FDA may request additional information or clarification of information already provided. Also during the review period, an advisory panel of experts from outside the FDA may be convened to review and evaluate the application and provide recommendations to the FDA as to the approvability of the device. In addition, the FDA will conduct a preapproval inspection of the manufacturing facility to ensure compliance with Quality System Regulations, or QSRs, which impose elaborate design development, testing, control, documentation and other quality assurance procedures in the design and manufacturing process. The FDA may approve a PMA application with post-approval conditions intended to ensure the safety and effectiveness of the device including, among other things, restrictions on labeling, promotion, sale and distribution and collection of long-term follow-up data from patients in the clinical study that supported approval. Failure to comply with the conditions of approval can result in materially adverse enforcement action, including the loss or withdrawal of the approval. New PMA applications or PMA application supplements are required for significant modifications to the manufacturing process, labeling and design of a device that is approved through the PMA process. PMA supplements often require submission of the same type of information as a PMA application, except that the supplement is limited to information needed to support any changes from the device covered by the original PMA application, and may not require as extensive clinical data or the convening of an advisory panel.

*Pervasive and Continuing FDA Regulation*

After a device is placed on the market, regardless of its classification or pre-market pathway, numerous regulatory requirements apply. These include, but are not limited to:

- establishing registration and device listings with the FDA;
- quality system regulation, which requires manufacturers to follow stringent design, testing, process control, documentation and other quality assurance procedures;

- labeling regulations, which prohibit the promotion of products for uncleared or unapproved, *i.e.*, "off-label," uses and impose other restrictions on labeling;
- medical device reporting regulations, which require that manufacturers report to the FDA if their device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if it were to recur;
- corrections and removal reporting regulations, which require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the U.S. Federal Food, Drug, and Cosmetic Act, or FDCA, that may present a risk to health; and
- requirements to conduct post-market surveillance studies to establish continued safety data.

The FDA enforces these requirements by inspection and market surveillance. Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following sanctions:

- untitled letters or warning letters;
- fines, injunctions and civil penalties;
- recall or seizure of our products;
- operating restrictions, partial suspension or total shutdown of production;
- refusing our request for 510(k) clearance or pre-market approval of new products;
- withdrawing 510(k) clearance or pre-market approvals that are already granted; and
- criminal prosecution.

We are subject to unannounced device inspections by the FDA and the California Food and Drug Branch. These inspections may include our suppliers' facilities.

*Sales and Marketing Commercial Compliance*

Federal anti-kickback laws and regulations prohibit, among other things, persons from knowingly and willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, in exchange for, or to induce either the referral of an individual, or the purchase, order or recommendation of, any good or service paid for under federal healthcare programs such as the Medicare and Medicaid programs. Possible sanctions for violation of these anti-kickback laws include monetary fines, civil and criminal penalties, exclusion from Medicare and Medicaid programs and forfeiture of amounts collected in violation of such prohibitions.

In addition, federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government, or knowingly making, or causing to be made, a false statement to get a false claim paid. Off-label promotion has been pursued as a violation of the federal false claims laws. Pursuant to FDA regulations, we can only market our products for cleared or approved uses. Although surgeons are permitted to use medical devices for indications other than those cleared or approved by the FDA based on their medical judgment, we are prohibited from promoting products for such off-label uses. Additionally, the majority of states in which we market our products have similar anti-kickback, false claims, anti-fee splitting and self-referral laws, which may apply to items or services reimbursed by any third-party payor, including commercial insurers, and violations may result in substantial civil and criminal penalties.

To enforce compliance with the federal laws, the U.S. Department of Justice, or DOJ, has increased its scrutiny of interactions between healthcare companies and healthcare providers, which has led to an unprecedented level of investigations, prosecutions, convictions and settlements in the healthcare industry. Dealing with investigations can be time- and resource-consuming. Additionally, if a healthcare company settles an investigation with the DOJ or other law enforcement agencies, the company may be required to agree to additional compliance and reporting requirements as part of a consent decree or corporate integrity agreement.

The U.S. and foreign government regulators have increased regulation, enforcement, inspections and governmental investigations of the medical device industry, including increased U.S. government oversight and enforcement of the Foreign Corrupt Practices Act. Whenever a governmental authority concludes that we are not in compliance with applicable laws or regulations, that authority can impose fines, delay or suspend regulatory clearances, institute proceedings to detain or seize our products, issue a recall, impose operating restrictions, enjoin future violations and assess civil penalties against us or our officers or employees and can recommend criminal prosecution. Moreover, governmental authorities can ban or request the recall, repair, replacement or refund of the cost of devices we distribute.

Additionally, the commercial compliance environment is continually evolving in the healthcare industry as some states, including California, Massachusetts and Vermont, mandate implementation of corporate compliance programs, along with the tracking and reporting of gifts, compensation and other remuneration to physicians. The Health Care Reform Law also imposes new reporting and disclosure requirements on device manufacturers for any “transfer of value” made or distributed to prescribers and other healthcare providers, effective March 30, 2013. Such information will be made publicly available in a searchable format beginning September 30, 2013. Device manufacturers will also be required to report and disclose any investment interests held by physicians and their family members during the preceding calendar year. Failure to submit required information may result in civil monetary penalties of up to an aggregate of $150,000 per year (and up to an aggregate of $1 million per year for “knowing failures”), for all payments, transfers of value or ownership or investment interests not reported in an annual submission. The shifting compliance environment and the need to build and maintain robust and expandable systems to comply in multiple jurisdictions with different compliance and/or reporting requirements increases the possibility that a healthcare company may run afoul of one or more of the requirements.

*Third-Party Coverage and Reimbursement*

Although it is our intent that FloChec™ be incorporated as a tool in the routine physical exam of adult patients by primary care providers in a similar fashion to the use of a thermometer or stethoscope (such that reimbursement is not sought), we cannot control whether or not providers who use FloChec™ will seek third-party coverage for such procedures or reimbursement. If providers intend to seek third-party coverage or reimbursement for use of FloChec™, the success of our product could become dependent on the availability of coverage and reimbursement from third-party payors, such as governmental programs including Medicare and Medicaid, private insurance plans and managed care programs. Reimbursement is contingent on established coding for a given procedure, coverage of the codes by the third-party payors and adequate payment for the resources used.

Physician coding for procedures is established by the American Medical Association. CMS, the agency responsible for administering Medicare, and the National Center for Health Statistics, are jointly responsible for overseeing changes and modifications to billing codes used by hospitals for reporting inpatient procedures, and many private payors use coverage decisions and payment amounts determined by CMS for Medicare as guidelines in setting their coverage and reimbursement policies. All physician and hospital coding is subject to change, which could impact coverage and reimbursement and physician practice behavior. We do not track denial of requests for reimbursement made by the users of FloChec™. It is our belief that such denials have occurred and might occur in the future with more or less frequency. We are not in the business of performing FloChec™ measurements or seeking reimbursement from third-party payers as our customers, should they choose to do so, are responsible for performing tests and seeking reimbursements.

Independent of the coding status, third-party payors may deny coverage based on their own criteria, such as if they believe that the clinical efficacy of a device or procedure is not well established and is deemed experimental or investigational, is not the most cost-effective treatment available, or is used for an unapproved indication. We will continue to provide the appropriate resources to patients, physicians, hospitals and insurers in order to promote the best in patient care and clarity regarding reimbursement and work to reverse any non-coverage policies. For some governmental programs, such as Medicaid, coverage and reimbursement differ from state to state, and some state Medicaid programs may not pay an adequate amount for the procedures performed with our products, if any payment is made at all. As the portion of the U.S. population over the age of 65 and eligible for Medicaid continues to grow, we may be more

vulnerable to coverage and reimbursement limitations imposed by CMS. National and regional coverage policy decisions are subject to unforeseeable change and have the potential to impact physician behavior. For example, if CMS decreases the monthly payment for a 65 year old patient, then the provider will have to decide which steps to eliminate from his or her routine office visits in order to maintain a profitable business model. If the time of an office visit will need to be reduced to maintain a profitable business, a provider may decide to eliminate certain services or conducting certain procedures, such as deciding not to use a thermometer, take someone's blood pressure or use a FloChec™ to run an ABI test. Thus, reimbursement limitations imposed by CMS on providers may affect their decision making about which services to provide during an office visit, which could affect our company.

Particularly in the United States, third-party payors carefully review, have undertaken cost-containment initiatives, and increasingly challenge, the prices charged for procedures and medical products as well as any technology that they, in their own judgment, consider experimental or investigational. In addition, an increasing percentage of insured individuals are receiving their medical care through managed care programs, which monitor and often require pre-approval or pre-authorization of the services that a member will receive. Many managed care programs are paying their providers on a capitated basis, which puts the providers at financial risk for the services provided to their patients by paying them a predetermined amount per member per month. The percentage of individuals covered by managed care programs is expected to grow in the United States over the next decade.

There can be no assurance that third-party coverage and reimbursement will be available or adequate, or that future legislation, regulation, or coverage and reimbursement policies of third-party payors will not adversely affect the demand for our products or our ability to sell these products on a profitable basis. The unavailability or inadequacy of third-party payor coverage or reimbursement could have a material adverse effect on our business, operating results and financial condition.

*Healthcare Fraud and Abuse*

Healthcare fraud and abuse laws apply to our business when a customer submits a claim for an item or service that is reimbursed under Medicare, Medicaid or most other federally-funded healthcare programs. The federal Anti-Kickback Law prohibits unlawful inducements for the referral of business reimbursable under federally-funded healthcare programs, such as remuneration provided to physicians to induce them to use certain tissue products or medical devices reimbursable by Medicare or Medicaid. The Anti-Kickback Law is subject to evolving interpretations. For example, the government has enforced the Anti-Kickback Law to reach large settlements with healthcare companies based on sham consultant arrangements with physicians or questionable joint venture arrangements. The majority of states also have anti-kickback laws, which establish similar prohibitions that may apply to items or services reimbursed by any third-party payor, including commercial insurers. Further, the recently enacted Health Care Reform Law, among other things, amends the intent requirement of the federal anti-kickback and criminal healthcare fraud statutes. A person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it. In addition, the Health Care Reform Law provides that the government may assert that a claim including items or services resulting from a violation of the federal anti-kickback statute constitutes a false or fraudulent claim for purposes of the false claims statutes.

If a governmental authority were to conclude that we are not in compliance with applicable laws and regulations, we and our officers and employees could be subject to severe criminal and civil penalties including, for example, exclusion from participation as a supplier of product to beneficiaries covered by Medicare or Medicaid.

Additionally, the civil False Claims Act prohibits knowingly presenting or causing the presentation of a false, fictitious or fraudulent claim for payment to the U.S. government. Actions under the False Claims Act may be brought by the Attorney General or as a qui tam action by a private individual in the name of the government. Violations of the False Claims Act can result in very significant monetary penalties and treble damages. The federal government is using the False Claims Act, and the accompanying threat of significant liability, in its investigations of healthcare providers and suppliers throughout the country for a wide variety of Medicare billing practices, and has obtained multi-million and multi-billion dollar settlements in addition to individual criminal convictions. Given the significant size of actual and potential settlements, it is expected that the government will continue to devote substantial resources to investigating healthcare providers' and suppliers' compliance with the healthcare reimbursement rules and fraud and abuse laws.

**Employees**

As of November 14, 2013, we had 11 employees, all of whom were full time employees. None of our employees is represented by a labor union, and we consider our relationship with our employees to be good. These employees include 3 officers and 3 direct sales professionals. We also had 12 active consultants.

**Description of Property**

Because we outsource our manufacturing to a “turn-key” manufacturer and have a geographically dispersed sales force and distributor arrangement, we have minimal needs for office space to conduct our day-to-day business operations. We currently use space for our corporate headquarters on a rent-free basis in a building located at 2330 NW Everett St., Portland, OR, that is owned by our Chairman and co-founder, Dr. Herbert Semler.

**Legal Proceedings**

We are subject to claims and legal actions that arise in the ordinary course of business from time to time. However, we are not currently subject to any claims or actions that we believe would have a material adverse effect on our financial position or results of operations.

## MANAGEMENT

### Board of Directors and Executive Officers

The following are our Directors and executive officers and their respective ages and positions as of November 14, 2013:

| Name | Age | Position |
|---|---|---|
| Herbert J. Semler, M.D. | 85 | Chairman of the Board |
| Douglas Murphy-Chutorian, M.D. | 59 | Chief Executive Officer and Director |
| Robert G. McRae | 44 | Chief Operating Officer |
| Daniel E. Conger | 36 | Vice President of Finance (principal financial and accounting officer) |
| William H.C. Chang | 57 | Director |
| Greg S. Garfield | 50 | Director |
| Dinesh Gupta | 63 | Director |
| Elliot A. Sainer | 67 | Director |
| Shirley Semler | 78 | Director |

***Directors and Executive Officers***

***Herbert J. Semler, M.D.*** — Dr. Herbert J. Semler co-founded Semler Scientific, Inc. in 2007 and has served as Chairman of the Board of Directors since that time. Dr. Semler also served as our Chief Executive Officer until October 31, 2012. Over his 45 years of medical practice, Dr. Semler has developed, manufactured, and marketed products for three cardiovascular companies. As a board certified cardiologist, Dr. Semler holds multiple patents and patent applications for cardiovascular products. He has experience with Holter monitoring, telemedicine, cardiac telemetry, pace maker surveillance, cardiac event monitoring, including development of the “King of Hearts” device. Dr. Semler also invented a femoral vascular hemostatic device, which has been used on over fifteen million patients. Dr. Semler has had a distinguished career in medicine including the following accomplishments. He has served as Professor of Cardiology at Oregon Health Sciences University (OHSU) where he founded and funded The Dr. Herbert and Shirley Semler Cardiovascular Institute. He is a Fellow of the American College of Cardiology, American College of Physicians, Society of Cardiac Interventions and Angiography, and the American Heart Association. He has published over 90 articles in the field of cardiovascular medicine. Dr. Semler is the chairman of the Shirley & Herbert Semler Foundation and until March 2008 was the chairman of Advanced Vascular Dynamics. Dr. Semler is currently the Chief Executive Officer of Semler Health Perks, Inc., a private medical consumer software applications company founded by Dr. Semler in October 2012. Dr. Semler is the husband of our Director and co-founder, Shirley Semler. Dr. Semler’s extensive experience in the fields of cardiology and medical device companies, and his experience and knowledge as a founder and executive of our company qualify him to be our Chairman of the Board and Director.

***Douglas Murphy-Chutorian, M.D.*** — Dr. Douglas Murphy-Chutorian has served as a member of our Board of Directors since September 2012 and as our Chief Executive Officer since October 31, 2012. Dr. Murphy-Chutorian has had broad, diverse career experience in healthcare over the past 30 years, stretching from clinician, academician, inventor, entrepreneur, Chief Executive Officer, Chairman of the Board, and consultant to financial firms. Since April 15, 2005, he has been Managing Director of Select Healthcare Capital, LLC. Dr. Murphy-Chutorian is a named inventor on more than 30 patents, and has guided more than 50 products through various regulatory approval processes. His business career has included extensive involvement in all facets of the medical industry from financial, research and development, manufacturing, marketing and sales, regulatory, reimbursement, and clinical trials. His breadth of healthcare experience includes all major sectors of the industry: medical devices, health services, pharmaceuticals, biotechnology and managed care. He received his B.A. and M.D. from Columbia University. He completed his Internal Medicine residency at New York University/Bellevue Medical Center and his fellowship in Cardiology at Stanford University Medical Center. He has served as a faculty member in interventional cardiology at both Stanford and Montefiore Medical Center. Dr. Murphy-Chutorian’s experience as a cardiologist, inventor and executive qualify him to be our Director and Chief Executive Officer.

***Robert G. McRae*** — Mr. Robert G. McRae has served as our Chief Operating Officer since November 2010. Mr. McRae is a seasoned executive experienced in medical device industry, specifically in growing early stage companies. As Chief Operating Officer, he has been responsible for all operational aspects of the company. From April 2010 until joining our company, Mr. McRae was the principal consultant of McRae Consulting. From March 2008 to April 2010, Mr. McRae was VP, Research and Business Development for Bacchus Vascular, Inc. He was part of the diligence, eventual acquisition, and subsequent integration of Bacchus Vascular into Covidien, Inc. From 2002 to 2007, Mr. McRae held several different positions with VNUS Medical, including heading Manufacturing, Research and Development, and Business Development. Mr. McRae built the infrastructures and teams that supported VNUS' growth from a start-up, through a successful IPO. Prior to VNUS, Mr. McRae worked at Stryker Endoscopy. Prior to his medical device experience, Mr. McRae held various positions in the U.S. Navy for a period of six years. Mr. McRae earned an MBA from Santa Clara University and a BSME from San Jose State University.

***Daniel E. Conger*** — Mr. Daniel E. Conger has served as our Vice President of Finance since October 2010. From September 2008 until joining our company, Mr. Conger worked at Bacchus Vascular and its acquirer Covidien, Inc., a medical device, supplies and pharmaceuticals company, where he was the Plant Controller for the San Jose plant. At Covidien, Mr. Conger was responsible for creation of a $130 million annual budget, leading a team of six people. He had sole responsibility for preparation of monthly and quarterly financial statements, and presented quarterly results to executive management of the global business unit. Mr. Conger has been working in the medical device, start-up and biotechnology industries since 2006, and has experience designing internal control systems, implementing such systems, and running finance in a business centered manner. He received his B.S. in Business Administration from Humboldt State University in May 2001 and an MBA — Accounting Option from California State University East Bay in June 2010.

***William H.C. Chang*** — Mr. William H.C. Chang has served as a member of our Board of Directors since September 2012. Since 1978, Mr. Chang has served as Chief Executive Officer of Westlake Development Company, a real estate development company, and is also Chairman of Westlake International Group, a privately held diversified investment company whose investments span private and public equities, including venture capital, professional sports, media and entertainment, emerging technologies, life sciences, and real estate. Mr. Chang's associations and affiliations include: the Asian Business League (Founding Chairman); California International Relations Foundation (Director); Chinese American Association of Commerce (Founder); City Club of San Francisco (Founding Governor); Harvard University (Asia Center and Committee on University Resources); and World President's Organization. Mr. Chang is the Co-Owner and General Partner of D. C. United. He is also on the Executive Committee of the San Francisco Giants Baseball Club, and on the Board of Directors of U.S.A. Rugby. Chang has a bachelor's degree in Economics from Harvard College, Cambridge, Massachusetts. Mr. Chang's involvement in numerous early stage medical and technology companies, with a particular focus on clean/green, M2M, mobile, and cloud based applications, both as an investor and director qualify him to serve as our Director.

***Greg S. Garfield*** — Mr. Greg S. Garfield has served as a member of our Board of Directors since November 2013. Mr. Garfield serves as a director on the boards of seven private companies in the healthcare industry. From 2006 to 2011, he had various roles at Acclarent, Inc., a medical technology company, including Chief Operating Officer and General Counsel. Acclarent, Inc. was acquired by Johnson and Johnson at a valuation of approximately $800 million cash in January 2010. From 1995 to 2006, Mr. Garfield had various roles at Guidant Corporation, a medical technology company, including Vice President of Business Development and General Counsel. Guidant was acquired by Boston Scientific Corporation in 2006 at a valuation of approximately $27 billion in cash and stock. Mr. Garfield has a Bachelor of Science degree from California Polytechnic State University and a Juris Doctorate from McGeorge School of Law, University of the Pacific. We believe Mr. Garfield's significant business experience at other medical technology companies qualify him to be our Director.

***Dinesh Gupta*** — Mr. Dinesh Gupta has served as a member of our Board of Directors since October 2013. Mr. Gupta is co-founder and Managing Member of both Satwik Ventures, a technology venture fund founded in 2000, and First Guardian Group, a real estate firm managing commercial

properties and syndicating private equity for providing equity for development projects and acquiring income properties throughout the United States that was founded in 2003. Mr. Gupta has led companies in all critical activities of business, including strategic planning, obtaining financing, and accounting. As the Managing Member of Satwik Ventures, Mr. Gupta has significant experience investing in early stage technology companies, guiding them in advisory roles and as a board member. As Managing Member of First Guardian Group, Mr. Gupta has led in the acquisition, development, and management of over 40 properties valued in excess of $500 million. Mr. Gupta's experience managing business and advising early stage technology companies qualifies him to be our Director.

***Elliot A. Sainer*** — Mr. Elliot A. Sainer has served as a member of our Board of Directors since November 2013. Mr. Sainer serves as a director on the boards of five private companies in either the education or healthcare field, and from 2006 to 2011 was Vice Chairman of the Board of CRC Health Corporation. From 1998 to 2006, he was founder and CEO of Aspen Education Group, the nation's largest therapeutic education company. Aspen was acquired by CRC Health Corporation in 2006. Mr. Sainer is the immediate past Chairman of the Board of the Alzheimer's Association of Greater Los Angeles, is a founding Board member of Emagine, a new charter high school (USC Hybrid High) developed in conjunction with USC, and is an active Board member of the Union Station Homeless Services in Pasadena. Mr. Sainer received his MBA from George Washington University and his BA from the University of Pittsburgh. We believe Mr. Sainer's significant experience in the healthcare field, as well as his prior experience on the Board of a U.S. public company qualify him to be our Director.

***Shirley Semler*** — Mrs. Shirley Semler is our co-founder and has served as a member of our Board of Directors since our formation in 2007. Mrs. Semler also served as an Executive Vice President until December 2009. Mrs. Semler is the holder of the patent on the Compressar hemostatic product that has been used on over 15 million patients. She was the co-founder and President of Instromedix, Inc., a medical product company that was acquired by Alares, Inc. She was also co-founder and President of Advanced Vascular Dynamics before it was sold. She attended Stephens College in Columbus, Missouri and the University of Colorado. Mrs. Semler is the wife of our Chairman of the Board and co-founder, Dr. Herbert J. Semler. Mrs. Semler's experience in the medical device business, and her experience and knowledge as a founder and executive of our company qualify her to be our Director.

**Corporate Governance**

***Director Independence***

Applicable NASDAQ rules require a majority of a listed company's board of directors to be comprised of independent directors within one year of listing. In addition, the NASDAQ rules require that, subject to specified exceptions, each member of a listed company's audit, compensation and nominating and corporate governance committees be independent and that audit committee members also satisfy independence criteria set forth in Rule 10A-3 under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Under applicable NASDAQ rules, a director will only qualify as an "independent director" if, in the opinion of the listed company's board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. In order to be considered independent for purposes of Rule 10A-3, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries or otherwise be an affiliated person of the listed company or any of its subsidiaries.

In 2013, our Board of Directors undertook a review of the composition of our Board of Directors and its committees and the independence of each director. Based upon information requested from and provided by each Director concerning his or her background, employment and affiliations, including family relationships, our Board of Directors has determined that each of Messrs. Chang, Garfield, Gupta and Sainer are "independent directors" as defined under applicable NASDAQ rules. In making such determination, our Board of Directors considered the relationships that each such non-employee Director has with our company and all other facts and circumstances that our Board of Directors deemed relevant in determining his or her independence, including the beneficial ownership of our capital stock by each non-employee Director.

Other than as described above in the biographies under "— Board of Directors," there are no family relationships among any of our Directors or executive officers.

***Board Committees***

Our Board of Directors has established an Audit Committee, a Compensation Committee and a Nominating Committee effective upon the closing of this offering. The composition of each committee will be effective upon the closing of this offering.

*Audit Committee*

The members of our Audit Committee will be Messrs. Garfield, Gupta and Sainer. Mr. Gupta will be Chairman of the Audit Committee. Upon the closing of this offering, our Audit Committee's responsibilities will include:

- appointing, approving the compensation of, and assessing the independence of our registered public accounting firm;
- overseeing the work of our independent registered public accounting firm, including through the receipt and consideration of reports from that firm;
- reviewing and discussing with management and our independent registered public accounting firm our annual and quarterly financial statements and related disclosures;
- monitoring our internal control over financial reporting, disclosure controls and procedures and code of conduct;
- overseeing our internal audit function;
- discussing our risk management policies;
- establishing policies regarding hiring employees from our independent registered public accounting firm and procedures for the receipt and retention of accounting related complaints and concerns;
- meeting independently with our internal auditing staff, if any, our independent registered public accounting firm and management;
- reviewing and approving or ratifying any related person transactions; and
- preparing the Audit Committee report required by Securities and Exchange Commission, or SEC, rules.

All audit and non-audit services, other than de minimis non-audit services, to be provided to us by our independent registered public accounting firm must be approved in advance by our Audit Committee.

Our Board of Directors has determined that Mr. Gupta is an "audit committee financial expert" as defined in applicable SEC rules. We believe that the composition of our Audit Committee will meet the requirements for independence under current NASDAQ and SEC rules and regulations.

*Compensation Committee*

The members of our Compensation Committee will be Messrs. Chang and Gupta. Mr. Chang will be Chairman of the Compensation Committee. Upon the closing of this offering, our Compensation Committee's responsibilities will include:

- determining our Chief Executive Officer's compensation;
- reviewing and approving, or making recommendations to our Board of Directors with respect to, the compensation of our other executive officers;
- overseeing and administering our cash and equity incentive plans;
- reviewing and making recommendations to our Board of Directors with respect to director compensation;
- reviewing and discussing annually with management our "Compensation Discussion and Analysis" disclosure if and to the extent then required by SEC rules; and
- preparing the Compensation Committee report if and to the extent then required by SEC rules.

We believe that the composition of our Compensation Committee will meet the requirements for independence under current NASDAQ and SEC rules and regulations.

*Nominating Committee*

The members of our Nominating Committee will be Messrs. Garfield and Sainer. Mr. Sainer will be Chairman of the Nominating Committee. Upon the closing of this offering, our Nominating Committee's responsibilities will include:

- identifying individuals qualified to become members of our Board of Directors;
- recommending to our Board of Directors the persons to be nominated for election as directors and to each of our Board's committees; and
- overseeing an annual evaluation of our Board of Directors.

We believe that the composition of our Nominating Committee will meet the requirements for independence under current NASDAQ and SEC rules and regulations.

***Compensation Committee Interlocks and Insider Participation***

None of our executive officers serves as a member of the Board of Directors or Compensation Committee, or other committee serving an equivalent function, of any other entity that has one or more of its executive officers serving as a member of our Board of Directors or Compensation Committee. None of the members of our Compensation Committee has ever been employed by us.

***Board Leadership Structure***

Our Board is led by a Chairman who is a non-executive Director selected by the full Board on nomination of the Compensation and Nominating Committees. Our Board believes that the Chairman is responsible for Board leadership and the Chief Executive Officer is responsible for leading our management, employees and operations, and that these are two distinct and separate responsibilities. Our Board believes this leadership structure is efficient and promotes good corporate governance. However, our Board continues to evaluate its leadership structure and may change it, if, in the opinion of the Board, a change is required by the needs of our business and operations.

**Director and Executive Officer Compensation**

***Summary Compensation Table***

The following table sets forth the information as to compensation paid to or earned by our Chief Executive Officer and our two other most highly compensated executive officers during the fiscal year ended December 31, 2012. These individuals are referred to in this prospectus as our named executive officers. As none of our named executive officers received non-equity incentive plan compensation or nonqualified deferred compensation earnings during the fiscal year ended December 31, 2012, we have omitted those columns from the table.

| Name and Principal Position | Fiscal Year | Salary | Bonus[2] | Stock Award(s) | Option Award(s)[3] | All Other Compensation[4][5] | Total |
|---|---|---|---|---|---|---|---|
| Herbert J. Semler, Chairman and Former CEO [1] | 2012 | $ 229,167 | $ 0 | $ 0 | $ 24,000 | $ 0 | $253,167 |
| Douglas Murphy-Chutorian, M.D. Director and CEO[1] | 2012 | $ 0 | $ 0 | $ 0 | $ 6,400 | $ 786,116 | $792,516 |
| Robert G. McRae Chief Operating Officer | 2012 | $ 207,488 | $ 51,975 | $ 0 | $ 70,200 | $ 23,182 | $352,845 |
| Daniel E. Conger Vice President of Finance | 2012 | $ 115,271 | $ 28,875 | $ 0 | $ 23,935 | $ 0 | $168,081 |

(1) Effective October 31, 2012, Dr. Semler resigned as our Chief Executive Officer and Dr. Murphy-Chutorian was appointed our Chief Executive Officer.

(2) Reflects only bonus earned in fiscal 2012. Mr. McRae and Mr. Conger were each also paid a bonus in fiscal 2012 that was earned in fiscal 2011.

(3) Represents aggregate grant date fair value computed in accordance with FASB ASC Topic 718. For more information regarding assumptions used for computation of fair value, see Note 9 to our audited financial statements, appearing elsewhere in this prospectus. Also includes incremental value associated with the repricing of all outstanding stock options that occurred during 2012. See Note 9 to our audited financial statements, appearing elsewhere in this prospectus for additional information.

(4) For Dr. Murphy-Chutorian, represents aggregate of monthly stipend ($192,000), sales commissions ($69,090), accrued expenses ($482,026) and fair value of warrant purchases ($43,000) earned during 2012, including amounts earned prior to being appointed as a Director in September 2012 and as Chief Executive Officer effective October 31, 2012.

(5) For Mr. McRae, represents payment of health insurance premiums pursuant to the terms of his employment agreement.

*Discussion of Summary Compensation Table*

We enter into individually negotiated compensation arrangements with each of our named executive officers. Our named executive officers may receive salary, bonus and other benefits, such as the payment of health insurance premiums or other individually negotiated health benefits pursuant to the terms of his negotiated compensation package. We may also grant our named executive officers awards under our equity incentive plan.

*Dr. Herbert J. Semler*

Dr. Semler served as our Chief Executive Officer since our founding until October 31, 2012. While employed as Chief Executive Officer, Dr. Semler's compensation consisted of salary paid monthly pursuant to an at-will-employment agreement. Dr. Semler was also eligible to receive awards under our equity incentive plan. In September 2012, in connection with our conversion to a C-Corporation, all existing stock options for common stock were modified to have an exercise price equal to the fair market value of the

common shares, which was determined to be $0.52 per share. Accordingly, because Dr. Semler currently holds options to acquire 150,000 shares of our common stock, the incremental value associated with the modification of the exercise price of these outstanding option awards is also included in the table above.

*Douglas Murphy-Chutorian, MD*

At the time he joined our company as a Director, and subsequently as our Chief Executive Officer, Dr. Murphy-Chutorian did not have a formal employment agreement with our company. We engaged Dr. Murphy-Chutorian as an independent contractor. Pursuant to the terms of his sales representative agreement entered into in October 2010, Dr. Murphy-Chutorian received sales commissions of $15 per month per successfully installed product that had an active and effective service agreement in place. After the renewal of the sales representative agreement in January 2012, Dr. Murphy-Chutorian received a monthly stipend of $16,000, in addition to receiving sales commissions of $15 per month per successfully installed with an active and effective service agreement in place product. In September 2012, Dr. Murphy-Chutorian became a Director and effective October 31, 2012, he became our Chief Executive Officer. On November 11, 2013, we entered into an at-will employment agreement with Dr. Murphy-Chutorian. Under the terms of the agreement, Dr. Murphy-Chutorian can be terminated at any time and his job titles, salaries and benefits may be modified from time to time as we deem necessary. Our current agreement with Dr. Murphy-Chutorian provides for the payment of $16,000 per month, for his services as Chief Executive Officer and a commission of $15 per month per successfully installed product that has an active and effective service agreement in place. Dr. Murphy-Chutorian is also eligible for awards under our equity incentive plan. In November 2012, in recognition of Dr. Murphy-Chutorian's contributions to our company, we also agreed to a one-time equity award of stock options under our equity incentive plan to acquire 20,000 shares of our common stock at $0.52 per share, which options expire 10-years after the grant date.

In addition, we owe Dr. Murphy-Chutorian consulting fees. See discussion under "Certain Relationships and Related Party Transactions — Financings." These fees are not salary or other employment compensation and were earned by Dr. Murphy-Chutorian for consulting services prior to becoming an executive officer of our company. Such consulting fees for 2012 are included in the above tables under "All Other Compensation." In 2012, this arrangement represented $482,000 in accrued expenses and $43,000 in fair value of warrant purchases determined to be in excess of purchase price.

*Robert G. McRae*

On November 1, 2010, we entered into an at-will employment agreement with Mr. McRae, our Chief Operating Officer. Under the terms of the agreement, Mr. McRae can be terminated at any time and his job titles, salaries and benefits may be modified from time to time as we deem necessary. Our current agreement with Mr. McRae provides for the payment of $17,325 per month as salary, an annual bonus of $51,975 and $1,932 per month of health benefits (consisting of insurance premiums paid on his behalf). Mr. McRae is also eligible for awards under our equity incentive plan. Accordingly, in 2012, Mr. McRae was granted stock options to acquire 20,000 shares of our common stock at $0.52 per share, and options to acquire 20,000 shares of our common stock at $4.50 per share (which were subsequently repriced to $0.52 per share), all of which options expire 10 years after the grant date. In addition to the grant date fair value of his 2012 option awards, the summary compensation table also reflects the incremental value associated with the repricing to $0.52 per share of all of Mr. McRae's outstanding option awards (including the 20,000 granted in 2012), which were repriced at $0.52 per share in connection with our conversion to a C-Corporation in 2012.

*Daniel E. Conger*

On October 18, 2010, we entered into an at-will employment agreement with Mr. Conger, our Vice President of Finance. Under the terms of the agreement, Mr. Conger can be terminated at any time and his job titles, salaries and benefits may be modified from time to time as we deem necessary. Our current agreement with Mr. Conger provides for the payment of $9,625 per month as salary and an annual bonus of $28,875. Mr. Conger is also eligible for awards under our equity incentive plan. Accordingly, in 2012, Mr. Conger was granted stock options to acquire 10,000 shares of our common stock at $0.52 per share, and options to acquire 6,500 shares of our common stock at $4.50 per share (which were subsequently

repriced to $0.52 per share), all of which options expire 10 years after the grant date. In addition to the grant date fair value of his 2012 option awards, the summary compensation table also reflects the incremental value associated with the repricing to $0.52 per share of all of Mr. Conger's option awards (including the 6,500 granted in 2012), which were repriced at $0.52 per share in connection with our conversion to a C-Corporation in 2012.

***Equity Incentive Plan***

We have one equity incentive plan, our 2007 Key Person Stock Option Plan, or the 2007 Plan, which was adopted by our Board of Directors in October 2007. The 2007 Plan is intended to provide a means for us to grant certain of our employees, directors, consultants or advisors, options to purchase shares of our common stock and thereby develop a sense of proprietorship and personal involvement in our development and financial success, and to encourage grantees to remain with and devote their best efforts to our business, thereby advancing our interests and those of our stockholders.

The 2007 Plan is administered by our Chief Executive Officer, who has the sole authority to select grantees and set the terms of awards under the 2007 Plan, except that grants to the Chief Executive Officer may be made only by the Board. Optionees are chosen based on the nature of the services rendered by such individuals, their present and potential contributions to our success and such other factors as deemed relevant.

Option awards under the 2007 Plan are evidenced by a written option agreement that contains the terms and condition of the option. Options granted under the 2007 Plan are not transferable other than by will or the laws of descent and distribution.

The exercise price for options under the 2007 Plan may not be less than fair market value on the grant date. As defined in the 2007 Plan, fair market value of a share of our stock is equal to the average of the high and low sales prices of the stock (i) reported by the Nasdaq National Market on that date or (ii) if our common stock is listed on a national stock exchange, reported on the stock exchange composite tape on that date; or, in either case, if no prices are reported on that date, on the last preceding date on which such prices of the stock are so reported. If the common stock is traded over the counter at the time a determination of its fair market value is required to be made, its fair market value shall be deemed to be equal to the average between the reported high and low or closing bid and asked prices of stock on the most recent date on which stock was publicly traded. In the event our common stock is not publicly traded at the time a determination of its value is required to be made, the determination of its fair market value shall be made by the administrator of the 2007 Plan in such manner as deemed appropriate.

In the event of a Corporate Change (as defined in the 2007 Plan), our Board can choose to accelerate the vesting of the options, require the surrender the options upon payment for cash, make such adjustments to the outstanding options as it deems appropriate to reflect the Corporate Change, or make adjustments to outstanding options so that the option covers the number and class of shares of stock or other securities or property (including, without limitation, cash) to which the optionee would have been entitled pursuant to the terms of the agreement for the Corporate Change as if the optionee had been the holder of record of the number of shares of stock then covered by such option.

Our Board may terminate the 2007 Plan at any time and also has the right to alter or amend the plan or any part of the plan from time to time. In addition, the Chief Executive Officer, as administrator of the 2007 Plan (without the necessity of specific Board action), has the power and authority to make or approve revisions or modifications to the terms and provisions of the 2007 Plan on behalf of the Board, so long as such revisions or modifications are necessary, appropriate or desirable to effectuate the purposes of the 2007 Plan and do not effect a material change in the structure or purposes of the 2007 Plan. However, no change can be made to a granted option without the consent of the optionee, if it would impair the rights of such optionee.

All options under the 2007 Plan are required to be granted within ten years from the October 1, 2007 effective date of the 2007 Plan. As initially adopted, options to purchase up to 250,000 shares could be issued under the 2007 Plan. In January 2012, our Board increased the available number of shares under the

2007 Plan was from 250,000 to 456,500 shares. The number of shares issued or reserved pursuant to the 2007 Plan (or pursuant to outstanding awards) is subject to adjustment as a result of recapitalizations, reclassifications of our capital stock, or other changes to our capital structure.

In the quarter ended September 30, 2012, our Board amended the exercise price of all outstanding options at that time under the 2007 Plan to $0.52 per share. The expiration dates of outstanding option awards were unchanged. In the quarter ending June 30, 2013, our Board vested all outstanding options.

As of November 14, 2013 we have outstanding, fully exercisable and fully vested options to acquire a total of 337,500 shares of common stock granted under the 2007 Plan.

***Outstanding Equity Awards at Fiscal Year-End***

The following table provides information about the number of outstanding equity awards held by our named executive officers at December 31, 2012. We have omitted certain columns from the table as we do not have any outstanding stock awards or any unearned stock options, and all of our outstanding stock options have an exercise price of $0.52, are fully exercisable and fully vested.

| Name | Number of Securities Underlying Unexercised Options (#) Exercisable | Option Exercise Price ($) | Option Expiration Date |
|---|---|---|---|
| Dr. Herbert J. Semler | 150,000 | $ 0.52 | 1/1/2018 |
| Dr. Douglas Murphy-Chutorian | 20,000 | $ 0.52 | 11/21/2022 |
| Robert G. McRae | 20,000 | $ 0.52 | 11/1/2020 |
| Robert G. McRae | 20,000 | $ 0.52 | 6/10/2021 |
| Robert G. McRae | 20,000 | $ 0.52 | 1/5/2022 |
| Robert G. McRae | 20,000 | $ 0.52 | 11/21/2022 |
| Daniel E. Conger | 6,500 | $ 0.52 | 11/1/2020 |
| Daniel E. Conger | 6,500 | $ 0.52 | 6/10/2021 |
| Daniel E. Conger | 6,500 | $ 0.52 | 1/5/2022 |
| Daniel E. Conger | 10,000 | $ 0.52 | 11/21/2022 |

***Director Compensation***

We do not have a formal compensation plan for our Directors. We do not pay our Directors attendance fees, nor do we grant them equity or other compensation for service on our Board. We may adopt a compensation plan for our non-employee Directors in the future. During the last fiscal year we did not pay any compensation to our directors for service on the Board.

## SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information with respect to the beneficial ownership of our common stock as of November 14, 2013 of:

- each person who is known by us to be the beneficial owner of more than 5% of our outstanding common stock;
- each of our Directors;
- each of our named executive officers; and
- all of our Directors and executive officers as a group.

The column entitled "Percentage of Shares Beneficially Owned — Before Offering" is based on a total of 786,750 shares of our common stock outstanding as of November 14, 2013 and assumes the conversion of all outstanding convertible preferred stock into 2,012,152 shares of our common stock upon the closing of this offering but does not assume the cashless exercise of outstanding warrants upon the closing of this offering. The column entitled "Percentage of Shares Beneficially Owned — After Offering" is based on shares of our common stock to be outstanding after this offering, including the shares of our common stock that we are selling in this offering, but not including any additional shares issuable upon exercise of outstanding options or warrants that will not be cashless exercised upon the closing of this offering.

Beneficial ownership is determined in accordance with the rules and regulations of the SEC and includes voting or investment power with respect to our common stock. Shares of our common stock subject to options or warrants that are currently exercisable or exercisable within 60 days after November 14, 2013 are considered outstanding and beneficially owned by the person holding the options or warrants for the purpose of calculating the percentage ownership of that person but not for the purpose of calculating the percentage ownership of any other person. Except as otherwise noted, the persons and entities in this table have sole voting and investing power with respect to all of the shares of our common stock beneficially owned by them, subject to community property laws, where applicable. Except as otherwise set forth below, the address of each beneficial owner is c/o Semler Scientific, Inc., 2330 NW Everett St. Portland, OR 97210.

| Name and Address of Beneficial Owner | Number of Shares of Common Stock Beneficially Owned | Percentage of Shares Beneficially Owned | |
|---|---|---|---|
| | | Before Offering | After Offering |
| *5% Stockholders* | | | |
| GPG SSF Investments[1] | 300,125 | 10.2% | % |
| Eric Semler[2] | 562,669 | 18.6% | % |
| *Named Executive Officers and Directors:* | | | |
| Dr. & Mrs. Semler[3] | 804,946 | 26.8% | % |
| William H.C. Chang[4] | 1,011,648 | 31.1% | % |
| Greg S. Garfield[5] | 12,000 | * | * |
| Dinesh Gupta[6] | 157,500 | 5.5% | % |
| Dr. Douglas Murphy-Chutorian[7] | 256,214 | 8.4% | % |
| Elliot A. Sainer[8] | 31,050 | 1.1% | * |
| Robert G. McRae[9] | 80,000 | 2.8% | % |
| Daniel E. Conger[10] | 29,500 | 1.0% | * |
| All Directors and Officers as a group (9 persons)[11] | 2,382,858 | 61.2% | % |

* less than 1%

(1) Represents 171,500 shares of our common stock issuable upon conversion of 171,500 shares of our Series A Preferred Stock, and warrants to purchase 128,625 shares of our Series A Preferred Stock (which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering) exercisable within 60 days. Voting control over shares beneficially owned by GPG SSF Investments is held by Greenpark and Golf Ventures, LLC, its general partner. The two principals of Greenpark and Golf Ventures, LLC are Clay Heighten, M.D. and Carl Soderstrom, M.D.

(2) Represents 40,000 issued shares of our common stock, 173,668 shares of our common stock issuable upon conversion of 173,668 shares of our Series A Preferred Stock and 125,000 shares of our common stock issuable upon conversion of 125,000 shares of our Series A-1 Preferred Stock, and warrants to purchase 130,251 shares of our Series A Preferred Stock, and warrants to purchase 93,750 shares of our Series A-1 Preferred Stock (all of which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock and Series A-1 Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering) exercisable within 60 days.

(3) Represents 597,306 issued shares of our common stock, options to purchase 150,000 shares of our common stock exercisable within 60 days and warrants to purchase 57,640 shares of our Series A Preferred Stock (which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering) exercisable within 60 days.

(4) Represents 30,000 issued shares of our common stock, 417,781 shares of our common stock issuable upon conversion of 417,781 shares of our Series A Preferred Stock, 64,583 shares of our common stock issuable upon conversion of 64,583 shares of our Series A-1 Preferred Stock and 41,667 shares of our common stock issuable upon conversion of 41,667 shares of our Series A-2 Preferred Stock, and warrants to purchase 388,336 shares of our Series A Preferred Stock and warrants to purchase 69,281 shares of our Series A-1 Preferred Stock (all of which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock and Series A-1 Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering) exercisable within 60 days. Mr. Chang holds his securities in a family trust over which he his co-Trustee with his spouse, and with whom he shares voting and investment power over such securities.

(5) Represents warrants to purchase 12,000 shares of our Series A Preferred Stock (which will become exercisable for shares of our common stock in connection with this offering) exercisable within 60 days.

(6) Represents 116,667 shares of our common stock issuable upon conversion of 116,667 shares of our Series A Preferred Stock, and warrants to purchase 40,833 shares of our Series A Preferred Stock (which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering) exercisable within 60 days. Includes shares of Series A Preferred Stock held by Satwik Mezzanine Fund I, LLC, for which Mr. Gupta is a general partner and an investor, and warrants to acquire Series A Preferred Stock held by First Guardian Group I, LLC, for which Mr. Gupta is a general partner and an investor.

(7) Represents options to purchase 20,000 shares of our common stock exercisable within 60 days, warrants to purchase 25,000 shares of our Series A-2 Preferred Stock, warrants to purchase 16,875 shares of our Series A-1 Preferred Stock, and warrants to purchase 194,339 shares of our Series A Preferred Stock (all of which warrants will become exercisable for shares of our common stock in connection with this offering) exercisable within 60 days.

(8) Represents 23,000 shares of our Series A Preferred Stock and warrants to purchase 8,050 shares of our Series A Preferred Stock (which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering) exercisable within 60 days.

(9) Represents options to purchase 80,000 shares of our common stock exercisable within 60 days.

(10) Represents options to purchase 29,500 shares of our common stock exercisable within 60 days.

(11) Represents 627,306 issued shares of our common stock, 557,448 shares of our common stock issuable upon conversion of 557,448 shares of our Series A Preferred Stock, 64,583 shares of our common stock issuable upon conversion of 64,583 shares of our Series A-1 Preferred Stock and 250,000 shares of our common stock issuable upon conversion of 41,667 shares of our Series A-2 Preferred Stock; options to purchase 279,500 shares of our common stock exercisable within 60 days, and warrants to purchase 25,000 shares of our Series A-2 Preferred Stock, warrants to purchase 86,156 shares of our Series A-1 Preferred Stock, and warrants to purchase 701,198 shares of our Series A Preferred Stock (453,984 of which warrants will be cashlessly exercised immediately prior to this offering for shares of our Series A Preferred Stock and Series A-1 Preferred Stock, which shares will automatically convert into shares of our common stock in connection with this offering; and 248,214 of which warrants will become exercisable for shares of our common stock in connection with this offering) exercisable within 60 days.

## CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The following includes a summary of transactions since September 30, 2010 to which we have been a party in which the amount involved exceeded or will exceed the lesser of (x) $120,000 or (y) 1% of our average total assets at year end for the last two completed fiscal years, and in which any of our Directors, executive officers or, to our knowledge, beneficial owners of more than 5% of our capital stock or any member of the immediate family of any of the foregoing persons had or will have a direct or indirect material interest, other than equity and other compensation, termination, change in control and other arrangements, which are described under "Management — Summary Compensation Table — Discussion of Summary Compensation Table — Compensation Arrangements." We also describe below certain other transactions with our Directors, executive officers and stockholders.

The information required by paragraph (a) of this Item for the period specified there for a transaction in which the amount involved exceeds the lesser of $120,000 or one percent of the average of the smaller reporting company's total assets at year end for the last two completed fiscal years.

**Financings**

During 2010, we issued an aggregate of 437,500 shares of common stock for cash amounting to $1,250,000.

During 2011, we issued an aggregate of 169,447 shares of common stock for cash amounting to $725,000.

During 2012, we issued an aggregate of 27,778 shares of common stock associated with 20,834 warrants to buy common stock for cash amounting to $125,209.

During the six months ended June 30, 2012, we changed from an S Corporation to a C Corporation and in connection therewith, we entered into an exchange agreement ("Exchange Agreement") with certain of the holders of our common stock and outstanding warrants to acquire our common stock, pursuant to which such holders exchanged their shares and warrants into and for shares of, and warrants to acquire, our newly created Series A Preferred Stock, Series A-1 Preferred Stock and/or Series A-2 Preferred Stock in amounts that were determined in such negotiations. Pursuant to the Exchange Agreement, we exchanged 1,459,725 shares of our common stock and warrants to acquire 358,733 shares of our common stock into (A) 786,750 shares of common stock, (B) 129,225 shares of Series A Preferred Stock, (C) 293,750 shares of Series A-1 Preferred Stock, and (D) 250,000 shares of Series A-2 Preferred Stock, and warrants to acquire an aggregate of 583,441 shares of our convertible preferred stock.

During the quarter ended September 30, 2012, we issued an aggregate of 807,067 shares of our Series A Preferred Stock and warrants to acquire an aggregate of 702,398 shares of our Series A Preferred Stock for an aggregate purchase price of $3,633,453.

During the quarter ended September 30, 2013, we issued an aggregate of 532,110 shares of our Series A Preferred Stock and warrants to acquire an aggregate of 298,241 shares of our Series A Preferred Stock for an aggregate gross purchase price of $2,409,404.

*The participants in the foregoing equity financings included certain of our current Directors, officers and holders of more than 5% of our capital stock or entities affiliated with them.*

During the quarter ended September 30, 2010, we issued an aggregate of 125,000 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $250,000 in cash.

During the quarter ended September 30, 2010, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, a warrant to purchase an aggregate of 25,000 shares of our common stock, at an exercise price of $2.00 per share, which warrant expires July 31, 2022, for an aggregate purchase price of $250 in cash.

During the quarter ended December 31, 2010, we issued an aggregate of 125,000 shares of our common stock to Mr. Eric Semler, a beneficial owner of more than 5% of our capital stock and son of our co-founders and Directors, Dr. and Mrs. Semler, for an aggregate purchase price of $500,000 in cash.

During the quarter ended March 31, 2011, we issued an aggregate of 50,000 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $200,000 in cash.

During the quarter ended March 31, 2011, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, (i) a warrant to purchase an aggregate of 44,445 shares of our common stock, at an exercise price of $4.50 per share, which warrant expires 5 years from the issuance date, for an aggregate purchase price of $444 in cash, and (ii) a warrant to purchase an aggregate of 20,844 shares of our common stock, at an exercise price of $4 per share, which warrant expires 5 years from the issuance date, for an aggregate purchase price of $208 in cash.

During the quarter ended March 31, 2011, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, two warrants to purchase an aggregate of 20,834 shares of our common stock, at an exercise price of $4.00 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $208 in cash.

During the quarter ended June 30, 2011, we issued an aggregate of 44,445 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $200,002 in cash.

During the quarter ended June 30, 2011, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, three warrants to purchase an aggregate of 16,390 shares of our common stock, at an exercise price of $4.50 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $164 in cash.

During the quarter ended March 31, 2012, we issued an aggregate of 27,778 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $125,001 in cash.

During the quarter ended March 31, 2012, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, a warrant to purchase an aggregate of 20,834 shares of our common stock, at an exercise price of $4.50 per share, which warrant expires 3 years from the issuance date, for an aggregate purchase price of $208 in cash.

During the quarter ended March 31, 2012, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, a warrant to purchase an aggregate of 10,556 shares of our common stock, at an exercise price of $4.50 per share, which warrant expires 12 years from the issuance date, for an aggregate purchase price of $106 in cash.

During the quarter ended June 30, 2012, in accordance with the Exchange Agreement, Dr. Herbert J. Semler and Mrs. Shirley Semler were issued an aggregate of 786,750 shares of our common stock and warrants to purchase an aggregate of 57,640 shares of our Series A Preferred Stock; the accredited investor for which Mr. William H.C. Chang is one of the co-trustees was issued an aggregate of 250,000 shares of our Series A-2 Preferred Stock, 81,250 shares of our Series A-1 Preferred Stock, 72,223 shares of our Series A Preferred Stock, warrants to buy an aggregate of 69,281 shares of our Series A-1 Preferred Stock, and warrants to buy an aggregate of 173,612 shares of our Series A Preferred Stock; Mr. Eric Semler was issued an aggregate 125,000 shares of our Series A-1 Preferred Stock, 7,000 shares of our Series A Preferred Stock, warrants to buy an aggregate of 93,750 shares of our Series A-1 Preferred Stock, and warrants to buy an aggregate of 5,250 shares of our Series A Preferred Stock; and Douglas Murphy-Chutorian, MD, was issued warrants to buy an aggregate of 25,000 shares of our Series A-2 Preferred Stock, warrants to buy an aggregate of 16,875 shares of our Series A-1 Preferred Stock and warrants to buy an aggregate of 38,907 shares of our Series A Preferred Stock.

During the quarter ended September 30, 2012, we issued an aggregate of 234,446 shares of our Series A Preferred Stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $1,055,007 in cash.

During the quarter ended September 30, 2012, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, three warrants to purchase an aggregate of 175,835 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $224 in cash.

During the quarter ended September 30, 2012, we issued an aggregate of 171,500 shares of our Series A Preferred Stock to GPG SSF Investments, LLC, a beneficial owner of more than 5% of our capital stock, for an aggregate purchase price of $771,750 in cash.

During the quarter ending September 30, 2012, we issued to GPG SSF Investments, LLC, a beneficial owner of more than 5% of our capital stock, two warrants to purchase an aggregate of 128,625 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $13 in cash.

During the quarter ended September 30, 2012, we issued an aggregate of 166,668 shares of our Series A Preferred Stock to Mr. Eric Semler, a beneficial owner of more than 5% of our capital stock and the son of our co-founders and Directors, Dr. and Mrs. Semler, for an aggregate purchase price of $750,006 in cash.

During the quarter ended September 30, 2012, we issued to Mr. Eric Semler, a beneficial owner of more than 5% of our capital stock and the son of our co-founders and Directors, Dr. and Mrs. Semler, two warrants to purchase an aggregate of 125,001 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $838 in cash.

During the quarter ended September 30, 2012, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, two warrants to purchase an aggregate of 95,432 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $10 in cash. In June 2013, these warrants were amended and now expire July 31, 2016.

During the quarter ended September 30, 2013, we issued an aggregate of 111,112 shares of our Series A Preferred Stock to an accredited investor for which a Director of our company, Mr. William H.C. Chang, is one of the co-trustees, for an aggregate purchase price of $500,004 in cash.

During the quarter ended September 30, 2013, we issued to an accredited investor for which a Director of our company, Mr. William H.C. Chang, is one of the co-trustees, a warrant to purchase an aggregate of 38,889 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $4 in cash.

During the quarter ended September 30, 2013, we issued an aggregate of 116,667 shares of our Series A Preferred Stock to two accredited investors for which Mr. Dinesh Gupta, who later was appointed a Director, is a general partner or a trustee respectively, for an aggregate purchase price of $525,001 in cash.

During the quarter ended September 30, 2013, we issued to two accredited investors for which Mr. Dinesh Gupta, who later was appointed a Director, is a general partner or a trustee respectively, two warrants to purchase an aggregate of 40,833 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $3,695 in cash.

During the quarter ended September 30, 2013, we issued to Douglas Murphy-Chutorian, MD, our Chief Executive Officer and a Director of our company, a warrant to purchase an aggregate of 60,000 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $6,000 in cash.

During the quarter ended September 30, 2013, we issued an aggregate of 23,000 shares of our Series A Preferred Stock to Mr. Elliot Sainer, who later was appointed a Director, for an aggregate purchase price of $103,500 in cash.

During the quarter ended September 30, 2013, we issued to Mr. Elliot A. Sainer, who later was appointed a Director, a warrant to purchase an aggregate of 8,050 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrant expires 3 years from the issuance date, for an aggregate purchase price of $1 in cash.

During the quarter ended September 30, 2013, we issued to Mr. Greg S. Garfield, who later was appointed a Director, a warrant to purchase an aggregate of 12,000 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $1,200 in cash.

**Consulting Fees for Services Provided**

Between November 3, 2010 and September 17, 2012, and prior to his appointment to our Board of Directors (and later as our Chief Executive Officer), Dr. Murphy-Chutorian invoiced us an aggregate amount of $722,026 in consulting fees in connection with services provided to our company ($75,000, $165,000, $482,026 recorded in 2010, 2011, and 2012, respectively). Dr. Murphy-Chutorian has deferred payment of his invoices and accordingly, such invoices remain unpaid. However, we have agreed that we will pay $150,000 of this receivable following with the closing of this offering, and begin making installment payments of $30,000 per month beginning six months after the closing of this offering until such receivable is paid in full.

**Investor Rights Agreement**

In connection with the June 2012 exchange described above under "— Financings," we entered into an investor rights agreement with all of the holders of our common stock and convertible preferred stock. All investors in our company subsequent to June 2012 have joined this agreement. Accordingly, all of our current Directors (or entities affiliated with them) are parties to this agreement. This agreement provides for certain rights relating to the registration of their shares of common stock issuable upon conversion of their convertible preferred stock, a right of first refusal to purchase future securities sold by us and certain additional covenants made by us. The right of first refusal and certain additional covenants will terminate upon completion of this offering. The registration rights will continue following this offering and will terminate five years following the completion of this offering, or for any particular holder with registration rights, at such time following this offering when all securities held by that stockholder subject to registration rights may be sold pursuant to Rule 144 under the Securities Act during any ninety (90) day period. These registration rights have been waived in connection with this offering. See "Description of Securities — Registration Rights" for additional information.

**Voting Agreement**

In connection with the June 2012 exchange described above under "— Financings," we entered into a voting agreement with all of the holders of our common stock and convertible preferred stock. All investors in our company subsequent to June 2012 have joined this agreement. Accordingly, all of our current Directors (or entities affiliated with them) are parties to this agreement. Pursuant to the voting agreement, the following Directors were each elected to serve as members on our Board of Directors: Herbert Semler and Shirley Semler (as representatives of holders of our common stock, as designated by a majority of our common stockholders), and Douglas Murphy-Chutorian and William Chang (as representatives of holders of our Series A Preferred Stock).

The voting agreement will terminate upon the closing of this offering, and members previously elected to our Board of Directors pursuant to this agreement will continue to serve as directors until they resign, are removed or their successors are duly elected by holders of our common stock. The composition of our Board of Directors after this offering is described in more detail under "Management — Board of Directors and Executive Officers."

**Semler HealthPerks, Inc.**

In October 2012, Dr. Semler, our co-founder and Chairman of the Board, formed a new corporate entity, Semler HealthPerks, Inc., a business developed together with two of our former employees. Semler HealthPerks, Inc. is developing an exercise-related cell phone application for the consumer market. Because we did not view this business as complementary to our current plans and strategy, our Board waived any corporate opportunity and any intellectual property rights with regard to certain intellectual property developed by Dr. Semler and our former employees to Semler HealthPerks, Inc. and waived any non-solicitation with regard to the hiring by Semler HealthPerks, Inc. of our former employees. Our stockholders were given the opportunity to buy into the Semler HealthPerks, Inc. on a pro rata basis for fair market value.

On October 31, 2012, in connection with the creation of Semler HealthPerks, Inc., we extended a loan to it for which Semler HealthPerks, Inc. issued a promissory note obliging it to pay us the sum of $191,222.47, together with interest at the rate of 6.0% per annum, on our demand on or after the

promissory note's maturity date. Under the terms of the promissory note, the maturity date is the earlier of October 31, 2017 or the consummation by Semler HealthPerks, Inc. of a transaction or series of transactions selling its equity securities for the primary purpose of raising working capital and which sales result in aggregate gross proceeds to Semler HealthPerks, Inc. of not less than $2,000,000. We wrote off the principal and interest on this promissory note as of December 31, 2012 due to the uncertain nature of start-up enterprises and the fact that we have no personal guarantee or security interest supporting the note. Subsequently, we forgave repayment of this note and it is no longer outstanding.

**Director Loan Guarantees**

In 2011, Dr. & Mrs. Semler, our co-founders and Directors, as well as Mr. Chang, a Director, personally guaranteed various loans or leases for our company as follows:

On February 9, 2011, we entered into an Equipment Finance Agreement with U.S. Bancorp Business Equipment Finance Group pursuant to which we obtained a $39,000 secured loan for a 48-month term that has an annual fixed interest rate of 13%. The loan is secured by the related leased equipment and is personally guaranteed by Dr. & Mrs. Semler.

On May 27, 2011, we entered into an additional Equipment Finance Agreement with U.S. Bancorp Business Equipment Finance Group pursuant to which we obtained a $109,000 secured loan for a 60-month term that has an annual fixed interest rate of 6%. The loan is secured by the related leased equipment and is personally guaranteed by Dr. and Mrs. Semler.

At various dates in 2011, we entered into Lease Agreements with Lease Corporation of America, pursuant to which we obtained an aggregate amount of $66,000 for a 60-month term that have variable annual interest rates of approximately 14%. The leases are secured by the related leased equipment and personally guaranteed by Mr. Chang.

On June 17, 2011, we entered into a loan agreement with First Republic Bank pursuant to which we obtained a $150,000 secured loan for a 60-month term that has a variable annual interest rate based on First Republic's Prime plus a spread of 1.75% and a floor of 3.25%. The initial interest rate was 5%. This loan is personally guaranteed by Mr. Chang.

On September 13, 2011, we entered into an additional loan agreement with First Republic Bank pursuant to which we obtained a $150,000 loan for a 60-month term that has a variable annual interest rate based on First Republic's Prime plus a spread of 1.75% and a floor of 3.25%. The initial annual interest rate was 5%. This loan is personally guaranteed by Mr. Chang.

For additional information relating to these loans or leases, see Note 7 to our audited financial statements, appearing elsewhere in this prospectus.

In consideration for the personal guarantees, these Directors were given the opportunity to purchase fully vested warrants exercisable for common stock. Accordingly, during the quarter ended June 30, 2011, we issued Dr. Herbert J. Semler, our Chairman and co-founder, two warrants to purchase an aggregate of 57,640 shares of our common stock at an exercise price of $4.50 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $58 in cash; and during the quarter ended June 30, 2011, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, serves as a co-trustee, two warrants to purchase an aggregate of 92,188 shares of our common stock, at an exercise price of $4.50 per share, which warrants expire 10 years from the issuance date, for an aggregate purchase price of $92 in cash. All of these warrants were subsequently exchanged for warrants to purchase shares of our preferred stock pursuant to the Exchange Agreement described above.

**Policies and Procedures for Related Person Transactions**

Our Board of Directors has adopted a written related person transaction policy, to be effective upon the consummation of this offering, setting forth the policies and procedures for the review and approval or ratification of related-person transactions. This policy will cover, with certain exceptions set forth in Item 404 of Regulation S-K under the Securities Act, any transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships in which we were or are to be a participant, where the amount involved exceeds $120,000 and a related person had or will have a direct or indirect material

interest, including, without limitation, purchases of goods or services by or from the related person or entities in which the related person has a material interest, indebtedness, guarantees of indebtedness and employment by us of a related person. In reviewing and approving any such transactions, our audit committee is tasked to consider all relevant facts and circumstances, including, but not limited to, whether the transaction is on terms comparable to those that could be obtained in an arm's length transaction and the extent of the related person's interest in the transaction. All of the transactions described in this section occurred prior to the adoption of this policy.

## DESCRIPTION OF CAPITAL STOCK

### General

As of November 14, 2013, our authorized capital stock consisted of 50,000,000 shares of common stock, $0.001 par value per share, and 4,000,000 shares of preferred stock, $0.001 par value per share, of which 2,800,000 shares are designated as Series A Preferred Stock, 800,000 shares are designated as Series A-1 Preferred Stock and 400,000 shares are designated as Series A-2 Preferred Stock. As of November 14, 2013, there are 786,750 shares of our common stock issued and outstanding, 1,468,402 shares of our Series A Preferred Stock issued and outstanding, 293,750 shares of our Series A-1 Preferred Stock issued and outstanding, and 250,000 shares of our Series A-2 Preferred Stock issued and outstanding.

### Common Stock

Holders of our common stock are entitled to one vote per share. Except as otherwise required by law, and subject to the rights of the holders of preferred stock, if any, all stockholder action is taken by the vote of a majority of the outstanding shares of common stock and preferred stock voting as a single class present at a meeting of stockholders at which a quorum consisting of a majority of the outstanding shares of common stock and preferred stock is present in person or proxy.

Subject to the prior rights of any class or series of preferred stock, holders of our common stock are entitled to receive ratably, dividends when, as, and if declared by our Board of Directors out of funds legally available for that purpose and, upon our liquidation, dissolution, or winding up, are entitled to share ratably in all assets remaining after payment of liabilities and payment of accrued dividends and liquidation preferences on the preferred stock. However, the current policy of our Board of Directors is to retain earnings, if any, for the operation and expansion of our company. The holders of our common stock have no preemptive rights and have no rights to convert their common stock into any other securities. The outstanding common stock is validly authorized and issued, fully-paid and nonassessable.

### Preferred Stock

The terms of our Series A Preferred Stock, Series A-1 Preferred Stock and Series A-2 Preferred Stock provide the following:

1) *Dividends.* Holders of the Series A Preferred Stock, Series A-1 Preferred Stock and Series A-2 Preferred Stock are entitled to receive cumulative dividends at the rate of $0.36 per share, $0.32 per share and $0.16 per share, respectively, all payable as and if declared by our Board of Directors.

2) *Voting Rights.* Except as provided in our certificate of incorporation or as required by law, holders of preferred stock and common stock vote together and not as separate classes, on an as-converted basis. Our certificate of incorporation does not provide for series voting. So long as at least 100,000 shares of Series A Preferred Stock remain outstanding, 2 members of our Board of Directors will be elected by the holders of a majority of the outstanding Series A Preferred Stock.

3) *Liquidation.* Upon any liquidation, dissolution or winding-up of our company, the holders of the Series A Preferred Stock are entitled to receive a liquidation preference in the amount of $4.50 per share prior and in preference to all other stockholders, plus any accrued and unpaid dividends. Thereafter, the holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock are entitled to receive a liquidation preference in the amount of $4.00 per share and $2.00 per share, respectively, prior and in preference to holders of common stock, plus any accrued and unpaid dividends.

4) *Conversion Rights.* Each share of Series A Preferred Stock, Series A-1 Preferred Stock and Series A-2 Preferred Stock is convertible at the option of the holder into that number of shares of common stock determined by the Conversion Rate (as set out in our certificate of incorporation), which currently is one-to-one.

5) *Automatic Conversion.* Each share of Series A Preferred Stock, Series A-1 Preferred Stock and Series A-2 Preferred Stock shall be automatically converted upon (i) the written request from each of the Requisite Holders (as such term is defined in our certificate of incorporation) and the holders of a majority of the outstanding shares of our convertible preferred stock (on an as-converted basis) or

(ii) the closing of a firm commitment underwritten initial public offering pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, provided that the offering price per share is not less than $22.50 (as adjusted in accordance with the mechanics provided in our certificate of incorporation) and our aggregate gross proceeds are not less than $30,000,000. Upon such conversion, each share of Series A Preferred Stock, Series A-1 Preferred Stock and Series A-2 Preferred Stock shall be convertible into that number of shares of common stock determined by the Conversion Rate, which currently is one-to-one.

The Requisite Holders (currently our Director, Mr. Chang, and our significant stockholder, Eric Semler) and holders of a majority of the outstanding shares of our convertible preferred stock (on an as-converted basis) have requested that such shares be automatically converted into shares of our common stock upon the closing of this offering. Accordingly, we will issue approximately 2,012,152 shares of our common stock upon automatic conversion of all of our outstanding convertible preferred stock (exclusive of the shares of common stock to be issued upon automatic conversion of the convertible preferred stock to be issued upon net exercise of our outstanding warrants as described below under "— Warrants") and no shares of convertible preferred stock will be outstanding following the completion of this offering.

**Stock Options**

As of November 14, 2013 we had reserved 456,500 shares for our stock option plan, and have issued and outstanding options to acquire an aggregate 337,500 shares of our common stock. No options issued under our plan have been exercised.

**Warrants**

As of November 14, 2013, we had outstanding warrants to acquire an aggregate 25,000 shares of our Series A-2 Preferred Stock, an aggregate 245,531 shares of our Series A-1 Preferred Stock, and an aggregate 1,313,549 shares of our Series A Preferred Stock, all of which are immediately exercisable. Aside from warrants to acquire an aggregate 25,000 shares of our Series A-2 Preferred Stock, warrants to acquire an aggregate 16,875 shares of our Series A-1 Preferred Stock, and warrants to acquire an aggregate 246,339 shares of our Series A Preferred Stock, all of our warrants provide that such warrants shall be exercised on a cashless basis immediately prior to the closing of a firm commitment initial public offering with the fair market value per share based on the per share offering price. Accordingly, assuming an initial public offering price of $ (which is the midpoint of the price range on the cover page of this prospectus), we will issue approximately shares of our common stock upon the cashless exercise of all of such warrants and subsequent automatic conversion of the convertible preferred stock in connection with the closing of this offering. The warrants to purchase Series A, A-1 and A-2 Preferred Stock that will not be exercised on a cashless basis prior to the closing this offering will remain outstanding but will be exercisable for shares of our common stock upon the closing of this offering and automatic conversion of the convertible preferred stock in accordance with their terms.

**Representative's Warrants**

Please see "Underwriting — Representative's Warrants" for a description of the warrants we have agreed to issue to the representative of the underwriters in this offering, subject to the completion of the offering. We expect to enter into a warrant agreement in respect of the Representative's Warrants prior to the closing of this offering.

**Registration Rights**

Pursuant to the investor rights agreement entered into in June 2012 described above under "— Investor Rights Agreement," the current holders of our outstanding shares of common stock, Series A Preferred Stock, Series A-1 Preferred Stock and Series A-2 Preferred Stock, have certain registration rights with respect to their shares of common stock, including shares of common stock issuable upon conversion thereof and shares of common stock issued as a dividend or other distribution with respect to or in exchange for or in replacement of the foregoing shares, as described below.

*Demand Registration Rights*

If at any time beginning 180 days after this offering, the holders of at least 10% of the registrable securities request in writing that we effect a registration with respect to their shares in an offering with an anticipated aggregate offering price of at least $10.0 million, we may be required to register their shares. We are obligated to effect at most two registrations for the holders of registrable securities in response to these demand registration rights. If the holders requesting registration intend to distribute their shares by means of an underwriting, the managing underwriter of such offering will have the right to limit the numbers of shares to be underwritten for reasons related to the marketing of the shares.

*Piggyback Registration Rights*

If we propose to register any shares of our common stock under the Securities Act, subject to certain exceptions, the holders of registrable securities will be entitled to notice of the registration and to include their shares of registrable securities in the registration. If such demand is made by the holders of registrable securities, we must use commercially reasonable efforts to include such holders' shares in the registration. If our proposed registration involves an underwriting, the managing underwriter of such offering will have the right to limit the number of shares to be underwritten for reasons related to the marketing of the shares. The piggy-back registration rights have been waived for purposes of this offering.

*Form S-3 Registration Rights*

If at any time beginning 180 days after this offering, we become entitled under the Securities Act to register our shares on Form S-3 a holder of registrable securities requests in writing that we register their shares for public resale on Form S-3 in an offering with an anticipated aggregate offering price of at least $2.0 million, we will be required to use commercially reasonable efforts to effect such registration; provided, however, that we will not be required to effect such a registration if, within the preceding 12 months, we have already effected two registrations on Form S-3 for the holders of registrable securities.

*Expenses*

All expenses incurred in connection with the registration will be borne by us, except for if a demand registration is withdrawn under certain conditions. These expenses may include all registration and filing fees, printing expenses, fees and disbursements of our counsel, reasonable fees and disbursements of a counsel for the selling securityholders, blue sky fees and expenses and the expenses of any regular and special audits incident to the registration.

*Termination of Registration Rights*

The registration rights terminate upon the earlier of five years after the effective date of the registration statement of which this prospectus is a part, or, with respect to the registration rights of an individual holder, when the holder can sell all of such holder's registrable securities in compliance with Rule 144 of the Securities Act within a ninety day period.

**Anti-Takeover Provisions**

***Delaware Law***

We are subject to Section 203 of the Delaware General Corporation Law. This provision generally prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years following the date the stockholder became an interested stockholder, unless:

- prior to such date, the board of directors approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the

number of shares outstanding those shares owned by persons who are directors and also officers and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

- on or subsequent to such date, the business combination is approved by the Board of Directors and authorized at an annual meeting or special meeting of stockholders and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

Section 203 defines a business combination to include:

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

In general, Section 203 defines an “interested stockholder” as any entity or person beneficially owning 15% or more of the outstanding voting stock of a corporation, or an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of a corporation at any time within three years prior to the time of determination of interested stockholder status; and any entity or person affiliated with or controlling or controlled by such entity or person.

These statutory provisions could delay or frustrate the removal of incumbent directors or a change in control of our company. They could also discourage, impede, or prevent a merger, tender offer, or proxy contest, even if such event would be favorable to the interests of stockholders.

***Certificate of Incorporation and Bylaw Provisions***

Our certificate of incorporation and bylaws contain provisions that could have the effect of discouraging potential acquisition proposals or making a tender offer or delaying or preventing a change in control, including changes a stockholder might consider favorable. In particular, the certificate of incorporation and bylaws, as applicable, among other things:

- provide our Board of Directors with the ability to alter its bylaws without stockholder approval; and
- provide that vacancies on our Board of Directors may be filled by a majority of Directors in office, although less than a quorum.

Such provisions may have the effect of discouraging a third-party from acquiring our company, even if doing so would be beneficial to our stockholders. These provisions are intended to enhance the likelihood of continuity and stability in the composition of our Board of Directors and in the policies formulated by them, and to discourage some types of transactions that may involve an actual or threatened change in control of our company. These provisions are designed to reduce our vulnerability to an unsolicited acquisition proposal and to discourage some tactics that may be used in proxy fights. We believe that the benefits of increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure our company outweigh the disadvantages of discouraging such proposals because, among other things, negotiation of such proposals could result in an improvement of their terms.

However, these provisions could have the effect of discouraging others from making tender offers for our shares that could result from actual or rumored takeover attempts. These provisions also may have the effect of preventing changes in our management.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Corporate Stock Transfer, Inc.

**Listing**

We have applied to list our common stock on the NASDAQ Capital Market under the symbol “SMLR.”

## UNDERWRITING

Aegis Capital Corp. is acting as the representative of the underwriters of the offering. We have entered into an underwriting agreement dated , 2013 with the representative. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to each underwriter named below and each underwriter named below has severally and not jointly agreed to purchase from us, at the public offering price per share less the underwriting discounts set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

| Underwriter | Number of Shares | Number of Warrants |
|---|---|---|
| Aegis Capital Corp. | | |
| Total | | |

The underwriters are committed to purchase all the shares of common stock offered by us other than those covered by the option to purchase additional shares described below, if they purchase any shares. The obligations of the underwriters may be terminated upon the occurrence of certain events specified in the underwriting agreement. Furthermore, pursuant to the underwriting agreement, the underwriters' obligations are subject to customary conditions, representations and warranties contained in the underwriting agreement, such as receipt by the underwriters of officers' certificates and legal opinions.

We have agreed to indemnify the underwriters against specified liabilities, including liabilities under the Securities Act of 1933, and to contribute to payments the underwriters may be required to make in respect thereof.

The underwriters are offering the shares, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by their counsel and other conditions specified in the underwriting agreement. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

*Over-allotment Option*. We have granted the underwriters an over-allotment option. This option, which is exercisable for up to 45 days after the date of this prospectus, permits the underwriters to purchase a maximum of additional shares (15% of the shares sold in this offering) from us to cover over-allotments, if any. If the underwriters exercise all or part of this option, they will purchase shares covered by the option at the public offering price per share that appears on the cover page of this prospectus, less the underwriting discount. If this option is exercised in full, the total offering price to the public will be $ and the total net proceeds, before expenses, to us will be $ .

*Discount*. The following table shows the public offering price, underwriting discount and proceeds, before expenses, to us. The information assumes either no exercise or full exercise by the underwriters of their over-allotment option.

| | Per Share | Total Without Over-Allotment Option | Total With Over-Allotment Option |
|---|---|---|---|
| Public offering price | $ | $ | $ |
| Underwriting discount (7%) | $ | $ | $ |
| Non-accountable expense allowance (1%)[(1)] | $ | $ | $ |
| Proceeds, before expense, to us | $ | $ | $ |

(1) Non-accountable expense allowance shall not be payable with respect to any shares sold pursuant to the representative's exercise of the over-allotment option.

The underwriters propose to offer the shares offered by us to the public at the public offering price per share set forth on the cover of this prospectus. In addition, the underwriters may offer some of the shares to other securities dealers at such price less a concession of $ per share. If all of the shares offered by us are not sold at the public offering price per share, the underwriters may change the offering price per share and other selling terms by means of a supplement to this prospectus.

We have paid an aggregate expense deposit of $35,000 to the representative for out-of-pocket-accountable expenses, which will be applied against accountable expenses that will be paid by us to the underwriters in connection with this offering in accordance with FINRA Rule 5110(f)(2)(C). The underwriting agreement, however, provides that in the event the offering is terminated, the $35,000 expense deposit paid to the representative will be returned to the extent such out-of-pocket accountable expenses are not actually incurred in accordance with FINRA Rule 5110(f)(2)(C).

We have also agreed to pay the underwriters' expenses relating to the offering, including (a) all fees, expenses and disbursements relating to background checks of our officers and Directors in an amount not to exceed $2,500 per individual, but no more than $15,000 in the aggregate; (b) all fees and expenses incurred in clearing this offering with FINRA; (c) payment of up to $15,000 for "blue-sky" counsel; (d) all fees, expenses and disbursements relating to the registration, qualification or exemption of securities offered under the securities laws of foreign jurisdictions designated by the underwriters; (e) the fees and expenses of underwriter's legal counsel, not to exceed $50,000; (f) upon successfully completing this offering, $21,775 for the underwriters' use of Ipreo's book-building, prospectus tracking and compliance software for this offering; and (g) upon successfully completing this offering, up to $20,000 of the representative's actual accountable road show expenses for the offering.

We estimate that the total expenses of the offering payable by us, excluding the total underwriting discount, will be approximately $ .

*Discretionary Accounts*. The underwriters do not intend to confirm sales of the securities offered hereby to any accounts over which they have discretionary authority.

*Lock-Up Agreements*. We, our Directors and executive officers and all our other stockholders expect to enter into lock up agreements with the representative prior to the commencement of this offering pursuant to which each of these persons or entities, for a period of six months from the effective date of the registration statement of which this prospectus is a part without the prior written consent of the representative, agree not to (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of our securities or any securities convertible into or exercisable or exchangeable for shares of our common stock owned or acquired on or prior to the closing date of this offering (including any shares of common stock acquired after the closing date of this offering upon the conversion, exercise or exchange of such securities); (2) file or caused to be filed any registration statement relating to the offering of any shares of our capital stock; or (3) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock, whether any such transaction described in clause (1), (2) or (3) above is to be settled by delivery of common stock or such other securities, in cash or otherwise, except for certain exceptions and limitations.

The lock-up period described in the preceding paragraphs will be automatically extended if: (1) during the last 17 days of the restricted period, we issue an earnings release or announce material news or a material event; or (2) prior to the expiration of the lock-up period, we announce that we will release earnings results during the 16-day period beginning on the last day of the lock-up period, in which case the restrictions described in the preceding paragraph will continue to apply until the expiration of the 18-day period beginning on the date of the earnings release.

*Representative's Warrants*. We have agreed to issue to the representative warrants to purchase up to a total of shares of common stock (5% of the shares of common stock sold in this offering, excluding the over-allotment). The warrants will be exercisable at any time, and from time to time, in whole or in part, during the four-year period commencing one year from the effective date of the offering, which period shall not extend further than five years from the effective date of the offering in compliance with FINRA Rule 5110(f)(2)(H)(i). The warrants are exercisable at a per share price equal to 125% of the public offering price per share in the offering. The warrants have been deemed compensation by FINRA and are therefore subject to a 180 day lock-up pursuant to Rule 5110(g)(1) of FINRA. The representative (or permitted assignees under Rule 5110(g)(1)) will not sell, transfer, assign, pledge, or hypothecate these warrants or the securities underlying these warrants, nor will they engage in any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of the warrants or the underlying

securities for a period of 180 days from the effective date of the offering. In addition, the warrants provide for registration rights upon request, in certain cases. In addition, the warrants provide for registration rights upon request, in certain cases. The demand registration right provided will not be greater than five years from the effective date of the offering in compliance with FINRA Rule 5110(f)(2)(H)(iv). The piggyback registration right provided will not be greater than seven years from the effective date of the offering in compliance with FINRA Rule 5110(f)(2)(H)(v). We will bear all fees and expenses attendant to registering the securities issuable on exercise of the warrants other than underwriting commissions incurred and payable by the holders. The exercise price and number of shares issuable upon exercise of the warrants may be adjusted in certain circumstances including in the event of a stock dividend, extraordinary cash dividend or our recapitalization, reorganization, merger or consolidation. However, the warrant exercise price or underlying shares will not be adjusted for issuances of shares of common stock at a price below the warrant exercise price.

*Right of First Refusal*. Subject to certain limited exceptions, until twelve months from the consummation of the offering, the Representative has a right of first refusal to purchase for its account or to sell for our account, or any subsidiary or successor, any securities of our company or any such subsidiary or successor that we or any subsidiary or successor may seek to sell in public or private equity and public debt offerings during such twelve-month period. The Representative will not have more than one opportunity to waive or terminate the right of first refusal in consideration of any payment or fee.

*Electronic Offer, Sale and Distribution of Securities*. A prospectus in electronic format may be made available on the websites maintained by one or more of the underwriters or selling group members, if any, participating in this offering and one or more of the underwriters participating in this offering may distribute prospectuses electronically. The representative may agree to allocate a number of shares and warrants to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the underwriters and selling group members that will make internet distributions on the same basis as other allocations. Other than the prospectus in electronic format, the information on these websites is not part of, nor incorporated by reference into, this prospectus or the registration statement of which this prospectus forms a part, has not been approved or endorsed by us or any underwriter in its capacity as underwriter, and should not be relied upon by investors.

*Stabilization*. In connection with this offering, the underwriters may engage in stabilizing transactions, over-allotment transactions, syndicate-covering transactions, penalty bids and purchases to cover positions created by short sales.

- Stabilizing transactions permit bids to purchase shares so long as the stabilizing bids do not exceed a specified maximum, and are engaged in for the purpose of preventing or retarding a decline in the market price of the shares while the offering is in progress.
- Over-allotment transactions involve sales by the underwriters of shares in excess of the number of shares the underwriters are obligated to purchase. This creates a syndicate short position that may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by the underwriters is not greater than the number of shares that they may purchase in the over-allotment option. In a naked short position, the number of shares involved is greater than the number of shares in the over-allotment option. The underwriters may close out any short position by exercising their over-allotment option and/or purchasing shares in the open market.
- Syndicate covering transactions involve purchases of shares in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared with the price at which they may purchase shares through exercise of the over-allotment option. If the underwriters sell more shares than could be covered by exercise of the over-allotment option and, therefore, have a naked short position, the position can be closed out only by buying shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that after pricing there could be downward pressure on the price of the shares in the open market that could adversely affect investors who purchase in the offering.

- Penalty bids permit the representative to reclaim a selling concession from a syndicate member when the shares originally sold by that syndicate member are purchased in stabilizing or syndicate covering transactions to cover syndicate short positions.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our shares or common stock or preventing or retarding a decline in the market price of our shares or common stock. As a result, the price of our common stock in the open market may be higher than it would otherwise be in the absence of these transactions. Neither we nor the underwriters make any representation or prediction as to the effect that the transactions described above may have on the price of our common stock. These transactions may be effected on The NASDAQ Capital Market, in the over-the-counter market or otherwise and, if commenced, may be discontinued at any time.

*Passive market making*. In connection with this offering, underwriters and selling group members may engage in passive market making transactions in our common stock on The NASDAQ Capital Market or on the OTC QB in accordance with Rule 103 of Regulation M under the Exchange Act, during a period before the commencement of offers or sales of the shares and extending through the completion of the distribution. A passive market maker must display its bid at a price not in excess of the highest independent bid of that security. However, if all independent bids are lowered below the passive market maker's bid, then that bid must then be lowered when specified purchase limits are exceeded.

**Offer Restrictions Outside the United States**

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

***Australia***

This prospectus is not a disclosure document under Chapter 6D of the Australian Corporations Act, has not been lodged with the Australian Securities and Investments Commission and does not purport to include the information required of a disclosure document under Chapter 6D of the Australian Corporations Act. Accordingly, (i) the offer of the securities under this prospectus is only made to persons to whom it is lawful to offer the securities without disclosure under Chapter 6D of the Australian Corporations Act under one or more exemptions set out in section 708 of the Australian Corporations Act, (ii) this prospectus is made available in Australia only to those persons as set forth in clause (i) above, and (iii) the offeree must be sent a notice stating in substance that by accepting this offer, the offeree represents that the offeree is such a person as set forth in clause (i) above, and, unless permitted under the Australian Corporations Act, agrees not to sell or offer for sale within Australia any of the securities sold to the offeree within 12 months after its transfer for the offeree under this prospectus.

***China***

The information in this document does not constitute a public offer of the securities, whether by way of sale or subscription, in the People's Republic of China (excluding, for purposes of this paragraph, Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan). The securities may not be offered or sold directly or indirectly in the PRC to legal or natural persons other than directly to "qualified domestic institutional investors."

***European Economic Area — Belgium, Germany, Luxembourg and Netherlands***

The information in this document has been prepared on the basis that all offers of common stock will be made pursuant to an exemption under the Directive 2003/71/EC ("Prospectus Directive"), as

implemented in Member States of the European Economic Area (each, a "Relevant Member State"), from the requirement to produce a prospectus for offers of securities.

An offer to the public of common stock has not been made, and may not be made, in a Relevant Member State except pursuant to one of the following exemptions under the Prospectus Directive as implemented in that Relevant Member State:

- to legal entities that are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- to any legal entity that has two or more of (i) an average of at least 250 employees during its last fiscal year; (ii) a total balance sheet of more than €43,000,000 (as shown on its last annual unconsolidated or consolidated financial statements) and (iii) an annual net turnover of more than €50,000,000 (as shown on its last annual unconsolidated or consolidated financial statement);
- to fewer than 100 natural or legal persons (other than qualified investors within the meaning of Article 2(1)I of the Prospectus Directive) subject to obtaining the prior consent of the company or any underwriter for any such offer; or
- in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of common stock shall result in a requirement for the publication by the company of a prospectus pursuant to Article 3 of the Prospectus Directive.

***France***

This document is not being distributed in the context of a public offering of financial securities (*offre au public de titres financiers*) in France within the meaning of Article L.411-1 of the French Monetary and Financial Code (*Code monétaire et financier*) and Articles 211-1 et seq. of the General Regulation of the French *Autorité des marchés financiers* ("AMF"). The common stock has not been offered or sold and will not be offered or sold, directly or indirectly, to the public in France.

This document and any other offering material relating to the common stock has not been, and will not be, submitted to the AMF for approval in France and, accordingly, may not be distributed or caused to distributed, directly or indirectly, to the public in France.

Such offers, sales and distributions have been and shall only be made in France to (i) qualified investors (*investisseurs qualifiés*) acting for their own account, as defined in and in accordance with Articles L.411-2-II-2° and D.411-1 to D.411-3, D. 744-1, D.754-1 and D.764-1 of the French Monetary and Financial Code and any implementing regulation and/or (ii) a restricted number of non-qualified investors (*cercle restreint d'investisseurs non-qualifiés*) acting for their own account, as defined in and in accordance with Articles L.411-2-II-2° and D.411-4, D.744-1, D.754-1 and D.764-1 of the French Monetary and Financial Code and any implementing regulation.

Pursuant to Article 211-3 of the General Regulation of the AMF, investors in France are informed that the common stock cannot be distributed (directly or indirectly) to the public by the investors otherwise than in accordance with Articles L.411-1, L.411-2, L.412-1 and L.621-8 to L.621-8-3 of the French Monetary and Financial Code.

***Ireland***

The information in this document does not constitute a prospectus under any Irish laws or regulations and this document has not been filed with or approved by any Irish regulatory authority as the information has not been prepared in the context of a public offering of securities in Ireland within the meaning of the Irish Prospectus (Directive 2003/71/EC) Regulations 2005 (the "Prospectus Regulations"). The common stock has not been offered or sold, and will not be offered, sold or delivered directly or indirectly in Ireland by way of a public offering, except to (i) qualified investors as defined in Regulation 2(l) of the Prospectus Regulations and (ii) fewer than 100 natural or legal persons who are not qualified investors.

***Israel***

The common stock offered by this prospectus have not been approved or disapproved by the Israeli Securities Authority (the ISA), or ISA, nor have such common stock been registered for sale in Israel. The

shares and warrants may not be offered or sold, directly or indirectly, to the public in Israel, absent the publication of a prospectus. The ISA has not issued permits, approvals or licenses in connection with the offering or publishing the prospectus; nor has it authenticated the details included herein, confirmed their reliability or completeness, or rendered an opinion as to the quality of the common stock being offered. Any resale in Israel, directly or indirectly, to the public of the common stock offered by this prospectus is subject to restrictions on transferability and must be effected only in compliance with the Israeli securities laws and regulations.

***Italy***

The offering of the common stock in the Republic of Italy has not been authorized by the Italian Securities and Exchange Commission (*Commissione Nazionale per le Società e la Borsa*, "*CONSOB*" pursuant to the Italian securities legislation and, accordingly, no offering material relating to the common stock may be distributed in Italy and such securities may not be offered or sold in Italy in a public offer within the meaning of Article 1.1(t) of Legislative Decree No. 58 of 24 February 1998 ("Decree No. 58"), other than:

- to Italian qualified investors, as defined in Article 100 of Decree no. 58 by reference to Article 34-ter of CONSOB Regulation no. 11971 of 14 May 1999 ("Regulation no. 1197l") as amended ("Qualified Investors"); and
- in other circumstances that are exempt from the rules on public offer pursuant to Article 100 of Decree No. 58 and Article 34-ter of Regulation No. 11971 as amended.

Any offer, sale or delivery of the common stock or distribution of any offer document relating to the common stock in Italy (excluding placements where a Qualified Investor solicits an offer from the issuer) under the paragraphs above must be:

- made by investment firms, banks or financial intermediaries permitted to conduct such activities in Italy in accordance with Legislative Decree No. 385 of 1 September 1993 (as amended), Decree No. 58, CONSOB Regulation No. 16190 of 29 October 2007 and any other applicable laws; and
- in compliance with all relevant Italian securities, tax and exchange controls and any other applicable laws.

Any subsequent distribution of the common stock in Italy must be made in compliance with the public offer and prospectus requirement rules provided under Decree No. 58 and the Regulation No. 11971 as amended, unless an exception from those rules applies. Failure to comply with such rules may result in the sale of such common stock being declared null and void and in the liability of the entity transferring the common stock for any damages suffered by the investors.

***Japan***

The common stock has not been and will not be registered under Article 4, paragraph 1 of the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948), as amended (the "FIEL") pursuant to an exemption from the registration requirements applicable to a private placement of securities to Qualified Institutional Investors (as defined in and in accordance with Article 2, paragraph 3 of the FIEL and the regulations promulgated thereunder). Accordingly, the common stock may not be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan other than Qualified Institutional Investors. Any Qualified Institutional Investor who acquires common stock may not resell them to any person in Japan that is not a Qualified Institutional Investor, and acquisition by any such person of common stock is conditional upon the execution of an agreement to that effect.

***Portugal***

This document is not being distributed in the context of a public offer of financial securities (*oferta púbica de valores mobiliários*) in Portugal, within the meaning of Article 109 of the Portuguese Securities Code (*Código dos Valores Mobiliários*). The common stock has not been offered or sold and will not be offered or sold, directly or indirectly, to the public in Portugal. This document and any other offering material relating to the common stock has not been, and will not be, submitted to the Portuguese Securities

Market Commission (*Comissão do Mercado de Valores Mobiliários*) for approval in Portugal and, accordingly, may not be distributed or caused to distributed, directly or indirectly, to the public in Portugal, other than under circumstances that are deemed not to qualify as a public offer under the Portuguese Securities Code. Such offers, sales and distributions of common stock in Portugal are limited to persons who are "qualified investors" (as defined in the Portuguese Securities Code). Only such investors may receive this document and they may not distribute it or the information contained in it to any other person.

***Sweden***

This document has not been, and will not be, registered with or approved by Finansinspektionen (the Swedish Financial Supervisory Authority). Accordingly, this document may not be made available, nor may the common stock be offered for sale in Sweden, other than under circumstances that are deemed not to require a prospectus under the Swedish Financial Instruments Trading Act (1991:980) (Sw. lag (1991:980) *om handel med finansiella instrument*). Any offering of common stock in Sweden is limited to persons who are "qualified investors" (as defined in the Financial Instruments Trading Act). Only such investors may receive this document and they may not distribute it or the information contained in it to any other person.

***Switzerland***

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In the United Kingdom, this document is being distributed only to, and is directed at, persons (i) who have professional experience in matters relating to investments falling within Article 19(5) (investment professionals) of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005 ("FPO"), (ii) who fall within the categories of persons referred to in Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the FPO or (iii) to whom it may otherwise be lawfully communicated (together "relevant persons"). The investments to which this document relates are available only to, and any invitation, offer or agreement to purchase will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

## LEGAL MATTERS

The validity of the securities being offered by this prospectus has been passed upon for us by Reed Smith LLP, New York, New York. Certain legal matters in connection with this offering will be passed upon for the underwriters by Blank Rome LLP, New York, New York.

## EXPERTS

The financial statements as of December 31, 2012 and 2011 and for each of the two years in the period ended December 31, 2012 included in this prospectus and in the registration statement have been so included in reliance on the report of BDO USA, LLP, an independent registered public accounting firm, appearing elsewhere herein and in the registration statement, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND ADDITIONAL INFORMATION

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

You may read and copy the registration statement of which this prospectus is a part at the SEC's public reference room, which is located at 100 F Street, N.E., Room 1580, Washington, DC 20549. You can request copies of the registration statement by writing to the Securities and Exchange Commission and paying a fee for the copying cost. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the SEC's public reference room. In addition, the SEC maintains an Internet website, which is located at *http://www.sec.gov* that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. You may access the registration statement of which this prospectus is a part at the SEC's Internet website. Upon completion of this offering, we will be subject to the information reporting requirements of the Securities Exchange Act of 1934, and we will file reports, proxy statements and other information with the SEC.

**SEMLER SCIENTIFIC, INC.**

**INDEX TO FINANCIAL STATEMENTS**

**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Shareholders
Semler Scientific, Inc.
Portland, Oregon

We have audited the accompanying balance sheets of Semler Scientific, Inc. as of December 31, 2012 and 2011, and the related statements of operations, redeemable convertible preferred stock and stockholders' equity (deficit), and cash flows for each of the two years in the period ended December 31, 2012. 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 the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, 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 the Company as of December 31, 2012 and 2011, and the results of its operations and its cash flows for each of the years in the two years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States.

/s/ BDO USA, LLP

New York, New York

October 9, 2013

**Semler Scientific, Inc.**
**Balance Sheets**
(In thousands of U.S. Dollars, except share and per share data)

| | December 31, 2012 | December 31, 2011 |
|---|---|---|
| **Assets** | | |
| Current Assets: | | |
| Cash | $ 731 | $ 28 |
| Trade accounts receivable | 75 | 21 |
| Prepaid expenses and other current assets | 21 | 5 |
| Total current assets | 827 | 54 |
| Assets for lease, net | 359 | 238 |
| Property and equipment, net | — | 4 |
| Deferred financing costs | 290 | 378 |
| Total assets | $ 1,476 | $ 674 |
| **Liabilities and Stockholders' Equity (Deficit)** | | |
| Current liabilities: | | |
| Accounts payable | $ 86 | $ 119 |
| Advances payable – investors | — | 125 |
| Accrued expenses | 895 | 402 |
| Warrant liability | 31 | — |
| Deferred revenue | 64 | 25 |
| Equipment on lease, current portion | 43 | 39 |
| Loans payable, current portion | 60 | 60 |
| Total current liabilities | 1,179 | 770 |
| Long-term liabilities: | | |
| Equipment on lease, net of current portion | 112 | 155 |
| Loans payable, net of current portion | 158 | 218 |
| Total long-term liabilities | 270 | 373 |
| Commitments and contingencies | | |
| Redeemable convertible preferred stock series A, $0.001 par value; 2,800,000 shares authorized; 936,292 and 0 shares issued and outstanding, respectively; aggregate liquidation preference of $4,213 and $0, respectively | 3,602 | — |
| Stockholders' equity (deficit): | | |
| Convertible preferred stock series A-1, $0.001 par value; 800,000 shares authorized; 293,750 and 0 shares issued and outstanding, respectively; aggregate liquidation preference of $1,175 and $0, respectively | 482 | — |
| Convertible preferred stock series A-2, $0.001 par value; 400,000 shares authorized; 250,000 and 0 shares issued and outstanding, respectively; aggregate liquidation preference of $500 and $0, respectively | 208 | — |
| Common stock, $0.001 par value; 10,000,000 and 2,000,000 shares authorized; 811,750 and 1,456,947 shares issued, and 786,750 and 1,431,947 outstanding (net of treasury shares of 25,000 and 25,000), respectively | 1 | 1 |
| Additional paid-in capital | 2,853 | 3,908 |
| Accumulated deficit | (7,119) | (4,378) |
| Total stockholders' equity (deficit) | (3,575) | (469) |
| Total liabilities and stockholders' equity (deficit) | $ 1,476 | $ 674 |

See accompanying notes to financial statements.

**Semler Scientific, Inc.**
**Statements of Operations**
(In thousands of U.S. Dollars, except share and per share data)

| | For the years ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Revenue | $ 1,199 | $ 316 |
| Operating expenses: | | |
| Cost of revenue | 364 | 145 |
| Engineering and product development | 277 | 246 |
| Sales and marketing | 1,718 | 647 |
| General and administrative | 1,255 | 1,057 |
| Total operating expenses | 3,614 | 2,095 |
| Loss from operations | (2,415) | (1,779) |
| Other income (expense): | | |
| Interest expense | (120) | (64) |
| Other income (expense) | (203) | (31) |
| Other income (expense) | (323) | (95) |
| Loss before income tax expense | (2,738) | (1,874) |
| Income tax expense | 3 | 2 |
| Net loss | $ (2,741) | $ (1,876) |
| Deemed dividend | (85) | — |
| Net loss attributable to common stockholders | $ (2,826) | (1,876) |
| Net loss per share, basic and diluted | $ (2.54) | $ (1.40) |
| Weighted average number of shares used in computing basic and diluted loss per share | 1,113,622 | 1,341,629 |

See accompanying notes to financial statements.

**Semler Scientific, Inc.**
**Statements of Redeemable Convertible Preferred Stock and Stockholders' Equity (Deficit)**
(In thousands of U.S. Dollars, except share and per share data)

| | Redeemable Convertible Preferred Stock (Mezzanine) | | Convertible Preferred Stock | | | | Common Stock | | Treasury stock | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Series A | Series A Amount | Series A-1 | Series A-1 Amount | Series A-2 | Series A-2 Amount | Shares Issued | Common Stock Amount | Shares | Amount | Additional Paid-In Capital | Accumulated deficit | Total Stockholders' Equity (Deficit) |
| **Balance at December 31, 2010** | — | — | — | — | — | — | 1,287,500 | 1 | (25,000) | (0) | 2,775 | (2,502) | 274 |
| Issuance of common shares | — | — | — | — | — | — | 169,447 | — | — | — | 725 | — | 725 |
| Warrants issued in exchange for services | | | | | | | | | | | 116 | | 116 |
| Warrants issued in exchange for loan guarantees | | | | | | | | | | | 425 | | 425 |
| Offering costs | — | — | — | — | — | — | — | — | — | — | (165) | — | (165) |
| Stock-based compensation | — | — | — | — | — | — | — | — | — | — | 32 | — | 32 |
| Net loss for 2011 | — | — | — | — | — | — | — | — | — | — | — | (1,876) | (1,876) |
| **Balance at December 31, 2011** | — | — | — | — | — | — | 1,456,947 | 1 | (25,000) | (0) | 3,908 | (4,378) | (469) |
| Issuance of common shares | — | — | — | — | — | — | 27,778 | — | — | — | 125 | — | 125 |
| Conversion of common stock in exchange of convertible preferred stock | 129,225 | 572 | 293,750 | 482 | 250,000 | 208 | (672,975) | — | — | — | (1,262) | — | (572) |
| Conversion of common stock warrants in exchange of preferred stock warrants | — | — | — | — | — | — | — | — | — | — | (31) | — | (31) |
| Issuance of convertible preferred shares series A | 807,067 | 3,631 | — | — | — | — | — | — | — | — | — | — | — |
| Warrants issued in exchange for services | | 10 | | | | | | | | | 33 | | 33 |
| Offering costs | — | (611) | — | — | — | — | — | — | — | — | (16) | — | (16) |
| Stock-based compensation | — | — | — | — | — | — | — | — | — | — | 96 | — | 96 |
| Net loss for 2012 | — | — | — | — | — | — | — | — | — | — | — | (2,741) | (2,741) |
| **Balance at December 31, 2012** | **936,292** | **$ 3,602** | **293,750** | **$ 482** | **250,000** | **$ 208** | **811,750** | **$ 1** | **(25,000)** | **$ (0)** | **$ 2,853** | **$ (7,119)** | **$ (3,575)** |

**Semler Scientific, Inc.**
**Statements of Cash Flows**
(In thousands of U.S. Dollars, except share and per share data)

| | For the years ended December 31, 2012 | 2011 |
|---|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES:** | | |
| Net Loss | $ (2,741) | $ (1,876) |
| Reconciliation of Net Loss to Net Cash Used in Operating Activities: | | |
| Amortization of deferred financing costs | 88 | 47 |
| Warrants issued in exchange for services | 43 | 116 |
| Depreciation | 70 | 25 |
| Stock-based compensation expense | 96 | 32 |
| Provision for non-payment of long-term notes receivable – related party | 191 | — |
| Loss on write-off of furniture and fixtures | 3 | — |
| Changes in Operating Assets and Liabilities: | | |
| Trade accounts receivable | (54) | (20) |
| Prepaid expenses and other current assets | (16) | (4) |
| Accounts payable | (33) | 19 |
| Accrued expenses | 493 | 361 |
| Deferred revenue | 39 | 25 |
| **Net Cash Used in Operating Activities** | (1,821) | (1,275) |
| **CASH FLOWS FROM INVESTING ACTIVITIES:** | | |
| Additions to property and equipment | — | (3) |
| Purchase of assets for lease | (190) | (184) |
| Issuance of long-term notes receivable – related party | (191) | — |
| **Net Cash Used in Investing Activities** | (381) | (187) |
| **CASH FLOWS FROM FINANCING ACTIVITIES:** | | |
| Issuance of common stock | 125 | 725 |
| Issuance of preferred shares | 3,506 | — |
| Offering costs | (627) | (165) |
| Proceeds from advances payable – investors | — | 125 |
| Proceeds from loans payable | — | 300 |
| Proceeds from leases payable | — | 214 |
| Payments of notes payable | (60) | (22) |
| Payments of equipment leases | (39) | (20) |
| Net Cash Provided by Financing Activities | 2,905 | 1,157 |
| *INCREASE (DECREASE) IN CASH* | 703 | (305) |
| ***CASH, BEGINNING OF PERIOD*** | 28 | 333 |
| ***CASH, END OF PERIOD*** | $ 731 | $ 28 |
| Cash paid for income taxes | $ 1 | $ 1 |
| Cash paid for interest | $ 32 | $ 16 |
| Supplemental disclosure of noncash financing activity: | | |
| Deemed dividend | $ 85 | $ — |
| Conversion of common stock into preferred stock | $ 1,262 | $ — |
| Conversion of advances payable into preferred stock | $ 125 | $ — |
| Warrants issued for loan and lease guarantees | $ — | $ 425 |

See accompanying notes to financial statements.

**Semler Scientific, Inc.**
**Notes to Financial Statements**
(In thousands of U.S. Dollars, except share and per share data)

## 1. The Company

Semler Scientific, Inc. (the "Company") was incorporated in the State of Oregon on August 9, 2007. The Company is an emerging medical risk-assessment company that develops, manufactures and markets patented products to identify the risk profile of medical patients and allow healthcare providers to capture full reimbursement potential for their services. The Company's first patented and FDA cleared product, FloChec™ is used in the office setting to allow providers to measure arterial blood flow in the extremities. The Company received FDA 510(k) clearance for FloChec™ in February 2010, began Beta testing in the third quarter of 2010, and started commercially leasing FloChec™ in January 2011.

The Company generates revenue primarily from the rental of the FloChec™ systems to their customers. The Company is based in Portland, Oregon.

## 2. Summary of Significant Accounting Policies and Estimates

### Basis for Presentation

The Company's financial statements and accompanying notes are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

### Use of estimates

The preparation of the accompanying financial statements in conformity with U.S. GAAP requires management to make certain estimates and assumptions that affect the amounts of assets and liabilities reported, disclosures about contingent assets and liabilities at the date of the financial statements, and reported amounts of revenues and expenses, and related disclosures during the reporting period. Significant items subject to such estimates include revenue recognition, legal contingencies, allowance for doubtful accounts, collectability of long-term notes receivable-related party, valuation of equipment on lease, deferred tax asset valuation allowance, unrecognized tax benefits, stock-based compensation and valuation of warrants, common and convertible preferred stock. These estimates and assumptions are based on management's best estimates and judgment. Management regularly evaluates its estimates and assumptions using historical experience and other factors; however, actual results could differ significantly from these estimates.

### Revenue Recognition

The Company derives its revenue from leasing its FloChec™ product to customers pursuant to monthly operating leases that automatically renew each month with revenue recognized on a daily convention basis. The Company's arrangements with customers are normally on a month-to-month basis. FloChec™ rent is billed at the rates established in the lease agreement.

### Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are recorded at the invoiced amount, net of allowances for doubtful accounts. The allowance for doubtful accounts is based on management's assessment of the collectability of accounts. The Company regularly reviews the adequacy of this allowance for doubtful accounts by considering historical experience, the age of the accounts receivable balances, the credit quality of the customers, current economic conditions, and other factors that may affect customers' ability to pay to determine whether a specific allowance is appropriate. Accounts receivable deemed uncollectable are charged against the allowance for doubtful accounts when identified. There was no allowance recorded and deemed necessary during the periods presented.

### Assets for Lease

Assets for lease are recorded at cost. At December 31, 2012 and 2011, assets for lease consisted of FloChec™ devices, which are leased to customers. The cost of such assets for lease is depreciated on a straight-line basis over 36 months for the units outstanding and recorded as cost of revenue.

The Company regularly reviews whether facts and circumstances exist which indicate that the carrying amounts of assets, may not be recoverable or that the useful life of assets are shorter or longer than originally estimated. The Company assesses the recoverability of its assets by comparing the projected undiscounted net cash flows associated with the related asset over their estimated remaining lives against their respective carrying amounts. The Company considers factors such as estimated usage and expected lives of its assets for lease in this analysis. Impairment, if any, is based on the excess of the carrying amount over the fair value of those assets.

**Fair Value of Financial Instruments**

Fair value is defined as the exchange price that would be received for an asset or an exit price paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The three levels of the fair value hierarchy under FASB Accounting Standards Codification ("ASC") 820, *Fair Value Measurement*, are described as follows:

*Level 1* — Unadjusted quoted prices in active markets for identical assets or liabilities;

*Level 2* — Inputs other than quoted prices included in Level I that are observable, unadjusted quoted prices in markets that are not active, or other inputs that are observable or can be corroborated by observable market data; and

*Level 3* — Unobservable inputs that are supported by little or no market activity, which requires the Company to develop its own models.

The financial instruments of the Company consists primarily of cash, accounts receivable, accounts payable, loans payable and warrant liability of the Company. The carrying amounts of these items with the exception of stock warrants are considered a reasonable estimate of fair value at December 31, 2012 and 2011 due to their short term nature. The fair value of the stock warrants are revalued every reporting period using Level 3 inputs.

**Deferred Revenue**

Deferred revenue represents amounts billed to or collected from customers for which the related revenues have not been recognized because one or more of the revenue recognition criteria have not been met. The current portion of deferred revenue represents the amount that is expected to be recognized as revenues within one year from the balance sheet date. The Company anticipates that the majority of deferred revenue will be recognized during the following year and, therefore, has classified such deferred amounts as current liabilities in the balance sheets presented. The Company generally invoices its clients in advance on a monthly basis with payment due upon receipt of the invoice.

**Deferred Financing Costs**

In 2011, certain of our Directors personally guaranteed various loans or leases for our company in the aggregate amount of $425 from First Republic Bank and U.S. Bancorp Business Equipment Finance Group, see Note 7 "*Commitments and Contingencies.*" In consideration for the personal guarantees, these directors were given the opportunity to purchase fully vested warrants exercisable for common stock. The deferred financing costs are the fair value of the related warrants less the purchase price of the warrants. These financing costs have been deferred and are being amortized over the term of the loan or lease obligation. The amount amortized to interest expense were $88 and $47 in 2012 and 2011, respectively.

**Research and Development**

The Company expenses costs related to the research and development associated with the design, development, testing and enhancement of the FloChec™ product. Such expenses include salaries and related employee benefits, and fees paid to external service providers.

**Stock-Based Compensation**

Share based compensation expense is measured based on the grant-date fair value of the share based awards. The Company recognizes share based compensation expense for the portion of each option grant or stock award that is expected to vest over the estimated period of service and vesting. The estimation of the fair value of each stock-based grant on the date of grant involves numerous assumptions by management. The Company uses the Black-Scholes option pricing model as the method for determining the estimated grant-date fair value of stock options. The Black-Scholes option pricing model requires the use of highly subjective and complex assumptions which determine the fair value of share based awards, including the option's expected volatility and the price of the underlying stock. In addition, the Company estimates the forfeiture rate of such awards during the requisite service period. Stock based compensation expense is recognized on a straight-line basis over the requisite service period of the grant.

**Employee Benefit Plan**

The Company has a savings plan that qualifies under Section 401(k) of the Internal Revenue Code. There were no matching or discretionary employer contributions made to this plan during the years ended December 31, 2012 and 2011.

**Income Taxes**

The Company uses the asset and liability method to account for income taxes. Deferred tax assets and liabilities are recognized for the expected tax consequences attributable to the differences between financial reporting and the tax bases of existing assets and liabilities and operating loss carry forwards, and they are measured using enacted tax rates expected to be in effect when differences are expected to reverse. A valuation allowance is recorded for loss carry-forwards and other deferred tax assets where it is more likely than not that such loss carry-forward and deferred tax asset will not be realized. The estimate for the valuation allowance for deferred tax assets requires management to make significant estimates and judgments about projected future operating results. If actual results differ from these projections or if management's expectations of future results change, it may be necessary to adjust the valuation allowance.

**Net Loss per Share**

Basic and diluted net loss per common share is calculated by dividing the net loss attributable to common stockholders by dividing the weighted-average number of common shares outstanding during the periods, respectively, without consideration for outstanding common stock equivalents because their effect would have been anti-dilutive. Common stock equivalents are included in the calculation of diluted earnings per common share only if their effect is dilutive. For the periods presented, the Company's outstanding common stock equivalents consisted of options and warrants to purchase shares of common stock, all of which are antidilutive, and therefore were not included in the calculation for diluted loss per share.

**Liquidity**

The Company has incurred recurring losses since inception and expects to continue to incur costs and expenses related to research and development, marketing and other promotional activities, and continued development of the Company's product. As of December 31, 2012, the Company has net working capital of ($352), cash of $731 and stockholders' deficit of $3,575. The Company's principal sources of cash have included the issuance of equity and debt securities. As the Company's revenue grows, the operating expenses will continue to grow and, as a result, the Company will need to generate significant additional revenues to achieve profitability.

(In thousands of U.S. Dollars, except share and per share data)

During the quarter ending September 30, 2013, the Company issued 532,110 shares of Series A convertible Preferred Stock and 298,241 warrants to buy shares of Series A convertible Preferred Stock at an exercise price of $4.50 per share with a three year term to accredited investors for a gross aggregate purchase price of $2,409. In addition, the Chief Executive Officer agreed that while employed by the Company, he would not demand the accrued expenses owed to him until after the closing of an initial public offering, a change of control or the liquidation of the Company.

The Company expects to continue business into the foreseeable future as long as revenues remain at current levels. In the event the Company is unable to generate sufficient revenues, it may need to obtain additional financing in order to achieve its business objectives. There can be no assurance that such financing will be available on terms commercially acceptable to the Company. Failure to manage discretionary expenditures or raise additional financing, as required, may adversely impact the Company's ability to achieve its intended business objectives.

**Excise Tax Liability on Medical Devices**

Recognition of the excise tax liability falls under ASC 450, *Contingencies*, because the tax is assessed on revenues. The Company recognizes the excise tax when a rental payment is invoiced. Based on the guidance in ASC 605-45-50-3 and 50-4, these excise taxes are presented on a net basis excluded from revenue. The excise tax is not an income tax.

## 3. Assets for lease, net

Assets for lease consist of the following:

| | Year ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Assets for lease | $ 452 | $ 262 |
| Less: Accumulated Depreciation | (93) | (24) |
| Assets for lease, net | $ 359 | $ 238 |

As of December 31, 2012 and 2011, assets for lease have gross amounts of $452 and $262 with accumulated depreciation of $93 and $24, respectively. Depreciation expense amounted to $69 and $24 for the years ended December 31, 2012 and 2011, respectively.

## 4. Long-Term Note Receivable

The Company's related party long-term note receivable consists of the following:

This note receivable was executed on October 31, 2012 to Healthperks, Inc. ("Healthperks"), a company at its inception that was wholly-owned by the Company's directors, principal stockholders and other current stockholders. It has a maturity date of the earlier of (a) October 31, 2017, or (b) the consummation of the transaction or series of transactions where Healthperks sells its equity securities for the primary purpose of raising working capital which results in aggregate gross proceeds of not less than $2,000, including the cancelation of indebtedness. This note has a 6% interest per annum, and all principal and accrued and unpaid interest are due as noted above. Due to the uncertain nature of the receivable and the ability of Healthperks to repay the note, collectability cannot be reasonably assured. As a result, as of December 31, 2012, the full principal and interest balance of $191 has been reserved.

**Semler Scientific, Inc.**
**Notes to Financial Statements**
(In thousands of U.S. Dollars, except share and per share data)

## 5. Accrued Expenses

Accrued expenses consist of the following:

| | Year ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Offering Costs | $ 722 | $ 240 |
| Compensation | 109 | 146 |
| Miscellaneous Accruals | 64 | 16 |
| Total Accrued Expenses | $ 895 | $ 402 |

The accumulated offering costs that were accrued pertain to the consultant's fees associated with securing equity financing for the company.

## 6. Concentration of Credit Risk

Credit risk is the risk of loss from amounts owed by the financial counterparties. Credit risk can occur at multiple levels; as a result of broad economic conditions, challenges within specific sectors of the economy, or from issues affecting individual companies. Financial instruments that potentially subject the Company to credit risk consist of cash and accounts receivable.

The Company maintains cash with major financial institutions. The Company's cash consist of bank deposits held with banks that, at times, exceed federally insured limits. The Company limits its credit risk by dealing with counterparties that are considered to be of high credit quality and by performing periodic evaluations of the relative credit standing of these financial institutions.

Concentration of credit risk with respect to accounts receivable is limited due to the large number of customers comprising the payer base. Management periodically monitors the creditworthiness of its customers and believes that it has adequately provided for any exposure to potential credit loss.

The Company relies on an independent supplier for the manufacturing of FloChec™ and any delay or disruption in the supply of the product, may negatively impact the operations. The majority of the products are manufactured at a single facility, and the loss of such facility could prevent its vendor from manufacturing FloChec™.

## 7. Commitments and Contingencies

### Equipment Leases and Loans Payable

On February 9, 2011, the Company entered into an Equipment Finance Agreement (the "agreement") with U.S. Bancorp Business Equipment Finance Group. Pursuant to the agreement, the Company obtained a $39 secured loan for a 48-month term that has an annual fixed interest rate of 13%. The loan is secured by the related leased equipment. Under the agreement, the Company makes monthly payments consisting of $1 of principal plus any accrued interest. The agreement provides for customary events of default**.** This loan is personally guaranteed by two Company directors who are principal stockholders. As of December 31, 2012, the Company was in compliance with the material terms of this facility. At December 31, 2012 and 2011, the Company had outstanding borrowings of $24 and $33, respectively.

On May 27, 2011, the Company entered into an Equipment Finance Agreement (the "agreement") with U.S. Bancorp Business Equipment Finance Group. Pursuant to the agreement, the Company obtained a $109 secured loan for a 60-month term that has an annual fixed interest rate of 6%. The loan is secured by the related leased equipment. Under the agreement, the Company makes monthly payments consisting of $2 of principal plus any accrued interest. The agreement provides for customary events of default**.** This loan

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is personally guaranteed by two Company directors who are principal stockholders. As of December 31, 2012, the Company was in compliance with the material terms of this facility. At December 31, 2012 and 2011, the Company had outstanding borrowings of $78 and $98, respectively.

At various dates in 2011, the Company entered into Lease Agreements (the Agreements) with Lease Corporation of America. Pursuant to these agreements, the Company obtained an aggregate amount of $66 for a 60-month term that have variable annual interest rates of approximately 14%. The leases are secured by the related leased equipment. Under the agreements, the Company makes monthly payments of approximately $1 of principal plus any accrued interest. The agreements provide for customary events of default**.** The leases are personally guaranteed by a Company director who is a principal stockholder. As of December 31, 2012, the Company was in compliance with the material terms of this facility. At December 31, 2012 and 2011, the Company had outstanding borrowings of $53 and $63, respectively.

On June 17, 2011, the Company entered into a loan agreement with First Republic Bank. Pursuant to the loan agreement, the Company obtained a $150 secured loan for a 60-month term that has a variable annual interest rate based on First Republic's Prime plus a spread of 1.75% and a floor of 3.25%. The initial interest rate was 5%. Under the loan agreement, the Company makes monthly payments consisting of $3 of principal plus any accrued interest. The loan agreement provides for customary events of default. This loan is personally guaranteed by a Company director who is a principal stockholder. As of December 31, 2012, the Company was in compliance with the material terms of this facility. At December 31, 2012 and 2011, the Company had outstanding borrowings of $105 and $135, respectively.

On September 13, 2011, the Company entered into an additional loan agreement with First Republic Bank. Pursuant to the loan agreement, the Company obtained a $150 loan for a 60-month term that has a variable annual interest rate based on First Republic's Prime plus a spread of 1.75% and a floor of 3.25%. The initial annual interest rate was 5%. Under the loan agreement, the Company makes monthly payments consisting of $3 of principal plus any accrued interest. The loan agreement provides for customary events of default. This loan is personally guaranteed by a Company director who is a principal stockholder. As of December 31, 2012, the Company was in compliance with the material terms of this facility. At December 31, 2012 and 2011, the Company had outstanding borrowings of $113 and $143, respectively.

As of December 31, 2012, future minimum lease payments under equipment leases were as follows:

| Years | Total |
|---|---|
| 2013 | $ 43 |
| 2014 | 47 |
| 2015 | 41 |
| 2016 | 24 |
| Total payments | 155 |
| Less: current portion | 43 |
| Equipment leases, net of current portion | $ 112 |

| | |
|---|---|
| Total payments | $ 155 |
| Less: amount representing interest | 27 |
| Total | $ 128 |

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As of December 31, 2012, future principal payments under loan obligations were as follows:

| Years | Total |
|---|---|
| 2013 | $ 60 |
| 2014 | 60 |
| 2015 | 60 |
| 2016 | 38 |
| Total payments | 218 |
| Less: current portion | 60 |
| Loans payable, net of current portion | $ 158 |

Interest expense under these obligations for the years ended December 31, 2012 and 2011 was $32 and $16, respectively.

***Indemnification Obligations:***

The Company enters into agreements with customers, partners, lenders, consultants, lessors, contractors, sales representatives and parties to certain transactions in the ordinary course of the Company's business. These agreements may require the Company to indemnify the other party against third party claims alleging that its product infringes a patent or copyright. Certain of these agreements require the Company to indemnify the other party against losses arising from: a breach of representations or covenants, claims relating to property damage, personal injury or acts or omissions of the Company, its employees, agents or representatives. The Company has also agreed to indemnify the directors and certain of the officers and employees in accordance with the by-laws of the Company. These indemnification provisions will vary based upon the nature and terms of the agreements. In many cases, these indemnification provisions do not contain limits on the Company's liability, and the occurrence of contingent events that will trigger payment under these indemnities is difficult to predict. As a result, the Company cannot estimate its potential liability under these indemnities. The Company believes that the likelihood of conditions arising that would trigger these indemnities is remote and, historically, the Company had not made any significant payment under such indemnification provisions. Accordingly, the Company has not recorded any liabilities relating to these agreements. In certain cases, the Company has recourse against third parties with respect to the aforesaid indemnities, and the Company believes it maintains adequate levels of insurance coverage to protect the Company with respect to potential claims arising from such agreements.

**8. Stockholders' Equity (Deficit)**

***Authorized Capital:***

The Company was incorporated on August 9, 2007, and the Company was authorized to issue up to 1,000,000 shares of common stock at no par.

In December 2007, 850,000 shares of common stock were issued for services rendered by an Officer of the Company.

On March 12, 2010, the Company's Certificate of Incorporation was amended and restated to authorize the Company to issue up to 2,000,000 shares of common stock at no par.

During the quarter ended September 30, 2012, the Company's Certificate of Incorporation was amended and restated to authorize the Company to issue up to 14,000,000 shares, of which 10,000,000 shares were designated as common stock with par value of $0.001 per share and 4,000,000 shares were

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designated as convertible preferred stock with par value of $0.001 par value per share. The authorized preferred stock for all periods presented is as follows: (i) 2,800,000 shares of Series A convertible Preferred Stock, (ii) 800,000 shares of Series A-1 convertible Preferred Stock, and (iii) 400,000 shares of Series A-2 convertible Preferred stock. See "*Subsequent Events.*"

**A. Common Stock**

***Issuance of Common Stock:***

During 2011, the Company issued 169,447 shares of common stock for cash amounting to $725 with less than $1 par value and resulted in $725 additional paid in capital. During the same period, the Company recorded offering costs amounting to $165 and recorded as an offset to additional paid in capital.

During 2012, the Company issued 27,778 shares of common stock for cash amounting to $125 with less than $1 par value and resulted in $125 additional paid in capital. During the same period, the Company recorded offering costs amounting to $16 and recorded as an offset to additional paid in capital.

***Voting Rights of Common Stock:***

Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

***Common Stock Warrants:***

In 2011, certain stockholders and consultants who performed services to the Company or provided personal loan guarantees for the Company were given the opportunity to purchase common stock warrants with fair value of $541 and paid proceeds to the Company amounting to less than $1. As a result, the Company recorded additional paid in capital of $541, deferred financing costs of $425 relating to the loan guarantees and compensation expense of $116 relating to services provided to the Company.

In 2012, a certain consultant who performed services to the Company was given the opportunity to purchase common stock warrants with fair value of $33 and paid proceeds to the Company amounting to less than $1 resulting in additional paid-in capital and compensation expense of $33.

***Common Stock:***

For the years ended December 31, 2012 and 2011, a total of 3,103,381 and 560,343 shares of common stock, respectively, were reserved for issuance upon (i) conversion of outstanding convertible preferred stock, (ii) exercise of convertible Preferred or common stock warrants, and (iii) the exercise of outstanding stock options, as follows:

| | Year ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Convertible preferred stock | 1,480,042 | — |
| Preferred stock warrants | 1,285,839 | — |
| Common stock warrants | — | 327,343 |
| Options | 337,500 | 233,000 |
| Total | 3,103,381 | 560,343 |

**B. Exchange Agreement**

During the quarter ended June 30, 2012, the Company entered into an exchange agreement ("Exchange Agreement") with all of the holders of its common stock and common stock warrants outstanding, pursuant to which such holders exchanged their shares and warrants of common stock into

and for shares and warrants for the purchase of Series A convertible Preferred Stock, Series A-1 convertible Preferred Stock and/or Series A-2 convertible Preferred Stock in amounts that were determined in such negotiations (the "Exchange"). During the first half of 2012 ending June 30, 2012, the Company changed from an S Corporation to a C Corporation.

Common stockholders who originally acquired their common stock prior to 2010 received common shares on a 1:1 basis. Common stockholders who originally purchased their common stock at $2/ share received shares of Series A-2 convertible Preferred Stock on a 1:1 basis. Warrant holders for common stock with an exercise price of $2/share received warrants at the same exercise price and expiration date to purchase shares of Series A-2 convertible Preferred Stock on a 1:1 basis. Common stockholders who originally purchased their common stock at $4/share received shares of Series A-1 convertible Preferred Stock on a 1:1 basis and warrants to purchase shares of Series A-1 convertible Preferred Stock with an exercise price of $4/share in the amount of 75% of the amount of the A-1 convertible Preferred Stock they had received. Warrant holders for common stock with an exercise price of $4/share received warrants at the same exercise price and expiration date to purchase shares of Series A-1 convertible Preferred Stock on a 1:1 basis. Common stockholders who originally purchased their common stock at $4.50/share received shares of Series A convertible Preferred Stock on a 1:1 basis and warrants to purchase shares of Series A convertible Preferred Stock with an exercise price of $4.50/share in the amount of 75% of the amount of the Series A convertible Preferred Stock they had received, except that one shareholder, who purchased common stock at $4.50/share and a warrant for shares of common stock in the amount of 75% of the amount of the common stock they had received, exchanged these shares and warrant on a 1:1 basis into and for shares and warrants of Series A convertible Preferred Stock. Warrant holders for common stock with an exercise price of $4.50/share received warrants at the same exercise price and expiration date to purchase shares of Series A convertible Preferred Stock on a 1:1 basis. Any warrants that had reached their expiration date prior to the exchange received no warrants for preferred stock.

Pursuant to the Exchange Agreement, the Company had exchanged 1,459,725 shares of common stock and 358,733 common stock warrants into (A) 786,750 of common stock, (B) 129,225 shares of Series A convertible Preferred Stock, (C) 293,750 shares of Series A-1 convertible Preferred Stock, and (D) 250,000 shares of Series A-2 convertible Preferred Stock with a total of 583,441 preferred stock warrants.

Immediately prior to the exchange, the fair value of the Company's equity was determined to be $1,377, specifically (a) the fair value of the common stock was $1,255 with 1,459,725 shares outstanding determined to be $0.86 per share, (b) the fair value of the warrants to purchase common stock was $77, and (c) the fair value of the options to purchase common stock was $45.

Immediately after the exchange, the fair value of the Company's equity was determined to be $1,377 specifically (a) the common stock had a fair value of $0.10 per share for a total fair value of $77, (b) the Series A convertible Preferred Stock had a fair value of $4.43 per share for a total fair value of $572, (c) the Series A-1 convertible Preferred Stock had a fair value of $1.64 per share for a total fair value of $482, (d) the Series A-2 convertible Preferred Stock had a fair value of $0.83 per share for a total fair value of $208, (e) the warrants to purchase convertible preferred stock had a fair value of $31 or $0.10 per underlying share, and (f) the fair value of the options to purchase common stock was $4.

The aggregate fair value of the common stock prior to the exchange was $1,255 and the fair value of the common and convertible preferred stock after the exchange was $1,340, which gives effect to a reduction of additional paid in capital of $85. As a result of this exchange, the Company reports a deemed dividend of $85 on its statement of operations and makes a supplemental disclosure of $85 in non-cash activity on its cash flow statement. Due to state law, dividends may not be declared out of accumulated deficit.

As a result of the Exchange Agreement, the Company recorded a warrant liability of $31 representing the fair value of the warrants to purchase Series A convertible Preferred Stock, which were determined to be liabilities due to the redemption right of the Series A convertible Preferred Stock (see *Redemption and Conversion* section below for further details).

Expenses related to the exchange were $51 and were charged to the statement of operations.

***Valuation Methodology:***

The fair value of the Series A convertible Preferred Stock is based on arm's length transactions between the Company and new investors who purchased Series A convertible Preferred Stock on the closing date of July 9, 2012. The fair value on the date of issuance during 2012 of the warrants to purchase convertible preferred stock was determined using the Option Pricing Method. The Option Pricing Method ("OPM") values the various securities by creating a series of call options with exercise prices based on the liquidation preference and conversion behavior of the different classes of equity. The OPM values the common stock and securities convertible to common stock by creating a series of call options with exercise prices based on the liquidation preference of convertible preferred stock.

In the OPM analysis, equity value thresholds are determined for the following events assuming a time to liquidity of 18 months:

- Payment of liquidation preferences to Series A convertible Preferred Stock
- Payment of liquidation preferences to Series A-1 and A-2 Stock convertible Preferred Stock
- Exercise of warrants for Series A convertible Preferred Stock
- Exercise of stock options
- Conversion of Series A-2 convertible Preferred Stock to common stock and exercise of Series A-2 warrants and conversion to common stock
- Conversion of Series A-1 convertible Preferred Stock to common stock and exercise of Series A-1 warrants and conversion to common stock
- All Series A convertible Preferred reaches caps, after receiving preferential participation distribution
- Conversion of all Series A convertible Preferred Stock to common stock

Other assumptions included in this analysis are expected volatility of 50.7% and risk-free interest rate of 0.27%.

Volatility — Since the Company has no trading history by which to determine the volatility of its own common stock price, the expected volatility being used is derived from the historical stock volatilities of a representative industry peer group of comparable publicly listed companies over a period approximately equal to the expected term of the options.

Risk-free Interest Rate — The risk-free interest rate is based on U.S. Treasury zero coupon issues with remaining terms similar to the expected term on the options.

Expected Dividend — The Company has never declared or paid any cash dividends and does not plan to pay cash dividends in the foreseeable future, and therefore, used an expected dividend yield of zero in the valuation model.

**C. Convertible Preferred Stock**

During the third quarter of 2012, the Company issued 807,067 shares of Series A convertible Preferred Stock and warrants to purchase 606,966 shares of Series A convertible Preferred Stock with an exercise price of $4.50 per share for an aggregate of cash amounting to $3,506 and conversion of advances payable amounting to $125. The Company recorded offering costs relating to these purchases amounting to $611 as a reduction to the Series A convertible Preferred Stock.

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As of December 31, 2012, convertible Preferred Stock was comprised of the following:

| | Preferred shares authorized | Shares issued and outstanding | Liquidation Preference/ Redemption Value | Common Stock Issuable Upon Conversion |
|---|---|---|---|---|
| Series A convertible | 2,800,000 | 936,292 | $ 4,213 | 936,292 |
| Series A-1 convertible | 800,000 | 293,750 | $ 1,175 | 293,750 |
| Series A-2 convertible | 400,000 | 250,000 | $ 500 | 250,000 |

The rights of the convertible Preferred Stock are as follows:

***Voting:***

The holders of Series A convertible Preferred Stock, Series A-1 convertible Preferred Stock and Series A-2 convertible Preferred Stock are entitled to the number of votes equal to the number of shares of common stock into which such preferred stock is convertible.

***Dividends:***

The holders of convertible preferred stock are entitled to receive, when and if declared by the Board of Directors, non-cumulative dividends equal to $0.36, $0.32 and $0.16 per share per annum for Series A convertible Preferred Stock, Series A-1 convertible Preferred Stock and Series A-2 convertible Preferred Stock, subject to adjustments, respectively.

As of December 31, 2012, no dividends have been declared on any of the classes of convertible preferred stock.

***Redemption and Conversion:***

Each share of Series A convertible Preferred Stock, Series A-1 convertible Preferred Stock and Series A-2 convertible Preferred Stock is, at the option of the holder, convertible into shares of common stock on a one-for-one basis subject to certain anti-dilution adjustments.

The outstanding shares of Series A convertible Preferred Stock, Series A-1 convertible Preferred Stock and Series A-2 convertible Preferred Stock automatically convert into common stock on the closing of an underwritten public offering of common stock under the Securities Act of 1933 in which the Company receives at least $30.0 million in aggregate gross proceeds and the offering price per share is at least $22.50.

At any time after June 30, 2017, at the election of each of the Requisite Holders, as defined in the amended articles of incorporation, the Company shall redeem all outstanding shares of Series A convertible Preferred Stock which have not been converted to common stock, in three annual installments. Requisite Holders is defined as two specific principal stockholders, but, with respect to each, only for so long as such entity holds not less than 50% of the shares of Series A convertible Preferred Stock held by it as of July 6, 2012. Under ASC 480, equity securities are required to be classified outside permanent equity if they are redeemable or may become redeemable for cash or other assets on a determinable date at the option of the security holder. Accordingly, Series A convertible Preferred Stock has been classified outside of permanent equity, in mezzanine.

During the quarter ending September 30, 2013, the Company, a majority of the outstanding shares of our convertible preferred stock (on an as-converted basis), our Board of Directors and the Requisite Holders a) amended the rights of Series A convertible Preferred Stock, such to remove this redemption right which will reclassify this stock and warrants for this stock into permanent equity; and b) modified the automatic conversion provision to eliminate the minimums of aggregate gross proceeds and offering price of an underwritten public offering of common stock.

***Liquidation Rights:***

In the event of liquidation, holders of Series A convertible Preferred Stock are entitled to receive, prior and in preference to the holders of Series A-1 convertible Preferred Stock, Series A-2 convertible Preferred Stock and common stock, a liquidation preference distribution of $4.50 per share plus any declared but unpaid dividends. Also, in the event of liquidation, holders of Series A-1 and A-2 convertible Preferred Stock are entitled to, prior and in preference to holders of common stock, a liquidation preference distribution of $4.00 and $2.00 per share, respectively, plus any declared but unpaid dividends. Any remaining assets of the Company shall be distributed pro-rata amongst the holders of the Company's common stock.

**D. Warrants to Purchase Convertible Preferred Stock**

In addition to the warrants described above, in 2012, a certain consultant who performed services for the Company was given the opportunity to purchase warrants to buy 10,556 shares of Common Stock with a fair value of $33 and paid proceeds to the Company amounting to less than $1 resulting in additional paid-in capital and compensation expenses of $33, and warrants to buy 95,432 shares of Series A convertible Preferred Stock with a fair value of $10 and paid proceeds to the Company amounting to less than $1 resulting in additional paid-in capital and compensation expense of $10.

**9. Stock Option Plan**

The Company's Board of Directors adopted the 2007 Key Stock Option Plan (the "2007 Plan") under which employees, directors and other eligible participants may be granted non-statutory stock options to purchase shares of the Company's common stock. The exercise price of the options shall not be less than the estimated fair value of the underlying shares of the common stock on the grant date. The Company has estimated the fair value of the stock options as of the grant date to be based on the Black-Scholes option pricing model. Options that expire are canceled and returned to the 2007 Plan. Options generally vest over four years and expire ten years from the date of grant.

In 2012, the Board of directors increased the number of common shares reserved for issuance under the 2007 Plan by 250,000 shares to a total of 456,500 shares. As of December 2012 and 2011, there were 119,000 and 17,000 shares, respectively, available for grant under the 2007 Plan. Aggregate intrinsic value represents the difference between the estimated fair value of the underlying common stock and the exercise price of outstanding, in-the-money options. A summary of the Company's stock option activity and related information for 2012 and 2011 is as follows:

| | Options Outstanding | | | |
|---|---|---|---|---|
| | Number of Stock Options Outstanding | Weighted Average Exercise Price | Weighted Average Remaining Contractual Term (In Years) | Aggregate Intrinsic Value (in thousands) |
| **Balance, December 31, 2010** | **194,500** | **$ 1.46** | **7.60** | **$ 167** |
| Options granted | 38,500 | 4.47 | | |
| **Balance, December 31, 2011** | **233,000** | **$ 1.95** | **7.09** | **$ 526** |
| Options granted | 104,500 | 1.53 | | |
| **Balance, December 31, 2012** | **337,500** | **$ 1.82** | **7.20** | **$ 0** |
| **Exercisable as of December 31, 2011** | **161,875** | **$ 1.15** | **7.32** | **$ 485** |
| **Exercisable as of December 31, 2012** | **182,600** | **$ 0.52** | **7.06** | **$ 0** |

On September 30, 2012, the Company modified all of its outstanding stock options to reduce the exercise price to $0.52 per share. The Company recorded an incremental stock based compensation expense of $34 as a result of the modification.

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The weighted average grant date fair value of options granted during the years ended December 31, 2012 and 2011 was $0.92 and $2.47, respectively. The total estimated grant date fair value of options vested during the years ended December 31, 2012 and 2011 was $40 and $40, respectively.

**Determining the Fair Value of Stock Options**

The Company uses the Black-Scholes pricing model to determine the fair value of stock options. The fair value of each option grant is estimated on the date of the grant. The fair value of the options granted is estimated on the date of grant using the Black-Scholes pricing model and the following assumptions for the periods presented:

| | Year ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Expected term (in years) | 6.25 | 6.25 |
| Risk-free interest rate | 0.55% | 1.00% |
| Expected volatility | 46.8% – 68.9% | 50.9% – 71.9% |
| Expected dividend rate | 0% | 0% |

The assumptions are based on the following for each of the years presented:

Valuation Method — The Company estimates the fair value of its stock options using the Black-Scholes option pricing model.

Expected Term — The Company estimates the expected term consistent with the simplified method identified by the Securities and Exchange Commission (SEC). The Company elected to use the simplified method because of its limited history of stock option exercise activity and its stock options meet the criteria of the “plain-vanilla” options as defined by the SEC. The simplified method calculates the expected term as the average of the vesting and contractual terms of the award.

Volatility — Since the Company has no trading history by which to determine the volatility of its own common stock price, the expected volatility being used is derived from the historical stock volatilities of a representative industry peer group of comparable publicly listed companies over a period approximately equal to the expected term of the options.

Risk-free Interest Rate — The risk-free interest rate is based on median U.S. Treasury zero coupon issues with remaining terms similar to the expected term on the options.

Expected Dividend — The Company has never declared or paid any cash dividends and does not plan to pay cash dividends in the foreseeable future, and therefore, used an expected dividend yield of zero in the valuation model.

Forfeiture — The Company estimates forfeitures at the time of grant and revises those estimates in subsequent periods if actual forfeitures differ from those estimates. The Company uses historical data to estimate pre-vesting forfeitures and records stock-based compensation expense only for those awards that are expected to vest. All stock-based payment awards are amortized on a straight-line basis over the requisite service periods of the awards, which are generally the vesting periods. If the Company’s actual forfeiture rate is materially different from its estimate, the stock-based compensation expense could be significantly different from what the Company has recorded in the current period.

As of December 31, 2012, total unrecognized compensation costs related to unvested stock options was $141,160, which had been expected to be recognized over a weighted-average period of 2.68 years.

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The Company has recorded an expense of $96 and $32 as it relates to stock-based compensation in 2012 and 2011, respectively, which was allocated as follows based on the role and responsibility of the recipient in the Company:

| | 2012 | 2011 |
|---|---|---|
| Engineering and Product Development | $ 4 | $ 3 |
| Sales and Marketing | 8 | 1 |
| General and Administrative | 84 | 28 |
| Total | $ 96 | $ 32 |

**10. Income Taxes**

The components of the provision for income taxes are as follows:

| | 2012 | 2011 |
|---|---|---|
| Current provision: | | |
| Federal | $ — | $ — |
| State | 3 | 2 |
| Deferred provision: | | |
| Federal | — | — |
| State | — | — |
| Total | $ 3 | $ 2 |

A summary of the differences between the Company's effective income tax rate and the Federal statutory income tax rate for the years ended December 31, 2012 and 2011 is as follows:

| | 2012 | 2011 |
|---|---|---|
| Federal statutory rate | 34.00% | 0.00% |
| State income taxes, net of federal benefit | -0.07% | -0.09% |
| Change in valuation allowance | -31.13% | 0.00% |
| Other | -2.91% | 0.00% |
| Effective income tax | -0.11% | -0.09% |

**"Subchapter S" Election Impact on Taxes**

The Company filed an election under Section 1361 of the United States Internal Revenue Code of 1986 on to be treated as a "Subchapter S corporation" for federal income tax purposes. The election, effective January 1, 2008, was made with the consent of our shareholders. As a result, the Company was not subject to any U.S. federal or state income taxes as the related tax consequences were reported by the individual shareholders, but was subject to state taxes in certain states assess capital taxes or taxes based on gross receipts. On January 1, 2012, the Company terminated its S corporation tax election and was therefore subject to corporate income taxes.

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Deferred tax assets are comprised of the following at December 31:

| | 2012 | 2011 |
|---|---|---|
| Net operating loss carryforward | $ 963 | $ — |
| Depreciation & amortization | 94 | — |
| Stock-based compensation | 80 | — |
| Accruals and reserves | 42 | — |
| Deferred tax assets | 1,179 | — |
| Valuation allowance | (1,179) | — |
| Net deferred tax assets | $ — | $ — |

As of December 31, 2012, the Company has net operating loss carryforwards of approximately $2,490 and $1,600 for federal and state, respectively, expiring in 2032.

ASC 740-10, *Income Taxes*, prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return and also provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition.

The Company's ability to use operating loss carryforwards and tax credits to offset future taxable income is subject to restrictions under Section 382 of the United States Internal Revenue Code (the "Internal Revenue Code"). These restrictions may limit the future use of future operating loss carryforwards and tax credits if certain ownership changes described in the Internal Revenue Code occur. Future changes in stock ownership may occur that would create further limitations on the Company's use of t operating loss carryforwards and tax credits. In such a situation, the Company may be required to pay income taxes, even though significant operating loss carryforwards and tax credits might exist.

As of December 31, 2012 and 2011, the Company had no unrecognized tax benefits and no adjustments to liabilities or operations were required for uncertain tax positions under ASC 740-10. The Company's practice is to recognize interest and penalty expenses related to uncertain tax positions in income tax expense, which was zero for the years ended December 31, 2012 and 2011. The Company files income tax returns in the U.S. federal and several state tax jurisdictions.

The Company's tax years beginning 2009 remain open for examination by the federal and state tax authorities for three and four years, respectively. Tax years beginning 2012 will remain open for examination from the date of utilization of any net operating loss or credits. The Company does not have any tax positions for which it is reasonably possible the total amount of gross unrecognized tax benefits will increase or decrease within 12 months of the year-ended December 31, 2012.

**11. Net loss per share attributable to common stockholders**

The following table presents the calculation of basic and diluted net loss per share:

| | For the year ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Net loss | $ (2,741) | $ (1,876) |
| Deemed dividend | $ (85) | — |
| Net loss attributable to common stockholders | $ (2,826) | $ (1,876) |
| Weighted average shares outstanding | 1,113,622 | 1,341,629 |
| Basic and diluted loss per share attributable to common stockholders | $ (2.54) | $ (1.40) |

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Since the Company was in a loss position for each of the periods presented, diluted net loss per share is the same as basic net loss per share for each period as the inclusion of all potential common shares outstanding would have been anti-dilutive. The following weighted average shares outstanding of common stock equivalents were excluded from the computation of diluted net loss per share for the periods presented because including them would have been anti-dilutive:

| | Year Ended December 31, | |
|---|---|---|
| | 2012 | 2011 |
| Weighted average shares outstanding: | | |
| Convertible preferred stock | 542,678 | — |
| Convertible preferred stock warrants | 471,161 | — |
| Common stock warrants | 170,152 | 175,963 |
| Options | 267,758 | 212,505 |
| Total | 1,451,749 | 388,468 |

**12. Segment Information**

The Company has one operating segment. Revenues are generated domestically through direct leasing to direct customers of the Company and less than 25% of total revenue through the Company's distribution partners.

**13. Subsequent Events**

The Company has evaluated subsequent events through October 9, 2013, the date the financial statements were available for issuance.

During the quarter ended September 30, 2013, the Company issued 532,110 shares of Series A convertible Preferred Stock and 298,241 warrants to buy shares of Series A convertible Preferred Stock at an exercise price of $4.50 per share with a three year term to accredited investors for a gross aggregate purchase price of $2,409.

During the quarter ended September 30, 2013, the Company's Certificate of Incorporation was amended and restated to authorize the Company to issue up to 54,000,000 shares, of which 50,000,000 shares were designated as common stock with par value of $0.001 per share and 4,000,000 shares were designated as convertible preferred stock with par value of $0.001 par value per share. The authorized preferred stock for all periods presented is as follows: (i) 2,800,000 shares of Series A convertible Preferred Stock, (ii) 800,000 shares of Series A-1 convertible Preferred Stock, and (iii) 400,000 shares of Series A-2 convertible Preferred stock.

During the quarter ended September 30, 2013, the Company, a majority of the outstanding shares of our convertible preferred stock (on an as-converted basis), our Board of Directors and the Requisite Holders a) amended the rights of Series A convertible Preferred Stock, such to remove this redemption right which will reclassify this stock and warrants for this stock into permanent equity; and b) modified the automatic conversion provision to eliminate the minimums of aggregate gross proceeds and offering price of an underwritten public offering of common stock.

During the quarter ended September 30, 2013, the Company reincorporated as a Delaware corporation.

**Semler Scientific, Inc.**
**Balance Sheets**
(In thousands of U.S. Dollars, except share and per share data)

| | (Unaudited) September 30, 2013 | (Unaudited) Proforma September 30, 2013 Stockholders' Equity | December 31, 2012 |
|---|---|---|---|
| **Assets** | | | |
| Current Assets: | | | |
| Cash | $ 1,504 | | $ 731 |
| Trade accounts receivable, net of allowance for doubtful accounts of $48 and $0, respectively | 207 | | 75 |
| Prepaid expenses and other current assets | 26 | | 21 |
| Total current assets | 1,737 | | 827 |
| Assets for lease, net | 421 | | 359 |
| Deferred financing costs | 224 | | 290 |
| Total assets | $ 2,382 | | $ 1,476 |
| **Liabilities and Stockholders' Equity (Deficit)** | | | |
| Current liabilities: | | | |
| Accounts payable | $ 228 | | $ 86 |
| Accrued expenses | 1,077 | | 895 |
| Warrant liability | — | | 31 |
| Deferred revenue | 362 | | 64 |
| Equipment on lease, current portion | 46 | | 43 |
| Loans payable, current portion | 60 | | 60 |
| Total current liabilities | 1,773 | | 1,179 |
| Long-term liabilities: | | | |
| Equipment on lease, net of current portion | 77 | | 112 |
| Loans payable, net of current portion | 113 | | 158 |
| Total long-term liabilities | 190 | | 270 |
| Commitments and contingencies: | | | |
| Redeemable convertible preferred stock series A, $0.001 par value; 2,800,000 shares authorized; 0, 0 (proforma unaudited), and 936,292 shares issued and outstanding, respectively; aggregate liquidation preference of $0, $0, and $4,213, respectively | — | | 3,602 |
| Stockholders' deficit: | | | |
| Convertible preferred stock series A, $0.001 par value; 2,800,000 shares authorized; 1,468,402, 0 (proforma unaudited), and 0 shares issued and outstanding, respectively; aggregate liquidation preference of $6,608, $0, and $0, respectively | 6,020 | | — |
| Convertible preferred stock series A-1, $0.001 par value; 800,000 shares authorized; 293,750, 0 (proforma unaudited), and 293,750 shares issued and outstanding, respectively; aggregate liquidation preference of $1,175, $0 and $1,175, respectively | 482 | | 482 |
| Convertible preferred stock series A-2, $0.001 par value; 400,000 shares authorized; 250,000, 0 (proforma unaudited), and 250,000 shares issued and outstanding, respectively; aggregate liquidation preference of $500, $0 and $500, respectively | 208 | | 208 |
| Common stock, $0.001 par value; 50,000,000 and 10,000,000 shares authorized; 811,750, 2,823,902 (proforma unaudited), and 811,750 shares issued, and 786,750, 2,798,902 (proforma unaudited), and 786,750 outstanding (net of treasury shares of 25,000, 25,000 (proforma unaudited) and 25,000), respectively | 1 | $ 3 | 1 |
| Additional paid-in capital | 2,534 | 9.242 | 2,853 |
| Accumulated deficit | (8,826) | (8,826) | (7,119) |
| Total stockholders' equity (deficit) | 419 | $ 419 | (3,575) |
| Total liabilities and stockholders' equity (deficit) | $ 2,382 | | $ 1,476 |

See accompanying notes to unaudited financial statements.

**Semler Scientific, Inc.**
**Statements of Operations**
(In thousands of U.S. Dollars, except share and per share data)

| | (Unaudited) Nine months ended September 30, | |
|---|---|---|
| | 2013 | 2012 |
| Revenue | $ 1,493 | $ 772 |
| Operating expenses: | | |
| Cost of revenue | 276 | 232 |
| Engineering and product development | 254 | 220 |
| Sales and marketing | 1,585 | 1.312 |
| General and administrative | 958 | 995 |
| Total operating expenses | 3,073 | 2,759 |
| Loss from operations | (1,580) | (1,987) |
| Other expense: | | |
| Interest expense | (83) | (90) |
| Other expense | (34) | (3) |
| Other expense | (117) | (93) |
| Loss before income tax expense | (1,697) | (2,080) |
| Income tax expense | 10 | 5 |
| Net loss | (1,707) | (2,085) |
| Deemed dividend | — | (85) |
| Net loss attributable to common stockholders | $ (1,707) | $ (2,170) |
| Net loss per share, basic and diluted | $ (2.17) | $ (1.77) |
| Weighted average number of shares used in computing basic and diluted loss per share | 786,750 | 1,223,777 |
| Pro forma net loss per share, basic and diluted: | | |
| Pro forma net loss | $ (1,707) | |
| Pro forma weighted average shares outstanding: | | |
| Common stock | 786,750 | |
| Convertible preferred stock | 2,012,152 | |
| | 2,798,902 | |
| Pro forma net loss per share, basic and diluted | $ (0.61) | |

See accompanying notes to unaudited financial statements.

**Semler Scientific, Inc.**
**Statements of Cash Flows**
(In thousands of U.S. Dollars, except share and per share data)

| | (Unaudited) Nine months ended September 30, 2013 | 2012 |
|---|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES:** | | |
| Net loss | $ (1,707) | $ (2,085) |
| Reconciliation of Net Loss to Net Cash Used in Operating Activities: | | |
| Amortization of deferred financing costs | 66 | 66 |
| Warrants issued in exchange for services | — | 43 |
| Depreciation | 59 | 50 |
| Allowance for doubtful accounts | 48 | — |
| Stock-based compensation expense | 141 | 80 |
| Changes in Operating Assets and Liabilities: | | |
| Trade accounts receivable | (180) | (35) |
| Prepaid expenses and other current assets | (5) | (2) |
| Accounts payable | 142 | (15) |
| Accrued expenses | 182 | 590 |
| Deferred revenue | 298 | 33 |
| **Net Cash Used in Operating Activities** | (956) | (1,275) |
| **CASH FLOWS FROM INVESTING ACTIVITIES:** | | |
| Purchase of assets for lease | (121) | (187) |
| **Net Cash Used in Investing Activities** | (121) | (187) |
| **CASH FLOWS FROM FINANCING ACTIVITIES:** | | |
| Issuance of common stock | — | 125 |
| Issuance of convertible preferred stock | 2,409 | 3,506 |
| Offering costs | (482) | (627) |
| Payments of loans payable | (45) | (45) |
| Payments of equipment leases | (32) | (29) |
| **Net Cash Provided by Financing Activities** | 1,850 | 2,930 |
| *INCREASE IN CASH* | 773 | 1,468 |
| ***CASH, BEGINNING OF PERIOD*** | 731 | 28 |
| ***CASH, END OF PERIOD*** | $ 1,504 | $ 1,496 |
| Supplemental disclosure of noncash financing activity: | | |
| Deemed dividend | $ — | $ 85 |
| Conversion of advances payable into preferred stock | — | $ 125 |
| Conversion of common stock into preferred stock | — | $ 1,262 |

See accompanying notes to unaudited financial statements.

**Semler Scientific, Inc.**
**Notes to Interim Financial Statements (Unaudited)**
(In thousands of U.S. Dollars, except for share and per share amounts)

## 1. Basis of Presentation

Semler Scientific, Inc., an Oregon corporation ("Semler," "SSI" or "the Company"), prepared the unaudited interim financial statements included in this report in accordance with United States generally accepted accounting principles ("U.S. GAAP") for interim financial information and the rules and regulations of the Securities and Exchange Commission ("SEC"). Accordingly, they do not include all of the information and disclosures required by U.S. GAAP for annual audited financial statements as of and for the years ended December 31, 2012 and 2011 and should be read in conjunction with the audited financial statements and notes thereto included in the Amended Registration Statement. The balance sheet as of December 31, 2012 included in this report has been derived from the audited financial statements included in the Registration Statement. In the opinion of management, these financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair statement of the financial position, results of operations and cash flows for the periods presented. The results of operations for the interim periods shown in this report are not necessarily indicative of the results that may be expected for any future period, including the full year.

During the quarter ended September 30, 2013, the Company reincorporated as a Delaware corporation.

### Liquidity

The Company has incurred recurring losses since inception and expects to continue to incur costs and expenses related to research and development, marketing and other promotional activities, and continued development of the Company's product. As of September 30, 2013, the Company has net working capital of ($36), cash of $1,504 and a stockholders' equity of $419. The Company's principal sources of cash have included the issuance of equity and debt securities. As the Company's revenue grows, the operating expenses will continue to grow and, as a result, the Company will need to generate significant additional revenues to achieve profitability.

During the quarter ended September 30, 2013, the Company issued 532,110 shares of Series A convertible Preferred Stock and 298,241 warrants to buy shares of Series A convertible Preferred Stock at an exercise price of $4.50 per share with a three year term to accredited investors for a gross aggregate purchase price of $2,409. In addition, the Chief Executive Officer agreed that while employed by the Company, he would not demand the accrued expenses owed to him until after the closing of an initial public offering, the change of control or the liquidation of the Company, or as payment for the exercise of warrants to purchase stock of the Company.

The Company expects to continue business into the foreseeable future as long as revenues remain at current levels. In the event the Company is unable to generate sufficient revenues, it may need to obtain additional financing in order to achieve its business objectives. There can be no assurance that such financing will be available on terms commercially acceptable to the Company. Failure to manage discretionary expenditures or raise additional financing, as required, may adversely impact the Company's ability to achieve its intended business objectives.

## 2. Assets for Lease

Assets for lease consist of the following:

| | September 30, 2013 | December 31, 2012 |
|---|---|---|
| Assets for lease | $ 573 | $ 452 |
| Less: Accumulated Depreciation | (152) | (93) |
| Assets for lease, net | $ 421 | $ 359 |

**Semler Scientific, Inc.**
**Notes to Interim Financial Statements (Unaudited)**
(In thousands of U.S. Dollars, except for share and per share amounts)

Depreciation expense amounted to $59 and $50 for the nine months ended September 30, 2013 and September 30, 2012, respectively.

### 3. Deferred Financing Costs

As of September 30, 2013 and December 31, 2012, deferred financing costs have the gross amounts of $224 and $290, respectively. The amounts amortized to interest expense were $66 and $66 for the nine months ended September 30, 2013 and September 30, 2012, respectively.

### 4. Accrued Expenses

Accrued expenses consist of the following:

| | September 30, 2013 | December 31, 2012 |
|---|---|---|
| Offering Costs | $ 722 | $ 722 |
| Compensation | 245 | 109 |
| Miscellaneous Accruals | 110 | 64 |
| Total Accrued Expenses | $ 1,077 | $ 895 |

The accumulated offering costs that were accrued pertain to consultant's fees associated with securing equity financing for the Company.

### 5. Commitments and Contingencies

**Loan Financing Arrangements:**

On February 9, 2011, the Company entered into an Equipment Finance Agreement (the "agreement") with U.S. Bancorp Business Equipment Finance Group. Pursuant to the agreement, the Company obtained a $39 secured loan for a 48-month term that has an annual fixed interest rate of 13%. The loan is secured by the related leased equipment. Under the agreement, the Company makes monthly payments consisting of $1 of principal plus any accrued interest. The agreement provides for customary events of default**.** This loan is personally guaranteed by two Company directors who are principal stockholders. As of September 30, 2013, the Company was in compliance with the material terms of this facility. At September 30, 2013 and December 31, 2012, the Company had outstanding borrowings of $16 and $24, respectively.

On May 27, 2011, the Company entered into an Equipment Finance Agreement (the "Agreement") with U.S. Bancorp Business Equipment Finance Group. Pursuant to the Agreement, the Company obtained a $109 secured loan for a 60-month term that has an annual fixed interest rate of 6%. The loan is secured by the related leased equipment. Under the Agreement, the Company makes monthly payments consisting of $2 of principal plus any accrued interest. The Agreement provides for customary events of default**.** This loan is personally guaranteed by two Company directors who are principal stockholders. As of September 30, 2013, the Company was in compliance with the material terms of this facility. At September 30, 2013 and December 31, 2012, the Company had outstanding borrowings of $62 and $78, respectively.

At various dates in 2011, the Company entered into Lease Agreements (the Agreements) with Lease Corporation of America. Pursuant to these agreements, the Company obtained an aggregate amount of $66 for a 60-month term that have variable annual interest rates of approximately 14%. The leases are secured by the related leased equipment. Under the agreements, the Company makes monthly payments of approximately $1 of principal plus any accrued interest. The agreements provide for customary events of default**.** The leases are personally guaranteed by a Company director who is a principal stockholder. As of September 30, 2013, the Company was in compliance with the material terms of this facility. At September 30, 2013 and December 31, 2012, the Company had outstanding borrowings of $45 and $53, respectively.

(In thousands of U.S. Dollars, except for share and per share amounts)

On June 17, 2011, the Company entered into a loan agreement with First Republic Bank. Pursuant to the loan agreement, the Company obtained a $150 secured loan for a 60-month term that has a variable interest rate based on First Republic's Prime plus a spread of 1.75% p.a. and a floor of 3.25% p.a. The initial interest rate was 5% p.a. Under the loan agreement, the Company makes monthly payments consisting of $3 of principal plus any accrued interest. The loan agreement provides for customary events of default. This loan is personally guaranteed by a Company director who is a principal stockholder. As of September 30, 2013, the Company was in compliance with the material terms of this facility. At September 30, 2013 and December 31, 2012, the Company had outstanding borrowings of $83 and $105, respectively.

On September 13, 2011, the Company entered into an additional loan agreement with First Republic Bank. Pursuant to the loan agreement, the Company obtained a $150 loan for a 60-month term that has a variable annual interest rate based on First Republic's Prime plus a spread of 1.75% and a floor of 3.25%. The initial interest rate was 5%. Under the loan agreement, the Company makes monthly payments consisting of $3 of principal plus any accrued interest. The loan agreement provides for customary events of default. This loan is personally guaranteed by a Company director who is a principal stockholder. As of September 30, 2013, the Company was in compliance with the material terms of this facility. At September 30, 2013 and December 31, 2012, the Company had outstanding borrowings of $90 and $113, respectively.

**6. Convertible Preferred Stock**

During the quarter ended September 30, 2013, the Company issued 532,110 shares of Series A convertible Preferred Stock and 298,241 warrants to buy shares of Series A convertible Preferred Stock at an exercise price of $4.50 per share with a three year term to accredited investors for an aggregate purchase price of $2,409. The Company recorded offering costs relating to these purchases amounting to $25 as a charge to additional paid in capital.

During the quarter ended September 30, 2013, the Company, holders of a majority of the outstanding shares of our convertible preferred stock (on an as-converted basis), our Board of Directors and the Requisite Holders: a) amended the rights of Series A convertible Preferred Stock, such to remove the associated redemption rights; and b) modified the automatic conversion provision to eliminate the minimums of aggregate gross proceeds and offering price of an underwritten public offering of the Company's common stock. As a result, the amounts related to such shares and warrants have been reclassified to permanent equity.

During the quarter ended September 30, 2013, the Company's Certificate of incorporation was amended and restated to authorize the Company to issue up to 54,000,000 shares, of which 50,000,000 shares were designated as common stock with par value of $0.001 per share and 4,000,000 shares were designated as convertible preferred stock with par value of $0.001 par value per share. The authorized preferred stock for all periods presented is as follows: (i) 2,800,000 shares of Series A convertible Preferred Stock, (ii) 800,000 shares of Series A-1 convertible Preferred Stock, and (iii) 400,000 shares of Series A-2 convertible Preferred Stock.

As of September 30, 2013, convertible Preferred Stock was comprised of the following:

| | Preferred shares authorized | Shares issued and outstanding | Liquidation Preference/ Redemption Value | Common Stock Issuable Upon Conversion |
|---|---|---|---|---|
| Series A convertible | 2,800,000 | 1,468,402 | $ 6,608 | 1,468,402 |
| Series A-1 convertible | 800,000 | 293,750 | $ 1,175 | 293,750 |
| Series A-2 convertible | 400,000 | 250,000 | $ 500 | 250,000 |

**Semler Scientific, Inc.**
**Notes to Interim Financial Statements (Unaudited)**
(In thousands of U.S. Dollars, except for share and per share amounts)

## 7. Stock-Based Compensation Expense

In June 2013, the Company accelerated the vesting of all the outstanding stock options, and as a result, all of the outstanding 337,500 stock options were vested and exercisable as of June 30, 2013. Stock-based compensation expense of $121 was recorded at the time of the acceleration to account for all the remaining unrecognized compensation costs. For the nine months ended September 30, 2013, there were no grants, exercises, or cancellations of stock options.

The Company has recorded stock-based compensation expense of $141 and $80 for the nine months ended September 30, 2013 and 2012, respectively, which was allocated as follows:

| | Nine Months ended | |
|---|---|---|
| | 2013 | 2012 |
| Engineering and Product Development | $ 3 | $ 3 |
| Sales and Marketing | 21 | 6 |
| General and Administrative | 117 | 71 |
| Total | $ 141 | $ 80 |

## 8. Net Loss Per Common Share

The following table presents the calculation of basic and diluted net loss per share:

| | Nine Months ended | |
|---|---|---|
| | 2013 | 2012 |
| Net loss | $ (1,707) | $ (2,085) |
| Deemed dividend | — | $ (85) |
| Net loss attributable to common stockholders | $ (1,707) | $ (2,170) |
| Weighted average shares outstanding | 786,750 | 1,223,777 |
| Basic and diluted loss per share attributable to common stockholders | $ (2.17) | $ (1.77) |

Since the Company was in a loss position for each of the periods presented, diluted net loss per share is the same as basic net loss per share for each period as the inclusion of all potential common shares outstanding would have been anti-dilutive. The following outstanding shares of common stock equivalents were excluded from the computation of diluted net loss per share for the periods presented because including them would have been anti-dilutive:

| | Nine Months ended September 30, | |
|---|---|---|
| | 2013 | 2012 |
| Weighted average shares outstanding: | | |
| Convertible preferred stock | 1,480,042 | 226,790 |
| Convertible preferred stock warrants | 1,285,839 | 196,617 |
| Common stock warrants | — | 227,493 |
| Options | 337,500 | 259,112 |
| Total | 3,103,381 | 910,012 |

**Semler Scientific, Inc.**
**Notes to Interim Financial Statements (Unaudited)**
(In thousands of U.S. Dollars, except for share and per share amounts)

## 9. Pro forma basic and diluted net loss per share

The following table presents the calculation of pro forma basic and diluted net loss per share computed to give effect to the assumed conversion of the convertible preferred stock into common stock upon a qualified initial public offering of the Company's common stock:

| | Pro forma[1] |
|---|---|
| Pro forma net loss per share, basic and diluted: | |
| Pro forma net loss | $ (1,707) |
| Pro forma weighted average shares outstanding: | |
| Common stock | 786,750 |
| Convertible preferred stock | 2,012,152 |
| Total Pro forma weighted average shares outstanding | 2,798,902 |
| Pro forma net loss per share, basic and diluted | $ (0.61) |

(1) Pro forma, as adjusted amounts give effect to the issuance of 2,012,152 shares of common stock as a result of the automatic conversion of all of our outstanding convertible preferred stock as of September 30, 2013 as a result of an assumed initial public offering but excludes:

(a) any shares that would result from the automatic cashless exercise of outstanding warrants for convertible preferred stock and subsequent automatic conversion of that convertible preferred stock into common stock upon the closing of an assumed public offering; and

(b) the sale of any shares of common stock in an assumed public offering.

## 10. Subsequent Events

The Company has evaluated subsequent events through November 14, 2013, the date the financial statements were available for issuance.

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Semler Scientific

**Shares**
**Common Stock**


**PROSPECTUS**

# Aegis Capital Corp

, 2013

Until , 2013 (25 days after the commencement of this offering) all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

## PART II — INFORMATION NOT REQUIRED IN PROSPECTUS

### Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth all expenses to be paid by the registrant, other than estimated underwriting discounts and commissions, in connection with our public offering. All amounts shown are estimates except for the SEC registration fee, the NASDAQ listing fee and the FINRA filing fee:

| | |
|---|---|
| SEC registration fee | 2,037 |
| FINRA filing fee | * |
| NASDAQ listing fee | * |
| Blue sky qualification fees and expenses | * |
| Legal fees and expenses | * |
| Accounting fees and expenses | * |
| Transfer agent and registrar's fees and expenses | * |
| Printing and engraving expenses | * |
| Miscellaneous expense | * |
| Total | $ * |

* To be filed by amendment.

### Item 14. Indemnification of Directors and Officers.

*Delaware General Corporation Law*. The registrant is a Delaware corporation. Section 102(b)(7) of the Delaware General Corporation Law (the "DGCL") enables a corporation to eliminate or limit the personal liability of a director to the corporation or its stockholders for monetary damages for breach of the director's fiduciary duty, except:

- for any breach of the director's duty of loyalty to the corporation or its stockholders;
- for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- pursuant to Section 174 of the DGCL (providing for liability of directors for unlawful payment of dividends or unlawful stock purchases or redemptions); or
- for any transaction from which the director derived an improper personal benefit.

In accordance with Section 102(b)(7) of the DGCL, the registrant's certificate of incorporation includes a provision eliminating, to the fullest extent permitted by the DGCL, the liability of the registrant's directors to the registrant or its stockholders for monetary damages for breach of fiduciary as director. If the DGCL is subsequently amended to further eliminate or limit the liability of a director, then a director of the registrant, in addition to the circumstances in which a director is not personally liable as set forth in provision described in the preceding sentence, will not be liable to the fullest extent permitted by the amended DGCL.

Subsection (a) of Section 145 of the DGCL provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Section 145 of the DGCL further provides that a corporation similarly may indemnify any such person serving in any such

capacity who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor, against expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or such other court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

*Certificate of Incorporation*. The registrant's certificate of incorporation contains provisions that provide that the registrant will indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any officer or director who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or officer of the registrant or, while a director or officer of the registrant, is or was serving at the request of the registrant as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by the director or officer. The registrant shall pay the expenses (including attorneys' fees) incurred by the director or officer in defending any proceeding in advance of its final disposition; provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the director or officer to repay all amounts advanced if it should be ultimately determined that the director or officer is not entitled to be indemnified.

The DGCL provides that the indemnification described above shall not be deemed exclusive of any other indemnification that may be granted by a corporation pursuant to its by-laws, disinterested directors' vote, stockholders' vote, agreement or otherwise.

*Insurance Policies*. The DGCL also provides corporations with the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation in a similar capacity for another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability as described above. The registrant has directors and officer's liability insurance in an amount of $3 million for loss plus an additional $1 million for associated costs, charges and expenses associated with the loss.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers, or persons controlling the registrant pursuant to the foregoing provisions, the registrant has been informed that in the opinion of the SEC such indemnification is against public policy as expressed in such Securities Act and is therefore unenforceable.

**Item 15. Recent Sales of Unregistered Securities.**

During the last three years, we have issued unregistered securities to the persons as described below. None of these transactions involved any underwriters, underwriting discounts or commissions, except as specified below, or any public offering, and the we believe that, except as set forth below, each transaction was exempt from the registration requirements of the Securities Act of 1933, as amended, by virtue of Section 4(a)(2) thereof and/or Regulation D promulgated thereunder, or under Section 3(a)(9). All recipients had adequate access, though their relationships with us, to information about us.

During 2010, we issued an aggregate of 437,500 shares of common stock for cash amounting to $1,250,000.

During 2011, we issued an aggregate of 169,447 shares of common stock for cash amounting to $725,000.

During 2012, we issued an aggregate of 27,778 shares of common stock associated with 20,834 warrants to buy common stock for cash amounting to $125,209.

During the six months ended June 30, 2012, we changed from an S Corporation to a C Corporation and in connection therewith, we entered into an exchange agreement ("Exchange Agreement") with certain of the holders of our common stock and outstanding warrants to acquire our common stock, pursuant to which such holders exchanged their shares and warrants into and for shares of, and warrants to acquire, our newly created Series A Preferred Stock, Series A-1 Preferred Stock and/or Series A-2 Preferred Stock in amounts that were determined in such negotiations. Pursuant to the Exchange Agreement, we exchanged 1,459,725 shares of our common stock and warrants to acquire 358,733 shares of our common stock into (A) 786,750 shares of common stock, (B) 129,225 shares of Series A Preferred Stock, (C) 293,750 shares of Series A-1 Preferred Stock, and (D) 250,000 shares of Series A-2 Preferred Stock, and warrants to acquire an aggregate of 583,441 shares of our convertible preferred stock.

During the quarter ended September 30, 2012, we issued an aggregate of 807,067 shares of our Series A Preferred Stock and warrants to acquire an aggregate of 702,398 shares of our Series A Preferred Stock for an aggregate purchase price of $3,633,453.

During the quarter ended September 30, 2013, we issued an aggregate of 532,110 shares of our Series A Preferred Stock and warrants to acquire an aggregate of 298,241 shares of our Series A Preferred Stock for an aggregate gross purchase price of $2,409,404.

*The participants in the foregoing equity financings included certain of our current Directors, officers and holders of more than 5% of our capital stock or entities affiliated with them.*

During the quarter ended September 30, 2010, we issued an aggregate of 125,000 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $250,000 in cash.

During the quarter ended September 30, 2010, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, a warrant to purchase an aggregate of 25,000 shares of our common stock, at an exercise price of $2.00 per share, which warrant expires July 31, 2022, for an aggregate purchase price of $250 in cash.

During the quarter ended December 31, 2010, we issued an aggregate of 125,000 shares of our common stock to Mr. Eric Semler, a beneficial owner of more than 5% of our capital stock and son of our co-founders and Directors, Dr. and Mrs. Semler, for an aggregate purchase price of $500,000 in cash.

During the quarter ended March 31, 2011, we issued an aggregate of 50,000 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $200,000 in cash.

During the quarter ended March 31, 2011, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, (i) a warrant to purchase an aggregate of 44,445 shares of our common stock, at an exercise price of $4.50 per share, which warrant expires 5 years from the issuance date, for an aggregate purchase price of $444 in cash, and (ii) a warrant to purchase an aggregate of 20,844 shares of our common stock, at an exercise price of $4 per share, which warrant expires 5 years from the issuance date, for an aggregate purchase price of $208 in cash.

During the quarter ended March 31, 2011, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, two warrants to purchase an aggregate of 20,834 shares of our common stock, at an exercise price of $4.00 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $208 in cash.

During the quarter ended June 30, 2011, we issued an aggregate of 44,445 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $200,002 in cash.

During the quarter ended June 30, 2011, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, three warrants to purchase an aggregate of 16,390 shares of our common stock, at an exercise price of $4.50 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $164 in cash.

During the quarter ended June 30, 2011, we issued Dr. Herbert J. Semler, our Chairman and co-founder, two warrants to purchase an aggregate of 57,640 shares of our common stock at an exercise price of $4.50 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $58 in cash.

During the quarter ended June 30, 2011, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, serves as a co-trustee, two warrants to purchase an aggregate of 92,188 shares of our common stock, at an exercise price of $4.50 per share, which warrants expire 10 years from the issuance date, for an aggregate purchase price of $92 in cash.

During the quarter ended March 31, 2012, we issued an aggregate of 27,778 shares of our common stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $125,001 in cash.

During the quarter ended March 31, 2012, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, a warrant to purchase an aggregate of 20,834 shares of our common stock, at an exercise price of $4.50 per share, which warrant expires 3 years from the issuance date, for an aggregate purchase price of $208 in cash.

During the quarter ended March 31, 2012, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, a warrant to purchase an aggregate of 10,556 shares of our common stock, at an exercise price of $4.50 per share, which warrant expires 12 years from the issuance date, for an aggregate purchase price of $106 in cash.

During the quarter ended June 30, 2012, in accordance with the Exchange Agreement, Dr. Herbert J. Semler and Mrs. Shirley Semler were issued an aggregate of 786,750 shares of our common stock and warrants to purchase an aggregate of 57,640 shares of our Series A Preferred Stock; the accredited investor for which Mr. William H.C. Chang is one of the co-trustees was issued an aggregate of 250,000 shares of our Series A-2 Preferred Stock, 81,250 shares of our Series A-1 Preferred Stock, 72,223 shares of our Series A Preferred Stock, warrants to buy an aggregate of 69,281 shares of our Series A-1 Preferred Stock, and warrants to buy an aggregate of 173,612 shares of our Series A Preferred Stock; Mr. Eric Semler was issued an aggregate 125,000 shares of our Series A-1 Preferred Stock, 7,000 shares of our Series A Preferred Stock, warrants to buy an aggregate of 93,750 shares of our Series A-1 Preferred Stock, and warrants to buy an aggregate of 5,250 shares of our Series A Preferred Stock; and Douglas Murphy-Chutorian, MD, was issued warrants to buy an aggregate of 25,000 shares of our Series A-2 Preferred Stock, warrants to buy an aggregate of 16,875 shares of our Series A-1 Preferred Stock and warrants to buy an aggregate of 38,907 shares of our Series A Preferred Stock.

During the quarter ended September 30, 2012, we issued an aggregate of 234,446 shares of our Series A Preferred Stock to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, for an aggregate purchase price of $1,055,007 in cash.

During the quarter ended September 30, 2012, we issued to an accredited investor for which Mr. William H.C. Chang, who later was appointed a Director, is one of the co-trustees, three warrants to purchase an aggregate of 175,835 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $224 in cash.

During the quarter ended September 30, 2012, we issued an aggregate of 171,500 shares of our Series A Preferred Stock to GPG SSF Investments, LLC, a beneficial owner of more than 5% of our capital stock, for an aggregate purchase price of $771,750 in cash.

During the quarter ended September 30, 2012, we issued to GPG SSF Investments, LLC, a beneficial owner of more than 5% of our capital stock, two warrants to purchase an aggregate of 128,625 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $13 in cash.

During the quarter ended September 30, 2012, we issued an aggregate of 166,668 shares of our Series A Preferred Stock to Mr. Eric Semler, a beneficial owner of more than 5% of our capital stock and the son of our co-founders and Directors, Dr. and Mrs. Semler, for an aggregate purchase price of $750,006 in cash.

During the quarter ended September 30, 2012, we issued to Mr. Eric Semler, a beneficial owner of more than 5% of our capital stock and the son of our co-founders and Directors, Dr. and Mrs. Semler, two warrants to purchase an aggregate of 125,001 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $838 in cash.

During the quarter ended September 30, 2012, we issued Douglas Murphy-Chutorian, MD, who later was appointed a Director and Chief Executive Officer, two warrants to purchase an aggregate of 95,432 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 12 years from the issuance date, for an aggregate purchase price of $10 in cash. In June 2013, these warrants were amended and now expire July 31, 2016.

During the quarter ended September 30, 2013, we issued an aggregate of 111,112 shares of our Series A Preferred Stock to an accredited investor for which a Director of our company, Mr. William H.C. Chang, is one of the co-trustees, for an aggregate purchase price of $500,004 in cash.

During the quarter ended September 30, 2013, we issued to an accredited investor for which a Director of our company, Mr. William H.C. Chang, is one of the co-trustees, a warrant to purchase an aggregate of 38,889 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $4 in cash.

During the quarter ended September 30, 2013, we issued an aggregate of 116,667 shares of our Series A Preferred Stock to two accredited investors for which Mr. Dinesh Gupta, who later was appointed a Director, is a general partner or a trustee respectively, for an aggregate purchase price of $525,001 in cash.

During the quarter ended September 30, 2013, we issued to two accredited investors for which Mr. Dinesh Gupta, who later was appointed a Director, is a general partner or a trustee respectively, two warrants to purchase an aggregate of 40,833 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $3,695 in cash.

During the quarter ended September 30, 2013, we issued to Douglas Murphy-Chutorian, MD, our Chief Executive Officer and a Director of our company, a warrant to purchase an aggregate of 60,000 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $6,000 in cash.

*During the past three years, the following stock options were granted:*

During the quarter ended December 31, 2010, we granted two employees the option to purchase an aggregate of 26,500 shares of our common stock at $4.00 per share, which options expire 10 years from the grant date.

During the quarter ended June 30, 2011, we granted two employees and one consultant the option to purchase an aggregate of 28,500 shares of our common stock at $4-4.50 per share, which options expire 10 years from the grant date.

During the quarter ended December 31, 2011, we granted three employees and one consultant the option to purchase an aggregate of 10,000 shares of our common stock at $4.50 per share, which options expire 10 years from the grant date.

During the quarter ended March 31, 2012, we granted two employees the option to purchase an aggregate of 26,500 shares of our common stock at $4.50 per share, which options expire 10 years from the grant date.

During the quarter ended September 30, 2012, we modified all outstanding options to purchase shares of our common stock. Accordingly, as of such date, all outstanding options to purchase an aggregate of 256,500 shares of our common stock are exercisable for $0.52 per share. We did not modify the expiration date of such options.

During the quarter ended December 31, 2012, we granted five employees and two consultants the option to purchase an aggregate of 78,000 shares of our common stock at $0.52 per share, which options expire 10 years from the grant date.

During the quarter ended September 30, 2013, we issued an aggregate of 23,000 shares of our Series A Preferred Stock to Mr. Elliot Sainer, who later was appointed a Director, for an aggregate purchase price of $103,500 in cash.

During the quarter ended September 30, 2013, we issued to Mr. Elliot A. Sainer, who later was appointed a Director, a warrant to purchase an aggregate of 8,050 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $1 in cash.

During the quarter ended September 30, 2013, we issued to Mr. Greg S. Garfield, who later was appointed a Director, a warrant to purchase an aggregate of 12,000 shares of our Series A Preferred Stock, at an exercise price of $4.50 per share, which warrants expire 3 years from the issuance date, for an aggregate purchase price of $1,200 in cash.

**Item 16. Exhibits and Financial Statement Schedules.**

*(a) Exhibits*. The following exhibits are included herein or incorporated herein by reference.

| Exhibit Number | Description of Exhibit |
|---|---|
| 1.1* | Underwriting Agreement |
| 3.1* | Certificate of Incorporation of the Registrant |
| 3.2* | Bylaws of the Registrant |
| 4.1** | Specimen Common Stock certificate |
| 4.2* | Form of Investor Rights Agreement |
| 5.1** | Opinion of Reed Smith LLP |
| 10.1* | Form of Series A, Series A-1 and Series A-2 Preferred Stock Warrant |
| 10.2* | Form of Representative's Warrant |
| 10.3* | 2007 Key Person Stock Option Plan |
| 10.4* | At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement between Semler Scientific, Inc. and Robert G. McRae, dated November 1, 2010 |
| 10.5* | At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement between Semler Scientific, Inc. and Daniel E. Conger, dated October 18, 2010 |
| 10.6* | At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement between Semler Scientific, Inc. and Douglas Murphy-Chutorian, M.D., dated November 11, 2013 |
| 14.1* | Code of Business Conduct and Ethics |
| 23.1* | Consent of BDO USA, LLP |
| 23.2** | Consent of Reed Smith LLP (See Exhibit 5.1 above) |
| 24.1* | Power of Attorney (Included on the signature page of this Registration Statement) |

* Filed herewith.

** To be filed by amendment.

*(b) Financial Statement Schedules*. See page F-1.

**Item 17. Undertakings.**

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

Insofar as indemnification for liabilities arising under the Securities Act 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 SEC 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 of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

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

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

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Portland, State of Oregon, on November 15, 2013.

**SEMLER SCIENTIFIC, INC.**

By: /s/ Douglas Murphy-Chutorian
Name: Douglas Murphy-Chutorian, M.D.
Title: Chief Executive Officer

## POWER OF ATTORNEY

We, the undersigned officers and directors of Semler Scientific, Inc., a Delaware corporation, hereby severally constitute and appoint Douglas Murphy-Chutorian and or Daniel E. Conger, our true and lawful attorney-in-fact and agents, with full power of substitution and resubstitution for him and in his name, place and stead, and in any and all capacities, to sign for us and in our names in the capacities indicated below any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

| Signature | Title | Date |
|---|---|---|
| /s/ Douglas Murphy-Chutorian<br>Douglas Murphy-Chutorian, M.D. | Chief Executive Officer and Director<br>(Principal Executive Officer) | November 15, 2013 |
| /s/ Daniel E. Conger<br>Daniel E. Conger | Vice President Finance<br>(Principal Financial and Accounting Officer) | November 15, 2013 |
| /s/ Herbert J. Semler<br>Herbert J. Semler, M.D. | Chairman of the Board of Directors | November 15, 2013 |
| /s/ William H.C. Chang<br>William H.C. Chang | Director | November 15, 2013 |
| /s/ Greg S. Garfield<br>Greg S. Garfield | Director | November 15, 2013 |
| /s/ Dinesh Gupta<br>Dinesh Gupta | Director | November 15, 2013 |
| /s/ Elliot A. Sainer<br>Elliot A. Sainer | Director | November 15, 2013 |
| /s/ Shirley Semler<br>Shirley Semler | Director | November 15, 2013 |

**Exhibit 1.1**

**UNDERWRITING AGREEMENT**

**between**

**SEMLER SCIENTIFIC, INC.**

**and**

**AEGIS CAPITAL CORP.,**

**as Representative of the Several Underwriters**

**SEMLER SCIENTIFIC, INC.**

**UNDERWRITING AGREEMENT**

New York, New York
[_____], 20[__]

Aegis Capital Corp.
As Representative of the several Underwriters named on Schedule 1 attached hereto
810 Seventh Avenue, 18th Floor
New York, New York 10019

Ladies and Gentlemen:

The undersigned, Semler Scientific, Inc., a corporation formed under the laws of the State of Delaware (the "**Company**"), hereby confirms its agreement (this "**Agreement**") with Aegis Capital Corp. (hereinafter referred to as "**you**" (including its correlatives) or the "**Representative**") and with the other underwriters named on Schedule 1 hereto for which the Representative is acting as representative (the Representative and such other underwriters being collectively called the "**Underwriters**" or, individually, an "**Underwriter**") as follows:

1. Purchase and Sale of Shares.

1.1 Firm Shares.

1.1.1 Nature and Purchase of Firm Shares.

(i) On the basis of the representations and warranties herein contained, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell to the several Underwriters, an aggregate of [_____] shares (the "**Firm Shares**") of the Company's common stock, par value $0.001 per share (the " **Common Stock** ").

(ii) The Underwriters, severally and not jointly, agree to purchase from the Company the number of Firm Shares set forth opposite their respective names on Schedule 1 attached hereto and made a part hereof at a purchase price of $[___] per Firm Share (93% of the per Firm Share offering price). The Firm Shares are to be offered initially to the public at the offering price set forth on the cover page of the Prospectus (as defined in Section 2.1.1 hereof).

1.1.2 Firm Shares Payment and Delivery.

(i) Delivery and payment for the Firm Shares shall be made at 10:00 a.m., Eastern time, on the third (3rd) Business Day following the effective date (the "**Effective Date**") of the Registration Statement (as defined in Section 2.1.1 below) (or the fourth (4th) Business Day following the Effective Date if the Registration Statement is declared effective after 4:01 p.m., Eastern time) or at such earlier time as shall be agreed upon by the Representative and the Company, at the offices of Blank Rome LLP, 405 Lexington Avenue, New York, NY 10174 ("**Representative Counsel**"), or at such other place (or remotely by facsimile or other electronic transmission) as shall be agreed upon by the Representative and the Company. The hour and date of delivery and payment for the Firm Shares is called the "**Closing Date**."

(ii) Payment for the Firm Shares shall be made on the Closing Date by wire transfer in Federal (same day) funds, payable to the order of the Company upon delivery of the certificates (in form and substance satisfactory to the Underwriters) representing the Firm Shares (or through the facilities of the Depository Trust Company ("**DTC**")) for the account of the Underwriters. The Firm Shares shall be registered in such name or names and in such authorized denominations as the Representative may request in writing at least two (2) full Business Days prior to the Closing Date. The Company shall not be obligated to sell or deliver the Firm Shares except upon tender of payment by the Representative for all of the Firm Shares. The term "**Business Day**" means any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions are authorized or obligated by law to close in New York, New York.

1.2 Over-allotment Option.

1.2.1 Additional Shares. The Company hereby grants to the Underwriters an option (the "**Over-allotment Option**") to purchase up to an additional [_____] shares of Common Stock, representing up to 15% of the Firm Shares sold in the Offering (the "**Additional Shares**"), for the purpose of covering over-allotment of such securities, if any. The purchase price to be paid per Additional Share shall be equal to the price per Firm Share set forth in Section 1.1.1 hereof. The Firm Shares and the Additional Shares are hereinafter referred to together as the "**Public Securities**". The offering and sale of the Public Securities is herein referred to as the "**Offering**".

1.2.2 Exercise of Option. The Over-allotment Option granted pursuant to Section 1.2.1 hereof may be exercised by the Representative as to all (at any time) or any part (from time to time) of the Additional Shares within 45 days after the Effective Date. The Underwriters shall not be under any obligation to purchase any Additional Shares prior to the exercise of the Over-allotment Option. The Over-allotment Option granted hereby may be exercised by the giving of oral notice to the Company from the Representative, which shall be confirmed in writing by overnight mail or facsimile or other electronic transmission, setting forth the number of Additional Shares to be purchased and the date and time for delivery of and payment for the Additional Shares (the "**Option Closing Date**"), which shall not be later than five (5) full Business Days after the date of the notice or such other time as shall be agreed upon by the Company and the Representative, at the offices of Representative Counsel or at such other place (including remotely by facsimile or other electronic transmission) as shall be agreed upon by the Company and the Representative. If such delivery and payment for the Additional Shares does not occur on the Closing Date, the Option Closing Date will be as set forth in the notice. Upon exercise of the Over-allotment Option with respect to all or any portion of the Additional Shares, subject to the terms and conditions set forth herein, (i) the Company shall become obligated to sell to the Underwriters the number of Additional Shares specified in such notice and (ii) each of the Underwriters, acting severally and not jointly, shall purchase that portion of the total number of Additional Shares then being purchased that the number of Firm Shares as set forth in Schedule 1 opposite the name of such Underwriter bears to the total number of Firm Shares, subject, in each case, to such adjustments as the Representative, in its sole discretion, shall determine.

1.2.3 Payment and Delivery. Payment for the Additional Shares shall be made on the Option Closing Date by wire transfer in Federal (same day) funds, payable to the order of the Company upon delivery to you of certificates (in form and substance satisfactory to the Underwriters) representing the Additional Shares (or through the facilities of DTC) for the account of the Underwriters. The Additional Shares shall be registered in such name or names and in such authorized denominations as the Representative may request in writing at least two (2) full Business Days prior to the Option Closing Date. The Company shall not be obligated to sell or deliver the Additional Shares except upon tender of payment by the Representative for applicable Additional Shares. The Option Closing Date may be simultaneous with, but not earlier than, the Closing Date; and in the event that such time and date are simultaneous with the Closing Date, the term " **Closing Date** " shall refer to the time and date of delivery of the Firm Shares and Additional Shares.

1.3 Representative's Warrants.

1.3.1 Purchase Warrants. The Company hereby agrees to issue and sell to the Representative (and/or its designees) on the Closing Date an option ("**Representative's Warrant**") for the purchase of an aggregate of [_____] shares of Common Stock (which is equal to an aggregate of 5% of the Firm Shares sold in the Offering), for an aggregate purchase price of $100.00. The Representative's Warrant agreement, in the form attached hereto as Exhibit A (the "**Representative's Warrant Agreement**"), shall be exercisable, in whole or in part, commencing on a date which is one (1) year after the Effective Date and expiring on the five-year anniversary of the Effective Date at an initial exercise price per share of Common Stock of $[___], which is equal to 125% of the public offering price of each Firm Share. The Representative's Warrant Agreement and the shares of Common Stock issuable upon exercise thereof are sometimes hereinafter referred to together as the "**Representative's Securities**." The Representative understands and agrees that there are significant restrictions pursuant to FINRA Rule 5110 against transferring the Representative's Warrant Agreement and the underlying shares of Common Stock during the one hundred eighty (180) days after the Effective Date and by its acceptance thereof shall agree that it will not sell, transfer, assign, pledge or hypothecate the Representative's Warrant Agreement, or any portion thereof, or be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of such securities for a period of one hundred eighty (180) days following the Effective Date to anyone other than (i) an Underwriter or a selected dealer in connection with the Offering, or (ii) a bona fide officer or partner of the Representative or of any such Underwriter or selected dealer; and only if any such transferee agrees to the foregoing lock-up restrictions.

1.3.2 Delivery. Delivery of the Representative's Warrant Agreement shall be made on the Closing Date and shall be issued in the name or names and in such authorized denominations as the Representative may request.

2. Representations and Warranties of the Company. The Company represents and warrants to the Underwriters as of the Applicable Time (as defined below), as of the Closing Date and as of the Option Closing Date, if any, as follows:

2.1 Filing of Registration Statement.

2.1.1 Pursuant to the Securities Act. The Company has filed with the U.S. Securities and Exchange Commission (the "**Commission**") a registration statement, and an amendment or amendments thereto, on Form S-1 (File No. [_____]), including any related prospectus or prospectuses, for the registration of the Public Securities and the Representative's Securities under the Securities Act of 1933, as amended (the "**Securities Act**"), which registration statement and amendment or amendments have been prepared by the Company in all material respects in conformity with the requirements of the Securities Act and the rules and regulations of the Commission under the Securities Act (the "**Securities Act Regulations**") and will contain all material statements that are required to be stated therein in accordance with the Securities Act and the Securities Act Regulations. Except as the context may otherwise require, such registration statement, as amended, on file with the Commission at the time the registration statement became effective (including the Preliminary Prospectus included in the registration statement, financial statements, schedules, exhibits and all other documents filed as a part thereof or incorporated therein and all information deemed to be a part thereof as of the Effective Date pursuant to paragraph (b) of Rule 430A of the Securities Act Regulations (the "**Rule 430A Information**")), is referred to herein as the "**Registration Statement**." If the Company files any registration statement pursuant to Rule 462(b) of the Securities Act Regulations, then after such filing, the term "**Registration Statement**" shall include such registration statement filed pursuant to Rule 462(b). The Registration Statement has been declared effective by the Commission on the date hereof.

Each prospectus used prior to the effectiveness of the Registration Statement, and each prospectus that omitted the Rule 430A Information that was used after such effectiveness and prior to the execution and delivery of this Agreement, is herein called a "**Preliminary Prospectus**." The Preliminary Prospectus, subject to completion, dated [_____], 20[__], that was included in the Registration Statement immediately prior to the Applicable Time is hereinafter called the "**Pricing Prospectus**." The final prospectus in the form first furnished to the Underwriters for use in the Offering is hereinafter called the "**Prospectus**." Any reference to the "most recent Preliminary Prospectus" shall be deemed to refer to the latest Preliminary Prospectus included in the Registration Statement.

"**Applicable Time**" means [_____] [a.m. / p.m.], Eastern time, on the date of this Agreement.

"**Issuer Free Writing Prospectus**" means any "issuer free writing prospectus," as defined in Rule 433 of the Securities Act Regulations ("**Rule 433**"), including without limitation any "free writing prospectus" (as defined in Rule 405 of the Securities Act Regulations) relating to the Public Securities that is (i) required to be filed with the Commission by the Company, (ii) a "road show that is a written communication" within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission, or (iii) exempt from filing with the Commission pursuant to Rule 433(d)(5)(i) because it contains a description of the Public Securities or of the Offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g).

"**Issuer General Use Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors (other than a "*bona fide* electronic road show," as defined in Rule 433 (the "**Bona Fide Electronic Road Show**")), as evidenced by its being specified in Schedule 2-B hereto.

"**Issuer Limited Use Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

"**Pricing Disclosure Package**" means any Issuer General Use Free Writing Prospectus issued at or prior to the Applicable Time, the Pricing Prospectus and the information included on Schedule 2-A hereto, all considered together.

2.1.2 Pursuant to the Exchange Act. The Company has filed with the Commission a Form 8-A (File No. [_____]) providing for the registration pursuant to Section 12(b) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), of the shares of Common Stock; and such Form 8-A has become effective under the Exchange Act. The Company has taken no action designed to, or likely to have the effect of, terminating the registration of the shares of Common Stock under the Exchange Act, nor has the Company received any notification that the Commission is contemplating terminating such registration.

2.2 Stock Exchange Listing. The shares of Common Stock have been approved for listing on The Nasdaq Capital Market (the "**NasdaqCM**"), and the Company has taken no action designed to, or likely to have the effect of, delisting the shares of Common Stock from the NasdaqCM, nor has the Company received any notification that the NasdaqCM is contemplating terminating such listing, except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

2.3 No Stop Orders, etc. Neither the Commission nor, to the Company's knowledge, any state regulatory authority has issued any order preventing or suspending the use of the Registration Statement, any Preliminary Prospectus or the Prospectus or has instituted or, to the Company's knowledge, threatened to institute, any proceedings with respect to such an order. The Company has complied with each request (if any) from the Commission for additional information.

2.4 Disclosures in Registration Statement.

2.4.1 Compliance with Securities Act and 10b-5 Representation.

(i) Each of the Registration Statement and any post-effective amendment thereto, at the time it became effective, complied in all material respects with the requirements of the Securities Act and the Securities Act Regulations. Each Preliminary Prospectus, including the prospectus filed as part of the Registration Statement as originally filed or as part of any amendment or supplement thereto, and the Prospectus, at the time each was filed with the Commission, complied in all material respects with the requirements of the Securities Act and the Securities Act Regulations. Each Preliminary Prospectus delivered to the Underwriters for use in connection with this Offering and the Prospectus was or will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(ii) Neither the Registration Statement nor any amendment thereto, at its effective time, as of the Applicable Time, at the Closing Date or at any Option Closing Date (if any), contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made not misleading.

(iii) The Pricing Disclosure Package, as of the Applicable Time, as of the date of this Agreement, at the Closing Date or at any Option Closing Date (if any), did not, does not and will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Limited Use Free Writing Prospectus hereto does not conflict with the information contained in the Registration Statement, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, and each such Issuer Limited Use Free Writing Prospectus, as supplemented by and taken together with the Pricing Prospectus as of the Applicable Time, did not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements made or statements omitted in reliance upon and in conformity with written information furnished to the Company with respect to the Underwriters by the Representative expressly for use in the Registration Statement, the Pricing Prospectus or the Prospectus or any amendment thereof or supplement thereto. The parties acknowledge and agree that such information provided by or on behalf of any Underwriter consists solely of the following disclosure contained in the "Underwriting" section of the Prospectus: (a) the information set forth under the subcaptions "Discretionary Accounts," "Electronic Offer, Sale and Distribution of Securities," and "Stabilization," and (b) the table showing the number of securities to be purchased by each Underwriter (the "**Underwriters' Information**"); and

(iv) Neither the Prospectus nor any amendment or supplement thereto (including any prospectus wrapper), as of its issue date, at the time of any filing with the Commission pursuant to Rule 424(b), at the Closing Date or at any Option Closing Date, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to the Underwriters' Information.

2.4.2 Disclosure of Agreements. The agreements and documents described in the Registration Statement, the Pricing Disclosure Package and the Prospectus conform in all material respects to the descriptions thereof contained therein and there are no agreements or other documents required by the Securities Act and the Securities Act Regulations to be described in the Registration Statement, the Pricing Disclosure Package and the Prospectus or to be filed with the Commission as exhibits to the Registration Statement, that have not been so described or filed. Each agreement or other instrument (however characterized or described) to which the Company is a party or by which it is or may be bound or affected and (i) that is referred to in the Registration Statement, the Pricing Disclosure Package and the Prospectus, or (ii) is material to the Company's business, has been duly authorized and validly executed by the Company, is in full force and effect in all material respects and is enforceable against the Company and, to the Company's knowledge, the other parties thereto, in accordance with its terms, except (x) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, (y) as enforceability of any indemnification or contribution provision may be limited under the federal and state securities laws, and (z) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefor may be brought. None of such agreements or instruments has been assigned by the Company, and neither the Company nor, to the Company's knowledge, any other party is in default thereunder and, to the Company's knowledge, no event has occurred that, with the lapse of time or the giving of notice, or both, would constitute a default thereunder. To the best of the Company's knowledge, performance by the Company of the material provisions of such agreements or instruments will not result in a violation of any existing applicable law, rule, regulation, judgment, order or decree of any governmental or regulatory agency, body or court, domestic or foreign, having jurisdiction over the Company or any of its assets or business (each, a "**Governmental Entity**"), including, without limitation, those relating to environmental laws and regulations.

2.4.3 Prior Securities Transactions. Since [_____], 2011, no securities of the Company have been sold by the Company or by or on behalf of, or for the benefit of, any person or persons controlling, controlled by or under common control with the Company, except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Preliminary Prospectus.

2.4.4 Regulations. The disclosures in the Registration Statement, the Pricing Disclosure Package and the Prospectus concerning the effects of federal, state, local and all foreign laws, rules and regulations relating to the Company's business as currently conducted or contemplated are correct and complete in all material respects and no other such laws, rules or regulations are required to be disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus which are not so disclosed.

2.4.5 No Other Distribution of Offering Materials. The Company has not, directly or indirectly, distributed and will not distribute any offering material in connection with the Offering other than any Preliminary Prospectus, the Prospectus and other materials, if any, permitted under the Securities Act and consistent with Section 3.2 below.

2.5 Changes After Dates in Registration Statement.

2.5.1 No Material Adverse Change. Since the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Package and the Prospectus, except as otherwise specifically stated therein: (i) there has been no material adverse change in the financial position or results of operations of the Company, nor any change or development that, singularly or in the aggregate, would involve a material adverse change or a prospective material adverse change, in or affecting the condition (financial or otherwise), results of operations, business, assets or prospects of the Company (a "**Material Adverse Change**"); (ii) there have been no material transactions entered into by the Company, other than as contemplated pursuant to this Agreement; and (iii) no officer or director of the Company has resigned from any position with the Company.

2.5.2 Recent Securities Transactions, etc. Subsequent to the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Package and the Prospectus, and except as may otherwise be indicated or contemplated herein or disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has not: (i) issued any securities, other than shares of Common Stock issuable upon the exercise of then outstanding options, warrants and convertible securities, or incurred any liability or obligation, direct or contingent, for borrowed money**;** or (ii) declared or paid any dividend or made any other distribution on or in respect to its capital stock.

2.6 Independent Accountants. To the knowledge of the Company, BDO, USA LLP (the "**Auditor**"), whose report is filed with the Commission as part of the Registration Statement, the Pricing Disclosure Package and the Prospectus is an independent registered public accounting firm as required by the Securities Act and the Securities Act Regulations and the Public Company Accounting Oversight Board. The Auditor has not, during the periods covered by the financial statements included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, provided to the Company any non-audit services, as such term is used in Section 10A(g) of the Exchange Act.

2.7 Financial Statements, etc. The financial statements, including the notes thereto and supporting schedules included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, fairly present the financial position and the results of operations of the Company at the dates and for the periods to which they apply; and such financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("**GAAP**"), consistently applied throughout the periods involved (provided that unaudited interim financial statements are subject to year-end audit adjustments that are not expected to be material in the aggregate and do not contain all footnotes required by GAAP); and the supporting schedules included in the Registration Statement present fairly the information required to be stated therein. Except as included therein, no historical or pro forma financial statements are required to be included in the Registration Statement, the Pricing Disclosure Package or the Prospectus under the Securities Act or the Securities Act Regulations. The pro forma and pro forma as adjusted financial information and the related notes, if any, included in the Registration Statement, the Pricing Disclosure Package and the Prospectus have been properly compiled and prepared in accordance with the applicable requirements of the Securities Act and the Securities Act Regulations and present fairly the information shown therein, and 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. All disclosures contained in the Registration Statement, the Pricing Disclosure Package or the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission), if any, comply with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Securities Act, to the extent applicable. Each of the Registration Statement, the Pricing Disclosure Package and the Prospectus discloses all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the Company with unconsolidated entities or other persons that may have a material current or future effect on the Company's financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, (a) the Company has not incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions other than in the ordinary course of business, (b) the Company has not declared or paid any dividends or made any distribution of any kind with respect to its capital stock, (c) there has not been any change in the capital stock of the Company, (d) other than in the ordinary course of business and consistent with the Company's prior policies, made any grants under any stock compensation plan, and (e) there has not been any material adverse change in the Company's long-term or short-term debt.

2.8 Authorized Capital; Options, etc. The Company had, at the date or dates indicated in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the duly authorized, issued and outstanding capitalization as set forth therein. Based on the assumptions stated in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company will have on the Closing Date the adjusted stock capitalization set forth therein. Except as set forth in, or contemplated by, the Registration Statement, the Pricing Disclosure Package and the Prospectus, on the Effective Date , as of the Applicable Time and on the Closing Date and any Option Closing Date, there will be no stock options, warrants, or other rights to purchase or otherwise acquire any authorized but unissued shares of Common Stock of the Company or any security convertible or exercisable into shares of Common Stock of the Company, or any contracts or commitments to issue or sell shares of Common Stock or any such options, warrants, rights or convertible securities.

2.9 Valid Issuance of Securities, etc.

2.9.1 Outstanding Securities. All issued and outstanding securities of the Company issued prior to the transactions contemplated by this Agreement have been duly authorized and validly issued and are fully paid and non-assessable; the holders thereof have no contractual rights of rescission or the ability to force the Company to repurchase such securities 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, rights of first refusal or rights of participation of any holders of any security of the Company or similar contractual rights granted by the Company. The authorized shares of Common Stock conform in all material respects to all statements relating thereto contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus. The offers and sales of the outstanding shares of Common Stock, options, warrants and other rights to purchase or exchange such securities for shares of the Common Stock were at all relevant times either registered under the Securities Act and the applicable state securities or "blue sky" laws or, based in part on the representations and warranties of the purchasers of such shares of Common Stock, exempt from such registration requirements. The description of the Company's stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, as described in the Registration Statement, Pricing Disclosure Package and the Prospectus, accurately and fairly present, in all material respects, the information required to be shown with respect to such plans, arrangements, options and rights.

2.9.2 Securities Sold Pursuant to this Agreement. The Public Securities have been duly authorized for issuance and sale and, when issued and paid for, will be validly issued, fully paid and non-assessable; the holders thereof are not and will not be subject to personal liability by reason of being such holders; the Public Securities and Representative's Securities are not and will not be subject to the preemptive rights of any holders of any security of the Company or similar contractual rights granted by the Company; and all corporate action required to be taken for the authorization, issuance and sale of the Public Securities and Representative's Securities has been duly and validly taken. The Public Securities and Representative's Securities conform in all material respects to all statements with respect thereto contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus. All corporate action required to be taken for the authorization, issuance and sale of the Representative's Warrant Agreement has been duly and validly taken; the shares of Common Stock issuable upon exercise of the Representative's Warrant have been duly authorized and reserved for issuance by all necessary corporate action on the part of the Company and, when paid for and issued in accordance with the Representative's Warrant and the Representative's Warrant Agreement, such underlying shares of Common Stock will be validly issued, fully paid and non-assessable; the holders thereof are not and will not be subject to personal liability by reason of being such holders; and such shares of Common Stock are not and will not be subject to the preemptive rights of any holders of any security of the Company or similar contractual rights granted by the Company.

2.10 Registration Rights of Third Parties. Except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus, no holders of any securities of the Company or any options, warrants, rights or other securities exercisable for or convertible or exchangeable into securities of the Company have the right to require the Company to register any such securities of the Company under the Securities Act or to include any such securities in the Registration Statement or any other registration statement to be filed by the Company.

2.11 Validity and Binding Effect of Agreements. The execution, delivery and performance of this Agreement and the Representative's Warrant Agreement have been duly and validly authorized by the Company, and, when executed and delivered, will constitute, the valid and binding agreements of the Company, enforceable against the Company in accordance with their respective terms, except: (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally; (ii) as enforceability of any indemnification or contribution provision may be limited under the federal and state securities laws; and (iii) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

2.12 No Conflicts, etc. The execution, delivery and performance by the Company of this Agreement, the Representative's Warrant Agreement and all ancillary documents, the consummation by the Company of the transactions herein and therein contemplated and the compliance by the Company with the terms hereof and thereof do not and will not, with or without the giving of notice or the lapse of time or both: (i) result in a material breach of, or conflict with any of the terms and provisions of, or constitute a material default under, or result in the creation, modification, termination or imposition of any lien, charge or encumbrance upon any property or assets of the Company pursuant to the terms of any indenture, mortgage, deed of trust, loan agreement or any other agreement or instrument to which the Company is a party or as to which any property of the Company is a party; (ii) result in any violation of the provisions of the Company's Certificate of Incorporation (as the same have been amended or restated from time to time, the "**Charter**") or the by-laws of the Company (as the same may be amended or restated from time to time); or (iii) violate any existing applicable law, rule, regulation, judgment, order or decree of any Governmental Entity as of the date hereof (including, without limitation, those promulgated by the Food and Drug Administration of the U.S. Department of Health and Human Services (the "**FDA**") or by any foreign, state or local Governmental Entity performing functions similar to those performed by the FDA), except in the cases of clauses (i) and (iii) for such breaches, conflicts or violations which would not reasonably be expected to have a Material Adverse Change.

2.13 No Defaults; Violations. No material default exists in the due performance and observance of any term, covenant or condition of any material license, contract, indenture, mortgage, deed of trust, note, loan or credit agreement, 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 any of the properties or assets of the Company is subject. The Company is not (i) in violation of any term or provision of its Charter or by-laws, or (ii) in violation of any franchise, license, permit, applicable law, rule, regulation, judgment or decree of any Governmental Entity, except in the cases of clause (ii) for such violations which would not reasonably be expected to have a Material Adverse Change.

2.14 Corporate Power; Licenses; Consents.

2.14.1 Conduct of Business. Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has all requisite corporate power and authority, and has all necessary consents, authorizations, approvals, orders, licenses, certificates, qualifications, registrations and permits (collectively, the "**Authorizations**") of and from all Governmental Entities that it needs as of the date hereof to conduct its business purpose as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

2.14.2 Transactions Contemplated Herein. The Company has all corporate power and authority to enter into this Agreement and to carry out the provisions and conditions hereof, and all Authorizations required in connection therewith have been obtained. No Authorization of, and no filing with, Governmental Entity is required for the valid issuance, sale and delivery of the Public Securities and the consummation of the transactions and agreements contemplated by this Agreement and the Representative's Warrant Agreement and as contemplated by the Registration Statement, the Pricing Disclosure Package and the Prospectus, except with respect to applicable federal and state securities laws and the rules and regulations of the Financial Industry Regulatory Authority, Inc. ("**FINRA**").

2.15 D&O Questionnaires. To the Company's knowledge, all information contained in the questionnaires (the "**Questionnaires**") completed by each of the Company's directors, officers and principal shareholders immediately prior to the Offering (the "**Insiders**") as supplemented by all information concerning the Company's directors, officers and principal shareholders as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, as well as in the Lock-Up Agreement (as defined in Section 2.25 below), provided to the Underwriters is true and correct in all material respects and the Company has not become aware of any information which would cause the information disclosed in the Questionnaires to become inaccurate and incorrect in any material respect.

2.16 Litigation; Governmental Proceedings. There is no action, suit, proceeding, inquiry, arbitration, investigation, litigation or governmental proceeding pending or, to the Company's knowledge, threatened against, or involving the Company or, to the Company's knowledge, any executive officer or director which has not been disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus or in connection with the Company's listing application for the listing of the Public Securities on the NasdaqCM which is required to be disclosed.

2.17 Good Standing. The Company has been duly organized and is validly existing as a corporation and is in good standing under the laws of its jurisdiction of incorporation, and is duly qualified to do business and is in good standing in each other jurisdiction in which its ownership or lease of property or the conduct of business requires such qualification, except where the failure to qualify, singularly or in the aggregate, would not have or reasonably be expected to result in a Material Adverse Change.

2.18 Insurance. The Company carries or is entitled to the benefits of insurance (including, without limitation, as to directors and officers insurance coverage), with reputable insurers, in such amounts and covering such risks which the Company believes are adequate, and all such insurance is in full force and effect. The Company has no reason to believe that it will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Change.

2.19 Transactions Affecting Disclosure to FINRA.

2.19.1 Finder's Fees. Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no claims, payments, arrangements, agreements or understandings relating to the payment of a finder's, consulting or origination fee by the Company or any Insider with respect to the sale of the Public Securities hereunder or any other arrangements, agreements or understandings of the Company or, to the Company's knowledge, any of its shareholders that may affect the Underwriters' compensation, as determined by FINRA.

2.19.2 Payments Within Six (6) Months. Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has not made any direct or indirect payments (in cash, securities or otherwise) to: (i) any person, as a finder's fee, consulting fee or otherwise, in consideration of such person raising capital for the Company or introducing to the Company persons who raised or provided capital to the Company; (ii) any FINRA member; or (iii) any person or entity that has any direct or indirect affiliation or association with any FINRA member, within the six (6) months prior to the initial filing of the Registration Statement, other than the payment to the Underwriters as provided hereunder in connection with the Offering.

2.19.3 Use of Proceeds. None of the net proceeds of the Offering will be paid by the Company to any participating FINRA member or its affiliates, except as specifically authorized herein.

2.19.4 FINRA Affiliation. There is no (i) officer or director of the Company, (ii) beneficial owner of 5% or more of any class of the Company's securities or (iii) beneficial owner of the Company's unregistered equity securities which were acquired during the 180-day period immediately preceding the filing of the Registration Statement that is an affiliate or associated person of a FINRA member participating in the Offering (as determined in accordance with the rules and regulations of FINRA).

2.19.5 Information. All information provided by the Company in its FINRA questionnaire to Representative Counsel specifically for use by Representative Counsel in connection with its Public Offering System filings (and related disclosure) with FINRA is true, correct and complete in all material respects.

2.20 Foreign Corrupt Practices Act. Neither the Company nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company nor 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 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 it in connection with any actual or proposed transaction) that (i) might subject the Company to any material damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) if not given in the past, might have had a Material Adverse Change or (iii) if not continued in the future, might adversely affect the assets, business, operations or prospects of the Company. The Company has taken reasonable steps to ensure that its accounting controls and procedures are sufficient to cause the Company to comply in all material respects with the Foreign Corrupt Practices Act of 1977, as amended.

2.21 Compliance with OFAC. Neither the Company nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company nor any other person acting on behalf of the Company, is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"), and the Company will not, directly or indirectly, use the proceeds of the Offering hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

2.22 Money Laundering Laws. The operations of the Company are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "**Money Laundering Laws**"); and no action, suit or proceeding by or before any Governmental Entity involving the Company with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

2.23 Forward-Looking Statements. No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in either the Registration Statement, Pricing Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

2.24 Officers' Certificate. Any certificate signed by any duly authorized officer of the Company and delivered to you or to Representative Counsel shall be deemed a representation and warranty by the Company to the Underwriters as to the matters covered thereby.

2.25 Lock-Up Agreements. Schedule 3 hereto contains a complete and accurate list of the Company's officers, directors and each owner of at least 5% of the Company's outstanding shares of Common Stock (or securities convertible or exercisable into shares of Common Stock) (collectively, the "**Lock-Up Parties**"). The Company has caused each of the Lock-Up Parties to deliver to the Representative an executed Lock-Up Agreement, in the form attached hereto as Exhibit B (the "**Lock-Up Agreement**"), prior to the execution of this Agreement. If (i) during the last 17 days of the Lock-Up Period (as defined herein), the Company issues an earnings release or material news or a material event relating to the Company occurs, or (ii) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results or becomes aware that material news or a material event will occur during the 16-day period beginning on the last day of the Lock-Up Period, the restrictions imposed by the Lock-Up Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of such material news or material event, as applicable, unless the Representative waives, in writing, such extension.

2.26 Subsidiaries. The Company has no subsidiaries and does not hold any equity interests in any other entity.

2.27 Related Party Transactions.

2.27.1 Business Relationships. There are no business relationships or related party transactions involving the Company or any other person required to be described in the Registration Statement, the Pricing Disclosure Package and the Prospectus that have not been described as required.

2.27.2 No Relationships with Customers and Suppliers. No relationship, direct or indirect, exists between or among the Company on the one hand, and the directors, officers, 5% or greater stockholders, customers or suppliers of the Company or any of the Company's affiliates on the other hand, which is required to be described in the Pricing Disclosure Package and the Prospectus or a document incorporated by reference therein and which is not so described.

2.27.3 No Unconsolidated Entities. There are no transactions, arrangements or other relationships between and/or among the Company, any of its affiliates (as such term is defined in Rule 405 of the Securities Act) and any unconsolidated entity, including, but not limited to, any structure finance, special purpose or limited purpose entity that could reasonably be expected to materially affect the Company's liquidity or the availability of or requirements for its capital resources required to be described in the Pricing Disclosure Package and the Prospectus or a document incorporated by reference therein which have not been described as required.

2.27.4 No Loans or Advances to Affiliates. There are no outstanding loans, advances (except normal advances for business expenses in the ordinary course of business) or guarantees or indebtedness by the Company to or for the benefit of any of the officers or directors of the Company or any of their respective family members, except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

2.28 Board of Directors. The Board of Directors of the Company is comprised of the persons set forth under the heading of the Pricing Prospectus and the Prospectus captioned "Management." The qualifications of the persons serving as board members and the overall composition of the board comply with the Exchange Act and the rules and regulations of the Commission promulgated thereunder (the "**Exchange Act Regulations**"), the Sarbanes-Oxley Act of 2002 and the rules promulgated thereunder (the **"Sarbanes-Oxley Act**") applicable to the Company and the listing rules of the Nasdaq Stock Market LLC. At least one member of the Audit Committee of the Board of Directors of the Company qualifies as an "audit committee financial expert," as such term is defined under Regulation S-K and the listing rules of the Nasdaq Stock Market LLC. In addition, at least a majority of the persons serving on the Board of Directors qualify as "independent," as defined under the listing rules of the Nasdaq Stock Market LLC.

2.29 Sarbanes-Oxley Compliance.

2.29.1 Disclosure Controls. The Company has developed and currently maintains disclosure controls and procedures that comply with Rule 13a-15 or 15d-15 under the Exchange Act Regulations, and such controls and procedures are effective to ensure that all material information concerning the Company will be made known on a timely basis to the individuals responsible for the preparation of the Company's Exchange Act filings and other public disclosure documents.

2.29.2 Compliance. The Company is, or at the Applicable Time and on the Closing Date will be, in material compliance with the provisions of the Sarbanes-Oxley Act applicable to it, and has implemented or will implement such programs and taken reasonable steps to ensure the Company's future compliance (not later than the relevant statutory and regulatory deadlines therefor) with all of the material provisions of the Sarbanes-Oxley Act.

2.30 Accounting Controls. The Company maintain systems of "internal control over financial reporting" (as defined under Rules 13a-15 and 15d-15 under the Exchange Act Regulations ) that comply in all material respects with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including, but not limited to, 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 preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company is not aware of any material weaknesses in its internal controls. The Company's auditors and the Audit Committee of the Board of Directors of the Company have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are known to the Company's management and that have adversely affected or are reasonably likely to adversely affect the Company' ability to record, process, summarize and report financial information; and (ii) any fraud known to the Company's management, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

2.31 No Investment Company Status. The Company is not and, after giving effect to the Offering and the application of the proceeds thereof as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, will not be, required to register as an "investment company," as defined in the Investment Company Act of 1940, as amended.

2.32 No Labor Disputes. No labor dispute with the employees of the Company exists or, to the knowledge of the Company, is imminent. The Company is not aware that any key employee or significant group of employees of the Company plans to terminate employment with the Company.

2.33 Intellectual Property Rights. The Company owns or possesses or has valid rights to use all patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, inventions, trade secrets software, databases, know-how, internet domain names, other unpatented and/or unpatentable proprietary confidential information systems, processes or procedures and similar rights ("**Intellectual Property Rights**") necessary for the conduct of the business of the Company as currently carried on and as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus. The Intellectual Property licenses described in the Registration Statement, Pricing Disclosure Package and the Prospectus are valid, binding upon and enforceable against the parties thereto in accordance with its terms. To the knowledge of the Company, no action or use by the Company necessary for the conduct of its business as currently carried on and as described in the Registration Statement and the Prospectus will involve or give rise to any infringement of, or license or similar fees for, any Intellectual Property Rights of others. The Company has not received any notice alleging any such infringement, fee or conflict with asserted Intellectual Property Rights of others. Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change (A) to the knowledge of the Company, there is no infringement, misappropriation or violation by third parties of any of the Intellectual Property Rights owned by the Company; (B) there is no pending or, to the knowledge of the Company, threatened action, suit, proceeding or claim by others challenging the rights of the Company in or to any such Intellectual Property Rights, and the Company is unaware of any facts which would form a reasonable basis for any such claim, that would, individually or in the aggregate, together with any other claims in this Section 2.33, reasonably be expected to result in a Material Adverse Change; (C) the Intellectual Property Rights owned by the Company and, to the knowledge of the Company, the Intellectual Property Rights licensed to the Company have not been adjudged by a court of competent jurisdiction invalid or unenforceable, in whole or in part, and there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others challenging the validity or scope of any such Intellectual Property Rights, and the Company is unaware of any facts which would form a reasonable basis for any such claim that would, individually or in the aggregate, together with any other claims in this Section 2.33, reasonably be expected to result in a Material Adverse Change; (D) there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others that the Company infringes, misappropriates or otherwise violates any Intellectual Property Rights or other proprietary rights of others, the Company has not received any written notice of such claim and the Company is unaware of any other facts which would form a reasonable basis for any such claim that would, individually or in the aggregate, together with any other claims in this Section 2.33, reasonably be expected to result in a Material Adverse Change; and (E) to the Company's knowledge, no employee of the Company is in or has ever been in violation in any material respect of any term of any employment contract, patent disclosure agreement, invention assignment agreement, non-competition agreement, non-solicitation agreement, nondisclosure agreement or any restrictive covenant to or with a former employer where the basis of such violation relates to such employee's employment with the Company, or actions undertaken by the employee while employed with the Company and could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change. To the Company's knowledge, all material technical information developed by and belonging to the Company which has not been patented has been kept confidential. The Company is not a party to or bound by any options, licenses or agreements with respect to the Intellectual Property Rights of any other person or entity that are required to be set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus and are not described therein. The Registration Statement, the Pricing Disclosure Package and the Prospectus contain in all material respects the same description of the matters set forth in the preceding sentence. None of the technology employed by the Company has been obtained or is being used by the Company in violation of any contractual obligation binding on the Company or, to the Company's knowledge, any of its officers, directors or employees, or otherwise in violation of the rights of any persons.

2.34 Taxes. The Company has filed all returns (as hereinafter defined) required to be filed with taxing authorities prior to the date hereof or has duly obtained extensions of time for the filing thereof. The Company has paid all taxes (as hereinafter defined) shown as due on such returns that were filed and has paid all taxes imposed on or assessed against the Company. The provisions for taxes payable, if any, shown on the financial statements filed with or as part of the Registration Statement are sufficient for all accrued and unpaid taxes, whether or not disputed, and for all periods to and including the dates of such consolidated financial statements. Except as disclosed in writing to the Underwriters, (i) no issues have been raised (and are currently pending) by any taxing authority in connection with any of the returns or taxes asserted as due from the Company, and (ii) no waivers of statutes of limitation with respect to the returns or collection of taxes have been given by or requested from the Company. There are no tax liens against the assets, properties or business of the Company. The term "**taxes**" means all federal, state, local, foreign and other net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto. The term "**returns**" means all returns, declarations, reports, statements and other documents required to be filed in respect to taxes.

2.35 Compliance with Environmental Laws. Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus and except as would not, singly or in the aggregate, reasonably be expected to result in a Material Adverse Change, (i) the Company is not in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, "**Hazardous Materials**") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "**Environmental Laws** ), (ii) the Company has all material permits, authorizations and approvals required under any applicable Environmental Laws and is in compliance with their requirements, (iii) there are no pending or, to the Company's knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company and (iv) to the Company's knowledge, there are no events or circumstances that might reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company relating to Hazardous Materials or any Environmental Laws.

2.36 ERISA Compliance. The Company and any "employee benefit plan" (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, "**ERISA**")) established or maintained by the Company or its "ERISA Affiliates" (as defined below) are in compliance in all material respects with ERISA. "**ERISA Affiliate**" means, with respect to the Company, any member of any group of organizations described in Sections 414(b),(c),(m) or (o) of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (the "**Code**") of which the Company is a member. No "reportable event" (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any "employee benefit plan" established or maintained by the Company or any of its ERISA Affiliates. No "employee benefit plan" established or maintained by the Company or any of its ERISA Affiliates, if such "employee benefit plan" were terminated, would have any "amount of unfunded benefit liabilities" (as defined under ERISA). Neither the Company nor any of its ERISA Affiliates has incurred or reasonably expects to incur any material liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any "employee benefit plan" or (ii) Sections 412, 4971, 4975 or 4980B of the Code. Each "employee benefit plan" established or maintained by the Company or any of its ERISA Affiliates that is intended to be qualified under Section 401(a) of the Code is so qualified and, to the knowledge of the Company, nothing has occurred, whether by action or failure to act, which would cause the loss of such qualification. The execution of this Agreement, or consummation of the Offering does not constitute a triggering event under any employee benefit plan or any other employment contract, whether or not legally enforceable, which (either alone or upon the occurrence of any additional or subsequent event) will or may result in any payment (of severance pay or otherwise), acceleration, increase in vesting, or increase in benefits to any current or former participant, employee or director of the Company other than an event that is not material to the financial condition or business of the Company.

2.37 Compliance with Laws. The Company: (A) is and at all times has been in compliance with all statutes, rules, or regulations applicable to the ownership, testing, development, manufacture, packaging, processing, use, distribution, marketing, labeling, promotion, sale, offer for sale, storage, import, export or disposal of any product manufactured or distributed by the Company ("**Applicable Laws**"), except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Change; (B) has not received any written notices, statements or other correspondence or notice from the FDA or any foreign, state or local Governmental Entity performing functions similar to the FDA or any other Governmental Entity alleging or asserting noncompliance with any Applicable Laws or any Authorizations; (C) possesses all material Authorizations and such Authorizations are valid and in full force and effect and are not in material violation of any term of any such Authorizations; (D) has not received notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any Governmental Entity or third party alleging that any product operation or activity is in violation of any Applicable Laws or Authorizations and has no knowledge that any such governmental authority or third party is considering any such claim, litigation, arbitration, action, suit, investigation or proceeding; (E) has not received notice that any Governmental Entity has taken, is taking or intends to take action to limit, suspend, modify or revoke any Authorizations and has no knowledge that any such governmental authority is considering such action; and (F) has filed, obtained, maintained or submitted all material reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Applicable Laws or Authorizations and that all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were complete and correct on the date filed (or were corrected or supplemented by a subsequent submission).

2.38 Smaller Reporting Company. As of the time of filing of the Registration Statement, the Company was a "smaller reporting company," as defined in Rule 12b-2 of the Exchange Act Regulations.

2.39 Industry Data. The statistical and market-related data included in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus are based on or derived from sources that the Company reasonably and in good faith believes are reliable and accurate or represent the Company's good faith estimates that are made on the basis of data derived from such sources.

2.40 Margin Securities. The Company does not own any "margin securities" as that term is defined in Regulation U of the Board of Governors of the Federal Reserve System (the "**Federal Reserve Board**"), and none of the proceeds of the Offering will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security, for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the shares of Common Stock to be considered a "purpose credit" within the meanings of Regulation T, U or X of the Federal Reserve Board.

2.41 Clinical Studies. All preclinical and clinical studies conducted by or on behalf of the Company that are material to an understanding of the Company's business and an investment in the Company, are or have been adequately described in the Registration Statement, the Pricing Disclosure Package and the Prospectus in all material respects. To the Company's knowledge, after reasonable inquiry, the clinical and preclinical studies conducted by or on behalf of the Company that are described in the Registration Statement, the Pricing Disclosure Package and the Prospectus or the results of which are referred to in the Registration Statement, the Pricing Disclosure Package and the Prospectus were and, if still ongoing, are being conducted in material compliance with all laws and regulations applicable thereto in the jurisdictions in which they are being conducted and with all laws and regulations applicable to preclinical and clinical studies from which data will be submitted to support marketing approval. The descriptions in the Registration Statement, the Pricing Disclosure Package and the Prospectus of the results of such studies are accurate and complete in all material respects and fairly present the data derived from such studies, and the Company has no knowledge of any large well-controlled clinical study the aggregate results of which are inconsistent with or otherwise call into question the results of any clinical study conducted by or on behalf of the Company that are described in the Registration Statement, the Pricing Disclosure Package and the Prospectus or the results of which are referred to in the Registration Statement, the Pricing Disclosure Package and the Prospectus. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has not received any written notices or statements from the FDA, the European Medicines Agency ("**EMA**") or any other Governmental Entity imposing, requiring, requesting or suggesting a clinical hold, termination, suspension or material modification for or of any clinical or preclinical studies that are described in the Registration Statement, the Pricing Disclosure Package and the Prospectus or the results of which are referred to in the Registration Statement, the Pricing Disclosure Package and the Prospectus. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has not received any written notices or statements from the FDA, the EMA or any other Governmental Entity, and otherwise has no knowledge or reason to believe, that (i) any investigational new drug application for potential product of the Company is or has been rejected or determined to be non-approvable or conditionally approvable; and (ii) any license, approval, permit or authorization to conduct any clinical trial of any potential product of the Company has been, will be or may be suspended, revoked, modified or limited.

2.42 Integration. Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause the Offering to be integrated with prior offerings by the Company for purposes of the Securities Act that would require the registration of any such securities under the Securities Act.

2.43 Title to Real and Personal Property. The Company has good and marketable title in fee simple to, or have valid rights to lease or otherwise use, all items of real or personal property that are material to the business of the Company, free and clear of all liens, encumbrances, security interests, claims and defects that do not, singularly or in the aggregate, materially affect the business of the Company and do not interfere with the use made of such property by the Company; and all of the leases and subleases material to the business of the Company, and under which the Company holds properties described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, are, to the Company's knowledge in full force and effect, and the Company has not received any notice of any material claim of any sort that have been asserted by anyone adverse to the rights of the Company under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company to the continued possession of the leased or subleased premises under any such lease or sublease, which would result in a Material Adverse Change.

2.44 Confidentiality and Non-Competitions. To the Company's knowledge, no director, officer, key employee or consultant of the Company is subject to any confidentiality, non-disclosure, non-competition agreement or non-solicitation agreement with any employer or prior employer that could materially affect his ability to be and act in his respective capacity of the Company or be expected to result in a Material Adverse Change.

2.45 Corporate Records. The minute books of the Company have been made available to the Underwriters and counsel for the Underwriters, and such books (i) contain a summary of all meetings and actions of the board of directors (including each board committee) and stockholders of the Company, and (ii) reflect all material transactions referred to in such minutes.

2.46 Emerging Growth Company. From the time of the initial confidential submission of the Registration Statement to the Commission (or, if earlier, the first date on which the Company engaged directly in or through any Person authorized to act on its behalf in any Testing-the Waters Communication) through the date hereof, the Company has been and is an "emerging growth company," as defined in Section 2(a) of the Securities Act (an "**Emerging Growth Company**"). "**Testing-the-Waters Communication**" means any oral or written communication with potential investors undertaken in reliance on Section 5(d) of the Securities Act.

2.47 Testing-the-Waters Communications. The Company has not (i) alone engaged in any Testing-the-Waters Communications, other than Testing-the-Waters Communications with the written consent of the Representative and with entities that are qualified institutional buyers within the meaning of Rule 144A under the Securities Act or institutions that are accredited investors within the meaning of Rule 501 under the Securities Act and (ii) authorized anyone other than the Representative to engage in Testing-the-Waters Communications. The Company confirms that the Representative has been authorized to act on its behalf in undertaking Testing-the-Waters Communications. The Company has not distributed any Written Testing-the-Waters Communications other than those listed on Schedule 2-C hereto. "**Written Testing-the-Waters Communication**" means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act.

2.48 Electronic Road Show. The Company has made available a Bona Fide Electronic Road Show in compliance with Rule 433(d)(8)(ii) of the Securities Act Regulations such that no filing of any "road show" (as defined in Rule 433(h) of the Securities Act Regulations) is required in connection with the Offering.

3. Covenants of the Company. The Company covenants and agrees as follows:

3.1 Amendments to Registration Statement. The Company shall deliver to the Representative, prior to filing, any amendment or supplement to the Registration Statement or Prospectus proposed to be filed after the Effective Date and not file any such amendment or supplement to which the Representative shall reasonably object in writing.

3.2 Federal Securities Laws.

3.2.1 Compliance. The Company, subject to Section 3.2.2, shall comply with the requirements of Rule 430A of the Securities Act Regulations, and will notify the Representative promptly, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement shall become effective or any amendment or supplement to the Prospectus shall have been filed; (ii) of the receipt of any comments from the Commission; (iii) 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; (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment or of any order preventing or suspending the use of any Preliminary Prospectus or the Prospectus, or of the suspension of the qualification of the Public Securities and Representative's Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(d) or 8(e) of the Securities Act concerning the Registration Statement; and (v) if the Company becomes the subject of a proceeding under Section 8A of the Securities Act in connection with the Offering of the Public Securities and Representative's Securities. The Company shall effect all filings required under Rule 424(b) of the Securities Act Regulations, in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and shall take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company shall use its best efforts to prevent the issuance of any stop order, prevention or suspension and, if any such order is issued, to obtain the lifting thereof at the earliest possible moment.

3.2.2 Continued Compliance. The Company shall comply with the Securities Act, the Securities Act Regulations, the Exchange Act and the Exchange Act Regulations so as to permit the completion of the distribution of the Public Securities as contemplated in this Agreement and in the Registration Statement, the Pricing Disclosure Package and the Prospectus. If at any time when a prospectus relating to the Public Securities is (or, but for the exception afforded by Rule 172 of the Securities Act Regulations ("**Rule 172**"), would be) required by the Securities Act to be delivered in connection with sales of the Public Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to (i) amend the Registration Statement in order that the Registration Statement will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) amend or supplement the Pricing Disclosure Package or the Prospectus in order that the Pricing Disclosure Package or the Prospectus, as the case may be, will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser or (iii) amend the Registration Statement or amend or supplement the Pricing Disclosure Package or the Prospectus, as the case may be, in order to comply with the requirements of the Securities Act or the Securities Act Regulations, the Company will promptly (A) give the Representative notice of such event; (B) prepare any amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement, the Pricing Disclosure Package or the Prospectus comply with such requirements and, a reasonable amount of time prior to any proposed filing or use, furnish the Representative with copies of any such amendment or supplement and (C) file with the Commission any such amendment or supplement; provided that the Company shall not file or use any such amendment or supplement to which the Representative or counsel for the Underwriters shall reasonably object. The Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request. The Company has given the Representative notice of any filings made pursuant to the Exchange Act or the Exchange Act Regulations within 48 hours prior to the Applicable Time; the Company will give the Representative notice of its intention to make any such filing from the Applicable Time to the Closing Date and will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing, as the case may be, and will not file or use any such document to which the Representative or counsel for the Underwriters shall reasonably object.

3.2.3 Exchange Act Registration. For a period of three (3) years after the date of this Agreement, the Company shall use its reasonable best efforts to maintain the registration of the Common Stock under the Exchange Act, provided that such provision shall not prevent a sale, merger or similar transaction involving the Company. The Company shall not deregister any of the Common Stock under the Exchange Act without the prior written consent of the Representative, which consent shall not be unreasonably withheld.

3.2.4 Free Writing Prospectuses. The Company agrees that, unless it obtains the prior written consent of the Representative, it shall not make any offer relating to the Public Securities that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a "free writing prospectus," or a portion thereof, required to be filed by the Company with the Commission or retained by the Company under Rule 433; provided that the Representative shall be deemed to have consented to each Issuer General Use Free Writing Prospectus hereto and any "road show that is a written communication" within the meaning of Rule 433(d)(8)(i) that has been reviewed by the Representative. The Company represents that it has treated or agrees that it will treat each such free writing prospectus consented to, or deemed consented to, by the Underwriters as an "issuer free writing prospectus," as defined in Rule 433, and that it has complied and will comply with the applicable requirements of Rule 433 with respect thereto, including timely filing with the Commission where required, legending and record keeping. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Underwriters and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

3.2.5 Testing-the-Waters Communications. If at any time following the distribution of any Written Testing-the-Waters Communication there occurred or occurs an event or development as a result of which such Written Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company shall promptly notify the Representative and shall promptly amend or supplement, at its own expense, such Written Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.

3.3 Delivery to the Underwriters of Registration Statements. The Company has delivered or made available or shall deliver or make available to the Representative and counsel for the Representative, without charge, signed copies of the Registration Statement as originally filed and each amendment thereto (including exhibits filed therewith) and signed copies of all consents and certificates of experts, and will also deliver to the Underwriters, without charge, a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

3.4 Delivery to the Underwriters of Prospectuses. The Company has delivered or made available or will deliver or make available to each Underwriter, without charge, as many copies of each Preliminary Prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the Securities Act. The Company will furnish to each Underwriter, without charge, during the period when a prospectus relating to the Public Securities is (or, but for the exception afforded by Rule 172 of the Securities Act Regulations, would be) required to be delivered under the Securities Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

3.5 Effectiveness and Events Requiring Notice to the Representative. The Company shall use its best efforts to cause the Registration Statement to remain effective with a current prospectus for at least nine (9) months after the Applicable Time, and shall notify the Representative immediately and confirm the notice in writing: (i) of the effectiveness of the Registration Statement and any amendment thereto; (ii) of the issuance by the Commission of any stop order or of the initiation, or the threatening, of any proceeding for that purpose; (iii) of the issuance by any state securities commission of any proceedings for the suspension of the qualification of the Public Securities for offering or sale in any jurisdiction or of the initiation, or the threatening, of any proceeding for that purpose; (iv) of the mailing and delivery to the Commission for filing of any amendment or supplement to the Registration Statement or Prospectus; (v) of the receipt of any comments or request for any additional information from the Commission; and (vi) of the happening of any event during the period described in this Section 3.5 that, in the judgment of the Company, makes any statement of a material fact made in the Registration Statement, the Pricing Disclosure Package or the Prospectus untrue or that requires the making of any changes in (a) the Registration Statement in order to make the statements therein not misleading, or (b) in the Pricing Disclosure Package or the Prospectus in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. If the Commission or any state securities commission shall enter a stop order or suspend such qualification at any time, the Company shall make every reasonable effort to obtain promptly the lifting of such order.

3.6 Review of Financial Statements. For a period of five (5) years after the date of this Agreement, the Company, at its expense, shall cause its regularly engaged independent registered public accounting firm to review (but not audit) the Company's financial statements for each of the three fiscal quarters immediately preceding the announcement of any quarterly financial information.

3.7 Listing. The Company shall use its reasonable best efforts to maintain the listing of the Common Stock (including the Public Securities) on the NasdaqCM for at least three years from the date of this Agreement; provided that such provision shall not prevent a sale, merger or similar transaction involving the Company.

3.8 Financial Public Relations Firm. As of the Effective Date, the Company shall have retained a financial public relations firm reasonably acceptable to the Representative and the Company, which shall initially be [_____], which firm shall be experienced in assisting issuers in initial public offerings of securities and in their relations with their security holders, and shall retain such firm or another firm reasonably acceptable to the Representative for a period of not less than two (2) years after the Effective Date; provided that such provision shall not prevent a sale, merger or similar transaction involving the Company.

3.9 Reports to the Representative.

3.9.1 Periodic Reports, etc. For a period of three (3) years after the Effective Date, at the Representative's request, the Company shall furnish to the Representative copies of such financial statements and other periodic and special reports as the Company from time to time furnishes generally to holders of any class of its securities and also promptly furnish to the Representative: (i) a copy of each periodic report the Company shall be required to file with the Commission under the Exchange Act and the Exchange Act Regulations; (ii) a copy of every press release and every news item and article with respect to the Company or its affairs which was released by the Company; (iii) a copy of each Form 8-K prepared and filed by the Company; (iv) five copies of each registration statement filed by the Company under the Securities Act; (v) a copy of each report or other communication furnished to stockholders and (vi) such additional documents and information with respect to the Company and the affairs of any future subsidiaries of the Company as the Representative may from time to time reasonably request; provided the Representative shall sign, if requested by the Company, a Regulation FD compliant confidentiality agreement which is reasonably acceptable to the Representative and Representative Counsel in connection with the Representative's receipt of such information. Documents filed with the Commission pursuant to its EDGAR system or otherwise publicly filed or made available shall be deemed to have been delivered to the Representative pursuant to this Section 3.9.1.

3.9.2 Transfer Agent; Transfer Sheets. For a period of three (3) years after the Effective Date, the Company shall retain a transfer agent and registrar acceptable to the Representative (the "**Transfer Agent**") and shall furnish to the Representative at the Company's sole cost and expense such transfer sheets of the Company's securities as the Representative may reasonably request, including the daily and monthly consolidated transfer sheets of the Transfer Agent and DTC; provided that such provision shall not prevent a sale, merger or similar transaction involving the Company. Corporate Stock Transfer, Inc. is acceptable to the Representative to act as Transfer Agent for the shares of Common Stock.

3.9.3 Trading Reports. For a period of three (3) years after the date of this Agreement, the Company shall provide to the Representative, at the Company's expense, such reports published by NasdaqCM relating to price trading of the Public Securities, as the Representative shall reasonably request; provided that such provision shall not prevent a sale, merger or similar transaction involving the Company.

3.10 Payment of Expenses

3.10.1 General Expenses Related to the Offering. The Company hereby agrees to pay on each of the Closing Date and the Option Closing Date, if any, to the extent not paid at the Closing Date, all expenses incident to the performance of the obligations of the Company under this Agreement, including, but not limited to: (a) all filing fees and communication expenses relating to the registration of Public Securities to be issued and sold in the Offering with the Commission; (b) all Public Offering System filing fees associated with the review of the Offering by FINRA; (c) all fees and expenses relating to the listing of such Common Stock on the NasdaqCM and on such other stock exchanges as the Company and the Representative together determine; (d) all fees, expenses and disbursements relating to background checks of the Company's officers and directors in an amount not to exceed $2,500 per individual and $15,000 in the aggregate; (e) all fees, expenses and disbursements relating to the registration or qualification of the Public Securities under the "blue sky" securities laws of such states and other jurisdictions as the Representative may reasonably designate (including, without limitation, all filing and registration fees, and the reasonable fees and disbursements of "blue sky" counsel, it being agreed that such fees and expenses will be limited to: (i) if the Offering is commenced on either the Nasdaq Global Market, Nasdaq Global Select Market or the NYSE Amex, the Company will make a payment of $5,000 to such counsel at Closing or (ii) if the Offering is commenced on the Nasdaq Capital Market or on the Over the Counter Bulletin Board, the Company will make a payment of $10,000 to such counsel upon the commencement of "blue sky" work by such counsel and an additional $5,000 at Closing); (f) all fees, expenses and disbursements relating to the registration, qualification or exemption of the Public Securities under the securities laws of such foreign jurisdictions as the Representative may reasonably designate; (g) the costs of all mailing and printing of the underwriting documents (including, without limitation, the Underwriting Agreement, any Blue Sky Surveys and, if appropriate, any Agreement Among Underwriters, Selected Dealers' Agreement, Underwriters' Questionnaire and Power of Attorney), Registration Statements, Prospectuses and all amendments, supplements and exhibits thereto and as many preliminary and final Prospectuses as the Representative may reasonably deem necessary; (h) the costs and expenses of the public relations firm referred to in Section 3.8 hereof; (i) the costs of preparing, printing and delivering certificates representing the Public Securities; (j) fees and expenses of the Transfer Agent for the shares of Common Stock; (k) stock transfer and/or stamp taxes, if any, payable upon the transfer of securities from the Company to the Underwriters; (l) the costs associated with post-Closing advertising of the Offering in the national editions of *The Wall Street Journal* and *The New York Times*; (m) the costs associated with one (1) bound volume of the public offering materials as well as commemorative mementos and lucite tombstones, each of which the Company or its designee will provide, including to the Representative, within a reasonable time after the Closing in such quantities as the Representative may reasonably request; (n) the fees and expenses of the Company's accountants; (o) the fees and expenses of the Company's legal counsel and other agents and representatives; (p) the fees and expenses of the Representative Counsel not to exceed $50,000; (q) the $21,775 cost associated with the Underwriters' use of Ipreo's book building, prospectus tracking and compliance software for the Offering; and (r) up to $20,000 of the Underwriters' actual accountable "road show" expenses for the offering. The Representative may deduct from the net proceeds of the Offering payable to the Company on the Closing Date, or the Option Closing Date, if any, the expenses set forth herein to be paid by the Company to the Underwriters, less the Advance (as such term is defined in Section 8.3 hereof), provided, however, that in the event that the Offering is terminated, the Company agrees to reimburse the Underwriters pursuant to Section 8.3 hereof.

3.10.2 Non-accountable Expenses. The Company further agrees that, in addition to the expenses payable pursuant to Section 3.10.1, on the Closing Date it shall pay to the Representative, by deduction from the net proceeds of the Offering contemplated herein, a non-accountable expense allowance equal to one percent (1%) of the gross proceeds received by the Company from the sale of the Firm Shares.

3.11 Application of Net Proceeds. The Company shall apply the net proceeds from the Offering received by it in a manner consistent with the application thereof described under the caption "Use of Proceeds" in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

3.12 Delivery of Earnings Statements to Security Holders. The Company shall make generally available to its security holders as soon as practicable, but not later than the first day of the fifteenth (15th) full calendar month following the Effective Date, an earnings statement (which need not be certified by an independent registered public accounting firm unless required by the Securities Act or the Securities Act Regulations, but which shall satisfy the provisions of Rule 158(a) under Section 11(a) of the Securities Act) covering a period of at least twelve (12) consecutive months beginning after the Effective Date.

3.13 Stabilization. Neither the Company nor, to its knowledge, any of its employees, directors or shareholders (without the consent of the Representative) has taken or shall take, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result in, under Regulation M of 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 Public Securities.

3.14 Internal Controls. The Company shall maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary in order to permit preparation of financial statements in accordance with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

3.15 Accountants. As of the Effective Date, the Company shall retain an independent registered public accounting firm, as required by the Securities Act and the Regulations and the Public Company Accounting Oversight Board, reasonably acceptable to the Representative, and the Company shall continue to retain a nationally recognized independent registered public accounting firm for a period of at least three (3) years after the Effective Date; provided that such provision shall not prevent a sale, merger or similar transaction involving the Company. The Representative acknowledges that the Auditor is acceptable to the Representative.

3.16 FINRA. For a period of 90 days from the later of the Closing Date or the Option Closing Date, the Company shall advise the Representative (who shall make an appropriate filing with FINRA) if it is or becomes aware that (i) any officer or director of the Company, (ii) any beneficial owner of 5% or more of any class of the Company's securities or (iii) any beneficial owner of the Company's unregistered equity securities which were acquired during the 180 days immediately preceding the filing of the Registration Statement is or becomes an affiliate or associated person of a FINRA member participating in the Offering (as determined in accordance with the rules and regulations of FINRA).

3.17 No Fiduciary Duties. The Company acknowledges and agrees that the Underwriters' responsibility to the Company is solely contractual in nature and that none of the Underwriters or their affiliates or any selling agent shall be deemed to be acting in a fiduciary capacity, or otherwise owes any fiduciary duty to the Company or any of its affiliates in connection with the Offering and the other transactions contemplated by this Agreement.

3.18 Company Lock-Up Agreements.

3.18.1 Restriction on Sales of Capital Stock. The Company, on behalf of itself and any successor entity, agrees that, without the prior written consent of the Representative, it will not, during the period commencing on the Closing Date and ending on the six (6) month anniversary thereof (the "**Lock-Up Period**"), (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of capital stock of the Company or any securities convertible into or exercisable or exchangeable for shares of capital stock of the Company; (ii) file or cause to be filed any registration statement with the Commission relating to the offering of any shares of capital stock of the Company or any securities convertible into or exercisable or exchangeable for shares of capital stock of the Company; or (iii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of capital stock of the Company, whether any such transaction described in clause (i), (ii) or (iii) above is to be settled by delivery of shares of capital stock of the Company or such other securities, in cash or otherwise.

The restrictions contained in this Section 3.18.1 shall not apply to (i) the Public Securities to be sold hereunder, (ii) the issuance by the Company of shares of Common Stock upon the exercise of a stock option or warrant or the conversion of a security outstanding on the date hereof, which is disclosed in the Registration Statement, Pricing Disclosure Package and Prospectus, (iii) the issuance by the Company of stock options or shares of capital stock of the Company under any equity compensation plan of the Company, (iv) the issuance by the Company of shares of Common Stock in the connection with mergers, acquisitions or joint ventures, and (v) the issuance by the Company of shares of Common Stock to consultants in the Company's ordinary course of business and not for capital raising transactions.

Notwithstanding the foregoing, if (i) during the last 17 days of the Lock-Up Period, the Company issues an earnings release or material news or a material event relating to the Company occurs, or (ii) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results or becomes aware that material news or a material event will occur during the 16-day period beginning on the last day of the Lock-Up Period, the restrictions imposed by this Section 3.18.1 shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of such material news or material event, as applicable, unless the Representative waives, in writing, such extension.

3.18.2 Restriction on Continuous Offerings. Notwithstanding the restrictions contained in Section 3.18.1, the Company, on behalf of itself and any successor entity, agrees that, without the prior written consent of the Representative, it will not, for a period of 12 months after the date of this Agreement, directly or indirectly in any "at-the-market" or continuous equity transaction, offer to sell, sell, contract to sell, grant any option to sell or otherwise dispose of shares of capital stock of the Company or any securities convertible into or exercisable or exchangeable for shares of capital stock of the Company.

3.19 Release of D&O Lock-up Period. If the Representative, in its sole discretion, agrees to release or waive the restrictions set forth in the Lock-Up Agreements described in Section 2.25 hereof for an officer or director of the Company and provide the Company with notice of the impending release or waiver at least three (3) Business Days before the effective date of the release or waiver, the Company agrees if required by applicable law to announce the impending release or waiver by a press release substantially in the form of Exhibit C hereto through a major news service at least two (2) Business Days before the effective date of the release or waiver.

3.20 Blue Sky Qualifications. The Company shall use its best efforts, in cooperation with the Underwriters, if necessary, to qualify the Public Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representative may designate and to maintain such qualifications in effect so long as required to complete the distribution of the Public Securities; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

3.21 Reporting Requirements. The Company, during the period when a prospectus relating to the Public Securities is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the Securities Act, will file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act and Exchange Act Regulations. Additionally, the Company shall report the use of proceeds from the issuance of the Public Securities as may be required under Rule 463 under the Securities Act Regulations.

3.22 Emerging Growth Company Status. The Company shall promptly notify the Representative if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of the Public Securities within the meaning of the Securities Act and (ii) fifteen (15) days following the completion of the Lock-Up Period.

3.23 Press Releases. Prior to the Closing Date and any Option Closing Date, the Company shall not issue any press release or other communication directly or indirectly or hold any press conference with respect to the Company, its condition, financial or otherwise, or earnings, business affairs or business prospects (except for routine oral marketing communications in the ordinary course of business and consistent with the past practices of the Company and of which the Representative is notified), without the prior written consent of the Representative, which consent shall not be unreasonably withheld, unless in the judgment of the Company and its counsel, and after notification to the Representative, such press release or communication is required by law.

3.24 Sarbanes-Oxley. The Company shall at all times comply with all applicable provisions of the Sarbanes-Oxley Act in effect from time to time.

3.25 IRS Forms. The Company shall deliver to each Underwriter (or its agent), prior to or at the Closing Date, a properly completed and executed Internal Revenue Service ("**IRS**") Form W-9 or an IRS Form W-8, as appropriate, together with all required attachments to such form.

4. Conditions of Underwriters' Obligations. The obligations of the Underwriters to purchase and pay for the Public Securities, as provided herein, shall be subject to (i) the continuing accuracy of the representations and warranties of the Company as of the date hereof and as of each of the Closing Date and the Option Closing Date, if any; (ii) the accuracy of the statements of officers of the Company made pursuant to the provisions hereof; (iii) the performance by the Company of its obligations hereunder; and (iv) the following conditions:

4.1 Regulatory Matters.

4.1.1 Effectiveness of Registration Statement; Rule 430A Information. The Registration Statement shall have become effective not later than 5:00 p.m., Eastern time, on the date of this Agreement or such later date and time as shall be consented to in writing by you, and, at each of the Closing Date and any Option Closing Date, no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto shall have been issued under the Securities Act, no order preventing or suspending the use of any Preliminary Prospectus or the Prospectus shall have been issued and no proceedings for any of those purposes shall have been instituted or are pending or, to the Company's knowledge, contemplated by the Commission. The Company has complied with each request (if any) from the Commission for additional information. A prospectus containing the Rule 430A Information shall have been filed with the Commission in the manner and within the time frame required by Rule 424(b) under the Securities Act Regulations (without reliance on Rule 424(b)(8)) or a post-effective amendment providing such information shall have been filed with, and declared effective by, the Commission in accordance with the requirements of Rule 430A under the Securities Act Regulations.

4.1.2 FINRA Clearance. On or before the Effective Date, the Representative shall have received clearance from FINRA as to the amount of compensation allowable or payable to the Underwriters as described in the Registration Statement.

4.1.3 NasdaqCM Stock Market Clearance. On the Closing Date, the Company's Common Stock (including the shares of Common Stock underlying the Additional Shares) shall have been approved for listing on the NasdaqCM. On the first Option Closing Date (if any), the Company's Common Stock (including the Common Stock underlying the Additional Shares) shall have been approved for listing on the NasdaqCM.

4.2 Company Counsel Matters.

4.2.1 Closing Date Opinion of Counsel to the Company. On the Closing Date, the Representative shall have received the favorable opinion of Reed Smith LLP, and a written statement providing certain "10b-5" negative assurances, dated the Closing Date and addressed to the Representative, substantially in a form acceptable to the Representative.

4.2.2 Closing Date Opinion of Intellectual Property Counsel to the Company. On the Closing Date, the Representative shall have received the favorable opinion of [_____], intellectual property counsel to the Company, and a written statement providing certain "10b-5" negative assurances, dated the Closing Date and addressed to the Representative, substantially in a form acceptable to the Representative.

4.2.3 Option Closing Date Opinions of Counsel. On the Option Closing Date, if any, the Representative shall have received the favorable opinions of each counsel listed in Sections 4.2.1 and 4.2.2, dated the Option Closing Date, addressed to the Representative and in form and substance reasonably satisfactory to the Representative, confirming as of the Option Closing Date, the statements made by such counsels in their respective opinions delivered on the Closing Date.

4.2.4 Reliance. In rendering such opinions, such counsel may rely: (i) as to matters involving the application of laws other than the laws of the United States and jurisdictions in which they are admitted, to the extent such counsel deems proper and to the extent specified in such opinion, if at all, upon an opinion or opinions (in form and substance reasonably satisfactory to the Representative) of other counsel reasonably acceptable to the Representative, familiar with the applicable laws; and (ii) as to matters of fact, to the extent they deem proper, on certificates or other written statements of officers of the Company and officers of departments of various jurisdictions having custody of documents respecting the corporate existence or good standing of the Company, provided that copies of any such statements or certificates shall be delivered to Representative Counsel if requested. The opinion referred to in Section 4.2.2 above and any related Option Closing Date opinion shall include a statement to the effect that it may be relied upon by Representative Counsel in its opinion delivered to the Underwriters.

4.3 Comfort Letters.

4.3.1 Cold Comfort Letter. At the time this Agreement is executed you shall have received a cold comfort letter containing statements and information of the type customarily included in accountants' comfort letters with respect to the financial statements and certain financial information contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus, addressed to the Representative and in form and substance satisfactory in all respects to you and to Representative's Counsel from the Auditor, dated as of the date of this Agreement.

4.3.2 Bring-down Comfort Letter. At each of the Closing Date and the Option Closing Date, if any, the Representative shall have received from the Auditor a letter, dated as of the Closing Date or the Option Closing Date, as applicable, to the effect that the Auditor reaffirms the statements made in the letter furnished pursuant to Section 4.3.1, except that the specified date referred to shall be a date not more than three (3) Business Days prior to the Closing Date or the Option Closing Date, as applicable.

4.4 Officers' Certificates.

4.4.1 Officers' Certificate. The Company shall have furnished to the Representative a certificate, dated the Closing Date and any Option Closing Date (if such date is other than the Closing Date), of its Chief Executive Officer and its Chief Financial Officer stating that (i) such officers have carefully examined the Registration Statement, the Pricing Disclosure Package, any Issuer Free Writing Prospectus and the Prospectus and, in their opinion, the Registration Statement and each amendment thereto, as of the Applicable Time and as of the date of this Agreement and as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date) did not include any untrue statement of a material fact and did not omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and the Pricing Disclosure Package, as of the Applicable Time and as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date), any Issuer Free Writing Prospectus as of its date and as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date), the Prospectus and each amendment or supplement thereto, as of the respective date thereof and as of the Closing Date, did not include any untrue statement of a material fact and did not omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading, (ii) since the effective date of the Registration Statement, no event has occurred which should have been set forth in a supplement or amendment to the Registration Statement, the Pricing Disclosure Package or the Prospectus, (iii) to the best of their knowledge after reasonable investigation, as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date), the representations and warranties of the Company in this Agreement are true and correct and the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date (or any Option Closing Date if such date is other than the Closing Date), and (iv) there has not been, subsequent to the date of the most recent audited financial statements included or incorporated by reference in the Pricing Disclosure Package, any material adverse change in the financial position or results of operations of the Company, or any change or development that, singularly or in the aggregate, would involve a material adverse change or a prospective material adverse change, in or affecting the condition (financial or otherwise), results of operations, business, assets or prospects of the Company, except as set forth in the Prospectus.

4.4.2 Secretary's Certificate. At each of the Closing Date and the Option Closing Date, if any, the Representative shall have received a certificate of the Company signed by the Secretary of the Company, dated the Closing Date or the Option Date, as the case may be, respectively, certifying: (i) that each of the Charter and by-laws is true and complete, has not been modified and is in full force and effect; (ii) that the resolutions of the Company's Board of Directors relating to the Offering are in full force and effect and have not been modified; (iii) as to the accuracy and completeness of all correspondence between the Company or its counsel and the Commission; and (iv) as to the incumbency of the officers of the Company. The documents referred to in such certificate shall be attached to such certificate.

4.5 No Material Changes. Prior to and on each of the Closing Date and each Option Closing Date, if any: (i) there shall have been no material adverse change or development involving a prospective material adverse change in the condition or prospects or the business activities, financial or otherwise, of the Company from the latest dates as of which such condition is set forth in the Registration Statement and no change in the capital stock or debt of the Company, the Pricing Disclosure Package and the Prospectus; (ii) no action, suit or proceeding, at law or in equity, shall have been pending or threatened against the Company or any Insider before or by any court or federal or state commission, board or other administrative agency wherein an unfavorable decision, ruling or finding may materially adversely affect the business, operations, prospects or financial condition or income of the Company, except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus; (iii) no stop order shall have been issued under the Securities Act and no proceedings therefor shall have been initiated or threatened by the Commission; (iv) no action shall have been taken and no law, statute, rule, regulation or order shall have been enacted, adopted or issued by any Governmental Entity which would prevent the issuance or sale of the Public Securities or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company; (v) no injunction, restraining order or order of any other nature by any federal or state court of competent jurisdiction shall have been issued which would prevent the issuance or sale of the Public Securities or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company and (vi) the Registration Statement, the Pricing Disclosure Package and the Prospectus and any amendments or supplements thereto shall contain all material statements which are required to be stated therein in accordance with the Securities Act and the Securities Act Regulations and shall conform in all material respects to the requirements of the Securities Act and the Securities Act Regulations, and neither the Registration Statement, the Pricing Disclosure Package, the Prospectus nor any Issuer Free Writing Prospectus nor any amendment or supplement thereto shall 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 the light of the circumstances under which they were made, not misleading.

4.6 No Material Misstatement or Omission. The Underwriters shall not have discovered and disclosed to the Company on or prior to the Closing Date and any Option Closing Date that the Registration Statement or any amendment or supplement thereto contains an untrue statement of a fact which, in the opinion of counsel for the Underwriters, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading, or that the Registration Statement, Pricing Disclosure Package, any Issuer Free Writing Prospectus or the Prospectus or any amendment or supplement thereto contains an untrue statement of fact which, in the opinion of such counsel, is material or omits to state any fact which, in the opinion of such counsel, is material and is necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading.

4.7 Corporate Proceedings. All corporate proceedings and other legal matters incident to the authorization, form and validity of each of this Agreement, the Representative's Warrant Agreement, the Public Securities, the Registration Statement, the Pricing Disclosure Package, each Issuer Free Writing Prospectus, if any, and the Prospectus and all other legal matters relating to this Agreement, the Representative's Warrant Agreement and the transactions contemplated hereby and thereby shall be reasonably satisfactory in all material respects to counsel for the Underwriters, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

4.8 Delivery of Agreements.

4.8.1 Effective Date Deliveries. On or before the Effective Date, the Company shall have delivered to the Representative executed copies of the Lock-Up Agreements from each of the persons listed in Schedule 3 hereto.

4.8.2 Closing Date Deliveries. On the Closing Date, the Company shall have delivered to the Representative an executed copy of the Representative's Warrant Agreement.

4.9 Additional Documents. At the Closing Date and at each Option Closing Date (if any), Representative Counsel shall have been furnished with such documents and opinions as they may require for the purpose of enabling Representative Counsel to deliver an opinion to the Underwriters, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Public Securities and the Representative's Securities as herein contemplated shall be satisfactory in form and substance to the Representative and Representative Counsel.

5. Indemnification.

5.1 Indemnification by the Company. The Company shall indemnify and hold harmless each Underwriter, its affiliates and each of its and their respective directors, officers, members, employees, representatives and agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act of or Section 20 of the Exchange Act (collectively the "**Underwriter Indemnified Parties**," and each a "**Underwriter Indemnified Party**") against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), to which such Underwriter Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (A) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "**issuer information**" filed or required to be filed pursuant to Rule 433(d) of the Securities Act Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto or document incorporated by reference therein, or (B) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "issuer information" filed or required to be filed pursuant to Rule 433(d) of the Securities Act Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto or document incorporated by reference therein, a material fact required to be stated therein or necessary to make the statements therein not misleading, and shall reimburse the Underwriter Indemnified Party promptly upon demand for any legal fees or other expenses reasonably incurred by that Underwriter Indemnified Party in connection with investigating, or preparing to defend, or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding, as such fees and expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, expense or liability arises out of or is based upon an untrue statement in, or omission from any Preliminary Prospectus, any Registration Statement or the Prospectus, or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for use therein, which information the parties hereto agree is limited to the Underwriters' Information. This indemnity agreement is not exclusive and will be in addition to any liability, which the Company might otherwise have and shall not limit any rights or remedies which may otherwise be available at law or in equity to each Underwriter Indemnified Party.

5.2 Indemnification by the Underwriter. Each Underwriter, severally and not jointly, shall indemnify and hold harmless the Company, the Company's directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the "**Company Indemnified Parties**" and each a "**Company Indemnified Party**") against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), to which such Company Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (i) any untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "**issuer information**" filed or required to be filed pursuant to Rule 433(d) of the Securities Act Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, or (ii) the omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "**issuer information**" filed or required to be filed pursuant to Rule 433(d) of the Securities Act Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, a material fact required to be stated therein or necessary to make the statements therein not misleading, but in each case only to the extent that the untrue statement or omission was made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for use therein, which information the parties hereto agree is limited to the Underwriters' Information and shall reimburse the Company for any legal or other expenses reasonably incurred by such party in connection with investigating or preparing to defend or defending against or appearing as third party witness in connection with any such loss, claim, damage, liability, action, investigation or proceeding, as such fees and expenses are incurred. Notwithstanding the provisions of this Section 5.2, in no event shall any indemnity by an Underwriter under this Section 5.2 exceed the total discount and commission received by such Underwriter in connection with the Offering.

5.3 Procedure. Promptly after receipt by an indemnified party under this Section 5 of notice of the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under this Section 5, notify such indemnifying party in writing of the commencement of that action; *provided*, *however*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 5 except to the extent it has been materially adversely prejudiced by such failure; and, *provided*, *further*, that the failure to notify an indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 5. If any such action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense of such action with counsel reasonably satisfactory to the indemnified party (which counsel shall not, except with the written consent of the indemnified party, be counsel to the indemnifying party). After notice from the indemnifying party to the indemnified party of its election to assume the defense of such action, except as provided herein, the indemnifying party shall not be liable to the indemnified party under Section 5 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense of such action other than reasonable costs of investigation; provided, however, that any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense of such action but the fees and expenses of such counsel (other than reasonable costs of investigation) shall be at the expense of such indemnified party unless (i) the employment thereof has been specifically authorized in writing by the Company in the case of a claim for indemnification under 5.1 or the Representative in the case of a claim for indemnification under Section 5.2, (ii) such indemnified party shall have been advised by its counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party, or (iii) the indemnifying party has failed to assume the defense of such action and employ counsel reasonably satisfactory to the indemnified party within a reasonable period of time after notice of the commencement of the action or the indemnifying party does not diligently defend the action after assumption of the defense, in which case, if such indemnified party notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of (or, in the case of a failure to diligently defend the action after assumption of the defense, to continue to defend) such action on behalf of such indemnified party and the indemnifying party shall be responsible for legal or other expenses subsequently incurred by such indemnified party in connection with the defense of such action; *provided*, *however*, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any time any such indemnified party (in addition to any local counsel), which firm shall be designated in writing by the Representative if the indemnified party under this Section 5 is an Underwriter Indemnified Party or by the Company if an indemnified party under this Section 5 is a Company Indemnified Party. Subject to this Section 5.3, the amount payable by an indemnifying party under Section 5 shall include, but not be limited to, (x) reasonable legal fees and expenses of counsel to the indemnified party and any other expenses in investigating, or preparing to defend or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any action, investigation, proceeding or claim, and (y) all amounts paid in settlement of any of the foregoing. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of judgment with respect to any pending or threatened action or any claim whatsoever, in respect of which indemnification or contribution could be sought under this Section 5 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party in form and substance reasonably satisfactory to such indemnified party from all liability arising out of such action or claim 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. Subject to the provisions of the following sentence, no indemnifying party shall be liable for settlement of any pending or threatened action or any claim whatsoever that is effected without its written consent (which consent shall not be unreasonably withheld or delayed), but if settled with its written consent, if its consent has been unreasonably withheld or delayed or if there be a judgment for the plaintiff in any such matter, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment. In addition, if at any time an indemnified party shall have requested that an indemnifying party reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated herein effected without its written consent if (i) such settlement is entered into more than forty-five (45) days after receipt by such indemnifying party of the request for reimbursement, (ii) such indemnifying party shall have received notice of the terms of such settlement at least thirty (30) days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

5.4 Contribution. If the indemnification provided for in this Section 5 is unavailable or insufficient to hold harmless an indemnified party under Section 5.1 or Section 5.2, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid, payable or otherwise incurred by such indemnified party as a result of such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof), as incurred, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and each of the Underwriters on the other hand from the Offering, or (ii) if the allocation provided by clause (i) of this Section 5.4 is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) of this Section 5.4 but also the relative fault of the Company on the one hand and the Underwriters on the other with respect to the statements, omissions, acts or failures to act which resulted in such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof) as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other with respect to such offering shall be deemed to be in the same proportion as the total proceeds from the Offering purchased under this Agreement (before deducting expenses) received by the Company bear to the total underwriting discount and commissions received by the Underwriters in connection with the Offering, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company on the one hand and the Underwriters on the other 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 on the one hand or the Underwriters on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement, omission, act or failure to act; provided that the parties hereto agree that the written information furnished to the Company through the Representative by or on behalf of any Underwriter for use in any Preliminary Prospectus, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, consists solely of the Underwriters' Information. The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this Section 5.4 be determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, damage, expense, liability, action, investigation or proceeding referred to above in this Section 5.4 shall be deemed to include, for purposes of this Section 5.4, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. Notwithstanding the provisions of this Section 5.4, no Underwriter shall be required to contribute any amount in excess of the total discount and commission received by such Underwriter in connection with the Offering less the amount of any damages which such Underwriter has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement, omission or alleged omission, act or alleged act or failure to act or alleged failure to act. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligation to contribute as provided in this Section 5.4 are several and in proportion to their respective underwriting obligation, and not joint.

6. Default by an Underwriter.

6.1 Default Not Exceeding 10% of Firm Shares or Additional Shares. If any Underwriter or Underwriters shall default in its or their obligations to purchase the Firm Shares or the Additional Shares, if the Over-allotment Option is exercised hereunder, and if the number of the Firm Shares or Additional Shares with respect to which such default relates does not exceed in the aggregate 10% of the number of Firm Shares or Additional Shares that all Underwriters have agreed to purchase hereunder, then such Firm Shares or Additional Shares to which the default relates shall be purchased by the non-defaulting Underwriters in proportion to their respective commitments hereunder.

6.2 Default Exceeding 10% of Firm Shares or Additional Shares. In the event that the default addressed in Section 6.1 relates to more than 10% of the Firm Shares or Additional Shares, you may in your discretion arrange for yourself or for another party or parties to purchase such Firm Shares or Additional Shares to which such default relates on the terms contained herein. If, within one (1) Business Day after such default relating to more than 10% of the Firm Shares or Additional Shares, you do not arrange for the purchase of such Firm Shares or Additional Shares, then the Company shall be entitled to a further period of one (1) Business Day within which to procure another party or parties satisfactory to you to purchase said Firm Shares or Additional Shares on such terms. In the event that neither you nor the Company arrange for the purchase of the Firm Shares or Additional Shares to which a default relates as provided in this Section 6, this Agreement will automatically be terminated by you or the Company without liability on the part of the Company (except as provided in Sections 3.10 and 5 hereof) or the several Underwriters (except as provided in Section 5 hereof); provided, however, that if such default occurs with respect to the Additional Shares, this Agreement will not terminate as to the Firm Shares; and provided, further, that nothing herein shall relieve a defaulting Underwriter of its liability, if any, to the other Underwriters and to the Company for damages occasioned by its default hereunder.

6.3 Postponement of Closing Date. In the event that the Firm Shares or Additional Shares to which the default relates are to be purchased by the non-defaulting Underwriters, or are to be purchased by another party or parties as aforesaid, you or the Company shall have the right to postpone the Closing Date or Option Closing Date for a reasonable period, but not in any event exceeding five (5) Business Days, in order to effect whatever changes may thereby be made necessary in the Registration Statement, the Pricing Disclosure Package or the Prospectus or in any other documents and arrangements, and the Company agrees to file promptly any amendment to the Registration Statement, the Pricing Disclosure Package or the Prospectus that in the opinion of counsel for the Underwriter may thereby be made necessary. The term "**Underwriter**" as used in this Agreement shall include any party substituted under this Section 6 with like effect as if it had originally been a party to this Agreement with respect to such shares of Common Stock.

7. Additional Covenants.

7.1 Board Composition and Board Designations. The Company shall ensure that: (i) the qualifications of the persons serving as members of the Board of Directors and the overall composition of the Board comply with the Sarbanes-Oxley Act, the Exchange Act and the listing rules of the NasdaqCM or any other national securities exchange, as the case may be, in the event the Company seeks to have any of its securities listed on another exchange or quoted on an automated quotation system, and (ii) if applicable, at least one member of the Audit Committee of the Board of Directors qualifies as an "audit committee financial expert," as such term is defined under Regulation S-K and the listing rules of the NasdaqCM.

7.2 Prohibition on Press Releases and Public Announcements. The Company shall not issue press releases or engage in any other publicity, without the Representative's prior written consent, for a period ending at 5:00 p.m., Eastern time, on the first (l $^{st}$) Business Day following the fortieth (40$^{th}$) day after the Closing Date, other than normal and customary releases issued in the ordinary course of the Company's business.

7.3 Right of First Refusal. Provided that the Public Securities are sold in accordance with the terms of this Agreement, the Representative shall have an irrevocable right of first refusal (the " **Right of First Refusal**"), for a period of twelve (12) months after the Closing to act as sole bookrunner and managing underwriter, exclusive placement agent, exclusive financial advisor or in any other similar capacity, on the Representative's customary terms and conditions, for each and every public or private equity or debt offering (each, a "**Subject Transaction**"). The Company shall notify the Representative of its intention to pursue a Subject Transaction, including the material terms thereof, by providing written notice thereof by registered mail or overnight courier service addressed to the Representative. If the Representative fails to exercise its Right of First Refusal with respect to any Subject Transaction within ten (10) Business Days after the mailing of such written notice, then the Representative shall have no further claim or right with respect to the Subject Transaction. The Representative may elect, in its sole and absolute discretion, not to exercise its Right of First Refusal with respect to any Subject Transaction; *provided* that any such election by the Representative shall not adversely affect the Representative's Right of First Refusal with respect to any other Subject Transaction. The terms and conditions of any such engagements shall be set forth in separate agreements and may be subject to, among other things, satisfactory completion of due diligence by the Representative, market conditions, the absence of a material adverse change to the Company's business, financial condition and prospects, approval of the Representative's internal committee and any other conditions that the Representative may deem appropriate for transactions of such nature.

8. Effectiveness of this Agreement and Termination Thereof.

8.1 Effectiveness of the Agreement. This Agreement shall become effective when both the Company and the Representative have executed the same and delivered counterparts of such signatures to the other party.

8.2 Termination. The Representative shall have the right to terminate this Agreement at any time prior to any Closing Date, (i) if any domestic or international event or act or occurrence has materially disrupted, or in your opinion will in the immediate future materially disrupt, general securities markets in the United States; or (ii) if trading on the New York Stock Exchange or the Nasdaq Stock Market LLC shall have been suspended or materially limited, or minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required by FINRA or by order of the Commission or any other government authority having jurisdiction; or (iii) if the United States shall have become involved in a new war or an increase in major hostilities; or (iv) if a banking moratorium has been declared by a New York State or federal authority; or (v) if a moratorium on foreign exchange trading has been declared which materially adversely impacts the United States securities markets; or (vi) if the Company shall have sustained a material loss 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 your opinion, make it inadvisable to proceed with the delivery of the Firm Shares or Additional Shares; or (vii) if the Company is in material breach of any of its representations, warranties or covenants hereunder; or (viii) if the Representative shall have become aware after the date hereof of such a material adverse change in the conditions or prospects of the Company, or such adverse material change in general market conditions as in the Representative's judgment would make it impracticable to proceed with the offering, sale and/or delivery of the Public Securities or to enforce contracts made by the Underwriters for the sale of the Public Securities.

8.3 Expenses. Notwithstanding anything to the contrary in this Agreement, except in the case of a default by the Underwriters, pursuant to Section 6.2 above, in the event that this Agreement shall not be carried out for any reason whatsoever, within the time specified herein or any extensions thereof pursuant to the terms herein, the Company shall be obligated to pay to the Underwriters their actual and accountable out-of-pocket expenses related to the transactions contemplated herein then due and payable (including the fees and disbursements of Representative Counsel) up to $150,000 inclusive of the $35,000 advance for non-accountable expenses previously paid by the Company to the Representative (the "**Advance**") and upon demand the Company shall pay the full amount thereof to the Representative on behalf of the Underwriters; provided, however, that such expense cap in no way limits or impairs the indemnification and contribution provisions of this Agreement. Notwithstanding the foregoing, any advance received by the Representative will be reimbursed to the Company to the extent not actually incurred in compliance with FINRA Rule 5110(f)(2)(C).

8.4 Survival of Indemnification. Notwithstanding any contrary provision contained in this Agreement, any election hereunder or any termination of this Agreement, and whether or not this Agreement is otherwise carried out, the provisions of Section 5 shall remain in full force and effect and 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.

8.5 Representations, Warranties, Agreements to Survive. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its Affiliates or selling agents, any person controlling any Underwriter, its officers or directors or any person controlling the Company or (ii) delivery of and payment for the Public Securities.

9. Miscellaneous.

9.1 Notices. All communications hereunder, except as herein otherwise specifically provided, shall be in writing and shall be mailed (registered or certified mail, return receipt requested), personally delivered or sent by facsimile transmission and confirmed and shall be deemed given when so delivered or faxed and confirmed or if mailed, two (2) days after such mailing.

If to the Representative:

Aegis Capital Corp.
810 Seventh Avenue, 18th Floor
New York, New York 10019
Attn: Mr. David Bocchi, Managing Director of Investment Banking
Fax No.: (212) 813-1047

with a copy (which shall not constitute notice) to:
Blank Rome LLP
405 Lexington Avenue
New York, New York 10174
Attn: Brad L. Shiffman, Esq.
Fax No.: (917) 332-3725

If to the Company:

Semler Scientific, Inc.
2330 NW Everett St.
Portland, Oregon 97210
Attention: Douglas Murphy-Chutorian, M.D.
Fax No: [_____]

with a copy (which shall not constitute notice) to:

Reed Smith LLP
599 Lexington Avenue
New York, New York 10174
Attention: Yvan Claude-Pierre, Esq.
Fax No: (212) 521-5450

9.2 Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

9.3 Absence of Fiduciary Relationship. The Company acknowledges and agrees that:

(i) each Underwriter's responsibility to the Company is solely contractual in nature, each Underwriter has been retained solely to act as an underwriter in connection with the Offering and no fiduciary, advisory or agency relationship between the Company and the Underwriters has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether either the Representative has advised or is advising the Company on other matters;

(ii) the price of the Public Securities set forth in this Agreement was established by the Company following discussions and arms-length negotiations with the Representative, and the Company is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement; and

(iii) it has been advised that the Representative and their respective affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that the Underwriters have no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship.

9.4 Research Analyst Independence. The Company acknowledges that each Underwriter's research analysts and research departments are required to be independent from its investment banking division and are subject to certain regulations and internal policies, and that such Underwriter's research analysts may hold views and make statements or investment recommendations and/or publish research reports with respect to the Company and/or the offering that differ from the views of their investment banking division. The Company acknowledges that each Underwriter is a full service securities firm and as such from time to time, subject to applicable securities laws, rules and regulations, may effect transactions for its own account or the account of its customers and hold long or short positions in debt or equity securities of the Company; provided, however, that nothing in this Section 9.4 shall relieve the Underwriter of any responsibility or liability it may otherwise bear in connection with activities in violation of applicable securities laws, rules or regulations.

9.5 Amendment. This Agreement may only be amended by a written instrument executed by each of the parties hereto.

9.6 Entire Agreement. This Agreement (together with the other agreements and documents being delivered pursuant to or in connection with this Agreement) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and thereof, and supersedes all prior agreements and understandings of the parties, oral and written, with respect to the subject matter hereof.

9.7 Binding Effect. This Agreement shall inure solely to the benefit of and shall be binding upon the Representative, the Underwriters, the Company and the controlling persons, directors and officers referred to in Section 5.2 hereof, and their respective successors, legal representatives, heirs 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. The term "successors and assigns" shall not include a purchaser, in its capacity as such, of securities from any of the Underwriters.

9.8 Governing Law; Consent to Jurisdiction; Trial by Jury. 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 conflict of laws principles thereof. The Company hereby agrees that any action, proceeding or claim against it arising out of, or relating in any way to this Agreement shall be brought and enforced in the New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. The Company hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum. Any such process or summons to be served upon the Company may be served by transmitting a copy thereof by registered or certified mail, return receipt requested, postage prepaid, addressed to it at the address set forth in Section 9.1 hereof. Such mailing shall be deemed personal service and shall be legal and binding upon the Company in any action, proceeding or claim. The Company agrees that the prevailing party(ies) in any such action shall be entitled to recover from the other party(ies) all of its reasonable attorneys' fees and expenses relating to such action or proceeding and/or incurred in connection with the preparation therefor. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

9.9 Execution in Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts has been signed by each of the parties hereto and delivered to each of the other parties hereto. Delivery of a signed counterpart of this Agreement by facsimile or email/pdf transmission shall constitute valid and sufficient delivery thereof.

9.10 Waiver, etc. The failure of any of the parties hereto to at any time enforce any of the provisions of this Agreement shall not be deemed or construed to be a waiver of any such provision, nor to in any way effect the validity of this Agreement or any provision hereof or the right of any of the parties hereto to thereafter enforce each and every provision of this Agreement. No waiver of any breach, non-compliance or non-fulfillment of any of the provisions of this Agreement shall be effective unless set forth in a written instrument executed by the party or parties against whom or which enforcement of such waiver is sought; and no waiver of any such breach, non-compliance or non-fulfillment shall be construed or deemed to be a waiver of any other or subsequent breach, non-compliance or non-fulfillment.

**[*Signature Page Follows*]**

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 between us.

Very truly yours,

SEMLER SCIENTIFIC, INC.

By: _____
Name:
Title:

Confirmed as of the date first written
above, on behalf of itself and as
Representative of the several Underwriters
named on Schedule 1 hereto:

AEGIS CAPITAL CORP.

By: _____
Name:
Title:

**SCHEDULE 1**

| Underwriter | Total Number of Firm Shares to be Purchased | Number of Additional Shares to be Purchased if Over-Allotment Option is Fully Exercised |
|---|---|---|
| Aegis Capital Corp | | |

**SCHEDULE 2-A**

**Pricing Information**

Number of Firm Shares:

Number of Additional Shares:

Public Offering Price per Share:

Underwriting Discount per Share:

Underwriting Non-accountable expense allowance per Share:

Proceeds to Company per Share (before expenses):

**SCHEDULE 2-B**

**Issuer General Use Free Writing Prospectuses**

[None]

**SCHEDULE 2-C**

**Written Testing-the-Waters Communications**

[None]

**SCHEDULE 3**

**List of Lock-Up Parties**

**EXHIBIT A**

**Form of Representative's Warrant Agreement**

**EXHIBIT B**

**Form of Lock-Up Agreement**

**EXHIBIT C**

**Form of Press Release**

**Exhibit 3.1**

**CERTIFICATE OF INCORPORATION**
**OF**
**SEMLER SCIENTIFIC, INC.**

The undersigned, a natural person, for the purposes of organizing a corporation for conducting the business and promoting the purposes hereinafter stated, under the provisions and subject to the requirements of the laws of the State of Delaware (particularly Chapter 1, Title 8 of the Delaware Code and the acts amendatory thereof and supplemental thereto, and known and referred to as the "General Corporation Law"), hereby certifies that:

**ARTICLE I**

The name of the corporation is Semler Scientific, Inc. (the "Corporation").

**ARTICLE II**

The address of the registered office of the Corporation in the State of Delaware is located at 2711 Centerville Road, Suite 400, City of Wilmington, County of New Castle, 19808. The name of its registered agent at such address is Corporation Service Company.

**ARTICLE III**

The nature of the businesses and purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law. The Corporation will have perpetual existence.

**ARTICLE IV**

A. Authorization of Stock.

1. Authorization of Stock. The total number of shares of stock that the corporation shall have authority to issue is Fifty Four Million (54,000,000), consisting of Fifty Million (50,000,000) shares of common stock, $0.001 par value per share (the "Common Stock"), and Four Million (4,000,000) shares of Preferred Stock, $0.001 par value per share. The first Series of Preferred Stock shall be designated "Series A-2 Preferred Stock" and shall consist of Four Hundred Thousand (400,000) shares. The second Series of Preferred Stock shall be designated "Series A-1 Preferred Stock" and shall consist of Eight Hundred Thousand (800,000) shares. The third Series of Preferred Stock shall be designated "Series A Preferred Stock" and shall consist of Two Million Eight Hundred Thousand (2,800,000) shares.

B. Conversion and Rights and Privileges of Stock.

1. Conversion. The holders of the Preferred Stock shall have conversion rights as follows:

(a) Right to Convert. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of the Corporation or any transfer agent for the Preferred Stock, into that number of fully-paid,

nonassessable shares of Common Stock determined by dividing the Original Issue Price for the relevant series by the Conversion Price for such series. (The number of shares of Common Stock into which each share of Preferred Stock of a series may be converted is hereinafter referred to as the "Conversion Rate" for each such series.) Upon any decrease or increase in the Conversion Price for any series of Preferred Stock, as described in this Section 4(B)(1), the Conversion Rate for such series shall be appropriately increased or decreased.

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share (i) immediately prior to the closing of a firm commitment underwritten initial public offering pursuant to an effective registration statement filed under the Securities Act of 1933, as amended (the "Securities Act"), covering the offer and sale of the Corporation's Common Stock, *provided*, that the offering price per share is not less than $22.50 (as adjusted for Recapitalizations) and the aggregate gross proceeds to the Corporation are not less than $30,000,000, or (ii) upon the receipt by the Corporation of a written request for such conversion from each of the Requisite Holders and the holders of a majority of the outstanding shares of Preferred Stock (on an as-converted basis), or, if later, the effective date for conversion specified in such requests (each of the events referred to in (i) and (ii) are referred to herein as an "Automatic Conversion Event").

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair market value of a share of Common Stock as determined by the board of directors of the Corporation (the "Board of Directors"). For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be paid in cash. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock, and to receive certificates therefor, he shall either (i) surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Preferred Stock or (ii) notify the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and execute an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates, and shall give written notice to the Corporation at such office that he elects to convert the same; *provided*, *however*, that on the date of an Automatic Conversion Event, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; *provided further*, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such Automatic Conversion Event unless the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. On the date of the occurrence of an Automatic Conversion Event, each holder of record of shares of Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of Preferred Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation

shall not have been received by any holder of record of shares of Preferred Stock, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

The Corporation shall, as soon as practicable after such delivery, or after such agreement and indemnification, issue and deliver at such office to such holder of Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which the holder shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date; *provided*, *however*, that if the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act or a merger, sale, financing, or liquidation of the Corporation or other event, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing of such transaction or upon the occurrence of such event, in which case the person(s) entitled to receive the Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such transaction or the occurrence of such event.

(d) Adjustments to Conversion Price for Diluting Issues.

(i) Special Definition. For purposes of this Section 4(B)(1)(d), "Additional Shares of Common" shall mean all shares of Common Stock issued (or, pursuant to Section 4(B)(1)(d)(iii), deemed to be issued) by the Corporation after the filing of this Certificate of Incorporation, other than issuances or deemed issuances of:

(A) shares of Common Stock issued or issuable to officers, directors and employees of, or consultants to, the Corporation pursuant to stock grants, option plans, purchase plans or other employee stock incentive programs or arrangements approved by the Board of Directors, or upon exercise of options or warrants granted to such parties pursuant to any such plan or arrangement;

(B) shares of Common Stock issued upon the exercise or conversion of Options or Convertible Securities outstanding as of the date of the filing of this Certificate of Incorporation;

(C) shares of Common Stock issued or issuable as a dividend or distribution on Preferred Stock or pursuant to any event for which adjustment is made pursuant to Sections 4(B)(1)(e), 4(B)(1)(f) or 4(B)(1)(g) hereof;

(D) shares of Common Stock issued in a registered public offering under the Securities Act;

(E) shares of Common Stock issued or issuable pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, *provided*, that such issuances are approved by the Board of Directors;

(F) shares of Common Stock issued or issuable to banks, equipment lessors or other financial institutions pursuant to a debt financing or commercial leasing transaction approved by the Board of Directors;

(G) shares of Common Stock issued or issuable in connection with any settlement of any action, suit, proceeding or litigation approved by the Board of Directors;

(H) shares of Common Stock issued or issuable in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board of Directors;

(I) shares of Common Stock (or warrants exercisable therefor) issued or issuable pursuant to the terms of the Exchange Agreement dated on or about July 6, 2012 by and among the Corporation, its stockholders, and certain other persons and entities as described therein;

(J) shares of Common Stock (or warrants exercisable therefor) issued or issuable pursuant to one or more Series A Preferred Stock and Warrant Subscription Agreements each to be entered into between the Corporation and the "Investor" as defined therein, and pursuant to which the Corporation may sell up to 666,667 shares of Series A Preferred Stock (and issue certain warrants in connection therewith); and

(K) shares of Common Stock issued or issuable to suppliers or third party service providers in connection with the provision of goods or services pursuant to transactions approved by the Board of Directors;

(ii) No Adjustment of Conversion Price. No adjustment in the Conversion Price of a particular series of Preferred Stock shall be made in respect of the issuance of Additional Shares of Common unless the consideration per share (as determined pursuant to Section 4(B)(1)(d)(v)) for an Additional Share of Common issued or deemed to be issued by the Corporation is less than the Conversion Price in effect on the date of, and immediately prior to such issue, for such series of Preferred Stock.

(iii) Deemed Issue of Additional Shares of Common. In the event the Corporation at any time or from time to time after the date of the filing of this Certificate of Incorporation shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities, the conversion or exchange of such Convertible Securities or, in the case of Options for Convertible Securities, the exercise of such Options and the conversion or

exchange of the underlying securities, shall be deemed to have been issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, *provided*, that in any such case in which shares are deemed to be issued:

(A) no further adjustment in the Conversion Price of any series of Preferred Stock shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock in connection with the exercise of such Options or conversion or exchange of such Convertible Securities;

(B) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any change in the consideration payable to the Corporation or in the number of shares of Common Stock issuable upon the exercise, conversion or exchange thereof (other than a change pursuant to the anti-dilution provisions of such Options or Convertible Securities such as this Section 4(B)(1)(d) or pursuant to Recapitalization provisions of such Options or Convertible Securities such as Sections 4(B)(1)(e), 4(B)(1)(f) and 4(B)(1)(g) hereof), the Conversion Price of each series of Preferred Stock and any subsequent adjustments based thereon shall be recomputed to reflect such change as if such change had been in effect as of the original issue thereof (or upon the occurrence of the record date with respect thereto);

(C) no readjustment pursuant to subsection (B) above shall have the effect of increasing the Conversion Price of a series of Preferred Stock to an amount above the Conversion Price that would have resulted from any other issuances of Additional Shares of Common and any other adjustments provided for herein between the original adjustment date and such readjustment date;

(D) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price of each Series of Preferred Stock computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto) and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:

(1) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of such exercised Options plus the consideration actually received by the Corporation upon such exercise or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange;

(2) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common deemed to have been then issued was the consideration actually received by the Corporation for the issue of such exercised Options, plus the consideration deemed to have been received by the Corporation (determined pursuant to Section 4(B)(1)(d)(v))

upon the issue of the Convertible Securities with respect to which such Options were actually exercised; and

(E) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Conversion Price which became effective on such record date shall be canceled as of the close of business on such record date, and thereafter the Conversion Price shall be adjusted pursuant to this Section 4(B)(1)(d)(iii) as of the actual date of their issuance.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common. In the event this Corporation shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 4(B)(1)(d)(iii)) without consideration or for a consideration per share less than the applicable Conversion Price of a series of Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the affected series of Preferred Stock shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common so issued. Notwithstanding the foregoing, the Conversion Price shall not be reduced at such time if the amount of such reduction would be less than $0.01, but any such amount shall be carried forward, and a reduction will be made with respect to such amount at the time of, and together with, any subsequent reduction which, together with such amount and any other amounts so carried forward, equal $0.01 or more in the aggregate. For the purposes of this Section 4(B)(1)(d)(iv), all shares of Common Stock issuable upon conversion of all outstanding shares of Preferred Stock and the exercise and/or conversion of any other outstanding Convertible Securities and all outstanding Options shall be deemed to be outstanding.

(v) Determination of Consideration. For purposes of Section 4(B)(1)(d), the consideration received by the Corporation for the issue (or deemed issue) of any Additional Shares of Common shall be computed as follows:

(A) Cash and Property. Such consideration shall:

(1) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with such issuance;

(2) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(3) in the event Additional Shares of Common are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in subsections (1) and (2) above, as reasonably determined in good faith by the Board of Directors.

(B) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common deemed to have been issued pursuant to Section 4(B)(1)(d)(iii) shall be determined by dividing:

(1) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by,

(2) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(e) Adjustments for Subdivisions or Combinations of Common Stock. In the event the outstanding shares of Common Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Common Stock, the Conversion Price of each series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Common Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Common Stock, the Conversion Prices in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(f) Adjustments for Subdivisions or Combinations of Preferred Stock. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Preferred Stock, the Dividend Rate, Original Issue Price and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(g) Adjustments for Reclassification, Exchange and Substitution. Subject to Section 4(B)(3) below ("Liquidation Rights"), if the Common Stock issuable upon conversion of

the Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), then, in any such event, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive each holder of such Preferred Stock shall have the right thereafter to convert such shares of Preferred Stock into a number of shares of such other class or classes of stock which a holder of the number of shares of Common Stock deliverable upon conversion of such series of Preferred Stock immediately before that change would have been entitled to receive in such reorganization or reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(h) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4(B)(1), the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Stock.

(i) Waiver of Adjustment of Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of the Series A-2 Preferred Stock or Series A-1 Preferred Stock may be waived by the consent or vote of the holders of the majority of the outstanding shares of such series, and any downward adjustment of the Conversion Price of the Series A Preferred Stock may be waived by the consent or vote of each of the Requisite Holders and the holders of a majority of the outstanding shares of such series, in each case either before or after the issuance causing the adjustment. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

(j) Notices of Record Date. In the event that this Corporation shall propose at any time:

(i) to declare any Distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or

(iii) to voluntarily liquidate or dissolve or to enter into any transaction deemed to be a liquidation, dissolution or winding up of the corporation pursuant to Section (4)(B)(3)(e);

then, in connection with each such event, this Corporation shall send to the holders of the Preferred Stock prior written notice of the date on which a record shall be taken for such

Distribution (and specifying the date on which the holders of Common Stock shall be entitled thereto and, if applicable, the amount and character of such Distribution ) or for determining rights to vote in respect of the matters referred to in subsections (ii) and (iii) above.

Such written notice shall be given by first class mail (or express courier), postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of the Corporation and shall be deemed given on the date such notice is mailed.

The notice provisions set forth in this Section 4(B)(1)(j) may be shortened or waived prospectively or retrospectively by the consent or vote of each of the Requisite Holders and the holders of a majority of the outstanding shares of Preferred Stock (on an as-if converted basis).

(k) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

2. Dividend Provisions.

(a) Series A Preferred Stock. In any calendar year, the holders of outstanding shares of Series A Preferred Stock shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Series A Preferred Stock payable in preference and priority to any declaration or payment of any Distribution on Series A-2 Preferred Stock, Series A-1 Preferred Stock, or Common Stock of the Corporation in such calendar year. No Distributions shall be made with respect to the Series A-2 Preferred Stock, Series A-1 Preferred Stock, or Common Stock unless dividends on the Series A Preferred Stock have been declared in accordance with the preferences stated herein and all declared dividends on the Series A Preferred Stock have been paid or set aside for payment to the Series A Preferred Stock holders. The right to receive dividends on shares of Series A Preferred Stock shall not be cumulative, and no right to dividends shall accrue to holders of Series A Preferred Stock by reason of the fact that dividends on said shares are not declared or paid.

(b) Series A-2 Preferred Stock and A-1 Preferred Stock. After the payment or setting aside for payment of the dividends described in Section 4(B)(2)(a), the holders of outstanding shares of Series A-2 Preferred Stock and Series A-1 Preferred Stock shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time legally available therefor, at the Dividend Rate specified for such shares of Series A-2 Preferred Stock and Series A-1 Preferred Stock payable in preference and priority to any declaration or payment of any Distribution on Common Stock of the Corporation in such calendar year. No Distributions shall be made with respect to the Common Stock unless dividends on the Preferred Stock have been declared in accordance with the preferences stated

herein and all declared dividends on the Preferred Stock have been paid or set aside for payment to the Preferred Stock holders. The right to receive dividends on shares of Series A-2 Preferred Stock and Series A-1 Preferred Stock shall not be cumulative, and no right to dividends shall accrue to holders of Series A-2 Preferred Stock and Series A-1 Preferred Stock by reason of the fact that dividends on said shares are not declared or paid.

(c) Additional Dividends. After the payment or setting aside for payment of the dividends described in Sections 4(B)(2)(a) and 4(B)(2)(b), any additional dividends (other than dividends on Common Stock payable solely in Common Stock) set aside or paid in any fiscal year shall be set aside or paid among the holders of the Series A Preferred Stock and Common Stock then outstanding in proportion to the greatest whole number of shares of Common Stock which would be held by each such holder if all shares of Series A Preferred Stock were converted at the then-effective Conversion Rate (as defined in Section 4(B)(1)).

(d) Non-Cash Distributions. Whenever a Distribution provided for in this Section 4(B)(2) shall be payable in property other than cash, the value of such Distribution shall be deemed to be the fair market value of such property as determined in good faith by the Board of Directors.

(e) Waiver of Dividends. Any dividend preference of the Series A-2 Preferred Stock and Series A-1 Preferred Stock may be waived, in whole or in part, by the consent or vote of the holders of the majority of the outstanding shares of such series. Any dividend preference of the Series A Preferred Stock may be waived, in whole or in part, by the consent or vote of (i) the holders of the majority of the outstanding shares of such series and (ii) each of the Requisite Holders.

3. Liquidation Rights.

(a) Series A Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any Distribution of any of the assets of the Corporation to the holders of the Series A-2 Preferred Stock, Series A-1 Preferred Stock, or Common Stock by reason of their ownership of such stock, an amount per share for each share of Series A Preferred Stock held by them equal to the sum of (i) the Liquidation Preference specified for such share of Series A Preferred Stock and (ii) all declared but unpaid dividends (if any) on such share of Series A Preferred Stock, or such lesser amount as may be approved by the each of the Requisite Holders and the holders of a majority of the outstanding shares of such series. If upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution to the holders of the Series A Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 4(B)(3)(a), then the entire assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series A Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 4(B)(3)(a).

(b) Series A-2 and Series A-1 Liquidation Preference. After the payment to the holders of the Series A Preferred Stock of the full preferential amounts specified in Section

4(B)(3)(a), the holders of the Series A-2 Preferred Stock and A-1 Preferred Stock shall be entitled to receive, prior and in preference to any Distribution of any of the assets of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, an amount per share for each share of Series A-2 Preferred Stock and Series A-1 Preferred Stock held by them equal to the sum of (i) the Liquidation Preference specified for such share of Series A-2 Preferred Stock and Series A-1 Preferred Stock and (ii) all declared but unpaid dividends (if any) on such share of Series A-2 Preferred Stock and Series A-1 Preferred Stock, or such lesser amount as may be approved by the holders of a majority of the then outstanding shares of Series A-2 Preferred Stock or Series A-1 Preferred Stock, as applicable. If upon the liquidation, dissolution or winding up of the Corporation, and after the payment to the holders of Series A Preferred Stock of the full preferential amounts specified in Section 4(B)(3)(a), the remaining assets of the Corporation legally available for distribution to the holders of the Series A-2 Preferred Stock and Series A-1 Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 4(B)(3)(b) then such remaining assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the holders of the Series A-2 Preferred Stock and Series A-1 Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 4(B)(3)(b).

(c) Remaining Assets. After the payment to the holders of Preferred Stock of the full preferential amounts specified in Section 4(B)(3)(a) and Section 4(B)(3)(b), the entire remaining assets of the Corporation legally available for distribution by the Corporation shall be distributed with equal priority and *pro rata* among the holders of the Series A Preferred Stock and Common Stock in proportion to the number of shares of Common Stock held by them, with the shares of Series A Preferred Stock being treated for this purpose as if they had been converted to shares of Common Stock at the then applicable Conversion Rate. Notwithstanding the foregoing, the aggregate distributions made pursuant to one or more sections of this Section 4(B)(3) with respect to any share of Series A Preferred Stock shall not exceed an amount equal to two times the applicable Liquidation Preference for that share of Preferred Stock plus any declared but unpaid dividends.

(d) Shares not Treated as Both Preferred Stock and Common Stock in any Distribution. Shares of Preferred Stock shall not be entitled to be converted into shares of Common Stock in order to participate in any Distribution, or series of Distributions, as shares of Common Stock, without first foregoing participation in the Distribution, or series of Distributions, as shares of Preferred Stock.

(e) Reorganization. For purposes of this Section 4(B)(3), a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (i) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions to which the Corporation is party (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any sale of stock for capital raising purposes) other than a transaction or series of related transactions in which the holders of the voting securities of the Corporation outstanding immediately prior to such transaction or series of related transactions retain, immediately after such transaction or series of transactions, as a result of shares in the Corporation held by such holders prior to such transaction, at least a majority of the total voting power represented by the outstanding voting securities of the

Corporation or such other surviving or resulting entity (or if the Corporation or such other surviving or resulting entity is a wholly-owned subsidiary immediately following such acquisition, its parent); (ii) a sale, lease or other disposition of all or substantially all of the assets of the Corporation and its subsidiaries taken as a whole by means of any transaction or series of related transactions, except where such sale, lease or other disposition is to a wholly-owned subsidiary of the Corporation; or (iii) any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary. The treatment of any transaction or series of related transactions as a liquidation, dissolution or winding up pursuant to clause (i) or (ii) of the preceding sentence may be waived by the consent or vote of each of the Requisite Holders and the holders of a majority of the outstanding shares of Preferred Stock (on an as-converted basis).

(f) Valuation of Non-Cash Consideration. If any assets of the Corporation distributed to stockholders in connection with any liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board of Directors, except that any publicly-traded securities to be distributed to stockholders in a liquidation, dissolution, or winding up of the Corporation shall be valued as follows:

(i) if the securities are then traded on a national securities exchange, then the value of the securities shall be deemed to be the average of the closing prices of the securities on such exchange over the ten (10) trading day period ending five (5) trading days prior to the Distribution; and

(ii) if the securities are actively traded over-the-counter, then the value of the securities shall be deemed to be the average of the closing bid prices of the securities over the ten (10) trading day period ending five (5) trading days prior to the Distribution.

In the event of a merger or other acquisition of the Corporation by another entity, the Distribution date shall be deemed to be the date such transaction closes.

For the purposes of this Section 4(B)(3)(f), "trading day" shall mean any day which the exchange or system on which the securities to be distributed are traded is open and "closing prices" or "closing bid prices" shall be deemed to be: (A) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or a Nasdaq market, the last reported trade price or sale price, as the case may be, at 4:00 p.m., New York time, on that day and (B) for securities listed or traded on other exchanges, markets and systems, the market price as of the end of the regular hours trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times.

4. Voting.

(a) Restricted Class Voting. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

(b) No Series Voting. Other than as provided herein or required by law, there shall be no series voting.

(c) Preferred Stock. Each holder of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Preferred Stock held by such holder could be converted as of the record date. The holders of shares of the Preferred Stock shall be entitled to vote on all matters on which the Common Stock shall be entitled to vote. Holders of Preferred Stock shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted), shall be disregarded.

(d) Election of Directors. Three (3) members of the Board of Directors shall be elected by the holders of a majority of the outstanding Common Stock, voting as a separate class. For so long as at least 100,000 shares of Series A Preferred Stock remain outstanding, two (2) member of the Board of Directors shall be elected by the holders of a majority of the outstanding Series A Preferred Stock, voting as a separate class. All other members of the Board of Directors shall be elected by the holders of a majority of the outstanding Common Stock and Preferred Stock, voting together as a single class on an as-converted basis.

(e) Adjustment in Authorized Common Stock. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by an affirmative vote of each of the Requisite Holders and the holders of a majority of the Common Stock and Preferred Stock, voting together as a single class on an as-converted basis.

(f) Common Stock. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

(g) No stockholder of the Corporation shall by reason of holding shares of any class of stock have any cumulative voting right.

5. Protective Provisions. As long as twenty-five percent (25%) of the shares of Series A Preferred Stock originally issued by the Corporation are issued and outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent as provided by law) of each of the Requisite Holders:

(a) amend, alter or repeal any provision of this Certificate of Incorporation in any manner that adversely alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Preferred Stock or any series thereof;

(b) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the authorized number of shares of Common Stock or Preferred Stock or any series thereof;

(c) authorize or create (by reclassification or otherwise) any new class or series of equity security having rights, preferences or privileges with respect to dividends, or payments upon liquidation senior to or on parity with any series of Preferred Stock; or

(d) amend this Section 4(B)(5).

6. Notices. Any notice required by the provisions of this Article Fourth to be given to the holders of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the books of the Corporation.

C. Definitions. For purposes of this Certificate of Incorporation, the following definitions shall apply:

1. "Conversion Price" shall mean $2.00, $4.00, and $4.50 per share for the Series A-2 Preferred Stock, Series A-1 Preferred Stock, and Series A Preferred Stock, respectively (and, in each case, subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein).

2. "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities convertible into or exchangeable for Common Stock.

3. "Distribution" shall mean the transfer of cash or other property without consideration whether by way of dividend or otherwise, other than dividends on Common Stock payable in Common Stock, or the purchase or redemption of shares of the Corporation by the Corporation for cash or property other than: (a) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase, (b) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such right, (c) repurchase of capital stock of the Corporation in connection with the settlement of disputes with any stockholder, and (iv) any other repurchase or redemption of capital stock of the Corporation approved by the holders of the Common and Preferred Stock of the Corporation voting as separate classes.

4. "Dividend Rate" shall mean an annual rate of $0.16, $0.32, and $0.36 per share for the Series A-2 Preferred Stock, Series A-1 Preferred Stock, and Series A Preferred Stock, respectively (and, in each case, subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein).

5. "Liquidation Preference" shall mean $2.00, $4.00, and $4.50 per share for the Series A-2 Preferred Stock, Series A-1 Preferred Stock, and Series A Preferred Stock, respectively (and, in each case, subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein).

6. "Options" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

7. "Original Issue Price" shall mean $2.00, $4.00, and $4.50 per share for the Series A-2 Preferred Stock, Series A-1 Preferred Stock, and Series A Preferred Stock, respectively (and, in each case, subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein).

8. "Preferred Stock" shall mean the Series A-2 Preferred Stock, Series A-1 Preferred Stock, and Series A Preferred Stock.

9. "Recapitalization" shall mean any stock dividend, stock split, combination of shares, reorganization, recapitalization, reclassification or other similar event.

10. "Requisite Holders" shall mean each of William Chang and Eric Semler, but, with respect to each, only for so long as such entity holds not less than fifty percent (50%) of the shares of Series A Preferred Stock held by it as of July 6, 2012.

**ARTICLE V**

Except as otherwise provided in this Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

**ARTICLE VI**

The number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

**ARTICLE VII**

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

**ARTICLE VIII**

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

**ARTICLE IX**

To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law or such other law of the State of Delaware as so

amended. Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

**ARTICLE X**

The following indemnification provisions shall apply to the persons enumerated below:

A. Right to Indemnification of Directors and Officers. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an "Indemnified Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 10(C) or in respect of any counterclaims of an Indemnified Person made in response to a Proceeding not commenced by such Indemnified Person, the Corporation shall be required to indemnify an Indemnified Person in connection with a Proceeding (or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding (or part thereof) by the Indemnified Person was authorized in advance by the Board.

B. Prepayment of Expenses of Directors and Officers. The Corporation shall pay the expenses (including attorneys' fees) incurred by an Indemnified Person in defending any Proceeding in advance of its final disposition; *provided*, *however*, that, to the extent required by law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Indemnified Person to repay all amounts advanced if it should be ultimately determined that the Indemnified Person is not entitled to be indemnified under this Article Tenth or otherwise.

C. Claims by Directors and Officers. If a claim for indemnification or advancement of expenses under this Article Tenth is not paid in full within 30 days after a written claim therefor by the Indemnified Person has been received by the Corporation, the Indemnified Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Indemnified Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

D. Indemnification of Employees and Agents. The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for

whom such person is the legal representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorney's fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification under this Section 10(D) of persons who are non-director or non-officer employees or agents shall be made in such manner as is determined by the Board in its sole discretion. Notwithstanding the foregoing sentence, the Corporation shall not be required to indemnify a person under this Section 10(D) in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board.

E. Advancement of Expenses of Employees and Agents. The Corporation may pay the expenses (including attorney's fees) incurred by persons who are non-director or non-officer employees or agents in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board.

F. Non-Exclusivity of Rights. The rights conferred on any person by this Article Tenth shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, provision of the Bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

G. Insurance. The Board of Directors may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance: (a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article Tenth; and (b) to indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Tenth.

H. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person's heirs, executors and administrators.

**ARTICLE XI**

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

**ARTICLE XII**

The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "Excluded

Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (A) any director of the Corporation who is not an employee or consultant of the Corporation or any of its subsidiaries, or (B) any holder of Series Preferred or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee or consultant of the Corporation or any of its subsidiaries (collectively, "Covered Persons"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation.

**ARTICLE XIII**

The incorporator of the Corporation is Daniel E. Conger whose mailing address is 2330 NW Everett Street, Portland, Oregon 97210.

**IN WITNESS WHEREOF**, this Certificate of Incorporation has been executed by the incorporator of the Corporation on this 16th day of September, 2013.

s/ Daniel E. Conger

Daniel E. Conger, Incorporator

**BYLAWS**
**OF**
**SEMLER SCIENTIFIC, INC.**

**ARTICLE I**
**STOCKHOLDERS**

**Section 1 Annual Meeting**.

(a) An annual meeting of the stockholders, for the purpose of the election of directors to succeed those whose terms may expire in such year and for the transaction of such other business as may properly come before the meeting, shall be held at such place within or without the State of Delaware or solely by means of remote communication pursuant to Section 211(a)(2) of the Delaware General Corporation Law (the "***DGCL***"), on such date, and at such time as may be designated by the Board of Directors each year.

(b) Nominations of persons for election to the Board of Directors and the proposal of business to be transacted by the stockholders may only be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of such meeting, (ii) by or at the direction of the Board of Directors, or (iii) by any stockholder of record of the Corporation at the time of the giving of the notice required in Section 1(c) of this Article I who is entitled to vote at the meeting and who has complied with the notice procedures set forth in this Section 1. The foregoing clause (iii) shall be the exclusive means for a stockholder to make nominations or propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "***Exchange Act***")) at an annual meeting of stockholders.

(c) For nominations or business to be properly brought before an annual meeting by a stockholder of record pursuant to clause (iii) of Section 1(b), (i) the stockholder of record must have given timely notice thereof in writing to the Secretary of the Corporation, (ii) the stockholder of record must provide to the Secretary of the Corporation any updates or supplements to such notice at the times and in the forms specified in this Section 1, (iii) any such business must be a proper matter for stockholder action under Delaware law and (iv) the stockholder of record and the beneficial owner or owners, if any, on whose behalf any such proposal or nomination is made, must have acted in accordance with the representations set forth in the Solicitation Statement (as defined in Section 1(d)(iii)(D)). To be timely, a notice by a stockholder of record must be received by the Secretary at the principal executive offices of the Corporation not less than ninety (90) or more than one hundred and twenty (120) days prior to the one-year anniversary of the date of the preceding year's annual meeting of stockholders; provided, however, that, subject to the last sentence of this Section 1(c), if the meeting is convened more than sixty (60) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, or if no annual meeting was held in the preceding year, notice by the stockholder of record to be timely must be so received not earlier than the close of business on the 120th day prior to the date of the annual meeting and not later than the close of business on the later of (i) the 90th day before such annual meeting or (ii) if the first public announcement of the date of such annual meeting is less than one hundred (100) days prior to the date of such annual meeting, the 10th day following the day on which public

announcement of the date of such meeting is first made. Notwithstanding anything in the preceding sentence to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there has been no public announcement naming all of the nominees for director or indicating the increase in the size of the Board of Directors made by the Corporation at least ten (10) days before the last day, a stockholder of record may deliver a notice of nomination in accordance with the preceding sentence, a notice by a stockholder of record required by this Section 1 shall also be considered timely, but only with respect to nominees for any new positions created by such increase in the number of directors, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation. In no event shall an adjournment, or postponement of an annual meeting for which notice has been given, commence a new time period for the giving of a notice by a stockholder of record.

(d) Such notice by a stockholder of record shall set forth:

(i) If such notice pertains to the nomination of directors, as to each person whom the stockholder of record proposes to nominate for election or reelection as a director: (A) all information relating to such person as would be required to be disclosed in solicitations of proxies for the election of such nominees as directors pursuant to Regulation 14A under the Exchange Act; (B) such person's written consent to serve as a director if elected; (C) a description of all direct and indirect compensation or other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder of record and beneficial owner or owners, if any, and their respective affiliates and associates, or other persons acting in concert therewith, on the one hand, and each proposed nominee and his or her respective affiliates and associates or other persons acting in concert therewith, on the other hand, including without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder of record making the nomination and any beneficial owner or owners, if any, or other person on whose behalf the nomination is made, or any affiliate or associate thereof or other person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and (D) a completed and signed questionnaire, representation or agreement as may be required by the Corporation pursuant to Section 3 of Article II of these Bylaws. For purposes of these Bylaws, a person shall be deemed to be acting in concert with another person if such person knowingly acts toward a common goal relating to the management, governance or control of the corporation in parallel with such other person where (A) each person is conscious of the other person's conduct or intent and this awareness is an element in their decision-making process and (B) at least one additional factor suggests that persons intend to act in parallel, which additional factors may include attending meetings, conducting discussions or making or soliciting invitations to act in parallel.

(ii) As to any business that the stockholder of record proposes to bring before the meeting: a brief description of such business, the reasons for conducting such business at the meeting, any material interest in such business of such stockholder of record and the beneficial owner or owners, if any, or other persons on whose behalf the proposal is made or acting in concert therewith and a description of all agreements, arrangements and understandings

between such stockholder of record and beneficial owner or owners, if any, and any other such person or persons (including their names) in connection with the proposal of such business by such stockholder of record.

(iii) As to (1) the stockholder of record giving the notice and (2) the beneficial owner or owners, if any, or other persons on whose behalf the nomination or proposal is made or acting in concert therewith (each, a "***party***"):

(A) the name and address of each such party;

(B) (1) the class, series, and number of shares of the Corporation that are owned, directly or indirectly, beneficially and of record by each such party, (2) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or providing for a settlement payment or mechanism based on the price of any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "***Derivative Instrument***") directly or indirectly owned beneficially by each such party, and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (3) any proxy, contract, arrangement, understanding or relationship pursuant to which any party, either directly or acting in concert with another person or persons, has a right to vote, directly or indirectly, any shares of any security of the Corporation, (4) any short interest or other borrowing arrangement in any security of the Corporation held by each such party (for purposes of this Section 1(d), a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (5) any rights to dividends on the shares of the Corporation owned beneficially directly or indirectly by each such party that are separated or separable from the underlying shares of the Corporation, (6) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which any party is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (7) any performance-related fees (other than an asset-based fee) that each such party is directly or indirectly entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of each such party's immediate family sharing the same household (which information set forth in this paragraph shall be supplemented by such stockholder or such beneficial owner or other person, as the case may be, not later than ten (10) days after the record date for the meeting to disclose such ownership as of the record date);

(C) any other information relating to each such party that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act (whether or not such party intends to deliver a proxy statement or conduct its own proxy solicitation); and

(D) a statement as to whether or not each such party will deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of voting power of all of the shares of capital stock of the Corporation required under applicable law to carry the proposal or, in the case of a nomination or nominations for election as directors, at least the percentage of voting power of all of the shares of capital stock of the Corporation reasonably believed by the stockholder of record or beneficial owner or owners, as the case may be, to be sufficient to elect the persons proposed to be nominated by the stockholder of record (such statement, a "***Solicitation Statement***").

(iv) A stockholder of record providing notice of a nomination of director or other business proposed to be brought before a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 1 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than five business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to) any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(e) A person shall not be eligible for election or re-election as a director at an annual meeting unless (i) the person is nominated by a stockholder of record in accordance with Section 1(b)(iii); or (ii) the person is nominated by or at the direction of the Board of Directors or a duly authorized committee thereof. Only such business shall be conducted at an annual meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this section. The chair of the meeting shall have the power and the duty to determine whether a nomination or any business proposed to be brought before the meeting has been made in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such proposed business or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(f) For purposes of these Bylaws, "***public announcement***" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(g) Notwithstanding the foregoing provisions of this Section 1, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 1. Nothing in this Section 1 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

**Section 2 Special Meetings**.

(a) Special meetings of the stockholders, other than those required by statute, may only be called by the Board of Directors, the Chairman of the Board or the Chief Executive Officer of the Corporation at such time and for such purpose as the person calling such meeting shall see fit. Special meetings of the stockholders may not be called by any other person or persons. The Board of Directors and, in the absence thereof, the Chairman of the Board or the Chief Executive Officer, may postpone or reschedule any previously scheduled special meeting. A special meeting of stockholders shall be held at such place within or without the State of Delaware or solely by means of remote communication pursuant to Section 211(a)(2) of the DGCL, on such date, and at such time as designated in the notice of such special meeting.

(b) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting by or at the direction of the Board of Directors or, in the absence thereof, the Chairman of the Board or the Chief Executive Officer. The notice of such special meeting shall include the purpose for which the meeting is called. If a special meeting of stockholders has been called for the purpose of the election of directors, nominations of persons for election to the Board of Directors may be made at such special meeting of stockholders (a) by or at the direction of the Board of Directors or (b) by any stockholder of record who, at the time of giving of notice provided for in this paragraph, shall be entitled to vote at the meeting, who delivers a written notice to the Secretary setting forth the information set forth in Section 1(d)(i) and 1(d)(iii) of this Article I and who provides to the Secretary of the Corporation any updates as supplements to such notice at the times and in the forms specified in Section 1(d)(iv). Nominations by stockholders of persons for election to the Board of Directors may be made at such a special meeting of stockholders only if such stockholder of record's notice required by the preceding sentence shall be received by the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to the date of such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or, if the first public announcement of the date of such special meeting is less than one hundred (100) days prior to the date of such special meeting, the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall an adjournment, or postponement of a special meeting for which notice has been given, commence a new time period for the giving of a stockholder of record's notice. A person shall not be eligible for election or reelection as a director at a special meeting unless the person is nominated (i) by or at the direction of the Board of Directors or (ii) by a stockholder of record in accordance with the notice procedures set forth in this Article I.

(c) Notwithstanding the foregoing provisions of this Section 2, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 2. Nothing in this Section 2 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

**Section 3** **Notice of Meetings**.

(a) Notice of the place, if any, date, and time of all meetings of the stockholders, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the DGCL or the certificate of incorporation of the Corporation).

(b) When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

(c) If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the DGCL.

**Section 4** **Voting List**. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by this section or the books of the Corporation, or to vote at any meeting of stockholders.

**Section 5** **Quorum of Stockholders**. At any meeting of the stockholders, the holders of a majority of the voting power of all of the shares of the stock entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. If a quorum is present, any action brought before such meeting shall be approved if the number of votes cast in favor of the action exceed the number of votes cast in opposition to the action, unless the action is one upon which, by express provision of the DGCL, the certificate of incorporation, or these

Bylaws, a larger or different vote is required, in which case such express provision shall take priority and control the requirements for decision of such action. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter.

If a quorum shall fail to attend any meeting, the chair of the meeting may adjourn the meeting to another place, if any, date, or time without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. A holder of stock shall be treated as being present at a meeting if the holder of such stock is (i) present in person at the meeting or (ii) represented at the meeting by a valid proxy executed in writing (or in such other manner permitted by the DGCL) by the stockholder, or by such person's duly authorized attorney in fact.

**Section 6** **Proxies; Voting**. Unless otherwise provided in the certificate of incorporation, at any meeting of the stockholders, every stockholder entitled to vote may vote in person or by proxy authorized by an instrument in writing or by an electronic transmission permitted by law filed in accordance with the procedure established for the meeting. Any copy, facsimile telecommunication or other reliable reproduction of the writing or electronic transmission authorized pursuant to this paragraph may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

**Section 7** **Conduct of Meeting**. Meetings of the stockholders shall be presided over by one of the following officers in the order of seniority and if present and acting: the Chairman of the Board of Directors, if any, the Vice-Chairman of the Board of Directors, if any, the Chief Executive Officer, a Vice-President, or, if none of the foregoing is in office and present and acting, a chairman to be chosen by the stockholders. The Secretary of the Corporation, if present, or an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present the chairman of the meeting shall appoint a secretary of the meeting.

## ARTICLE II
## DIRECTORS

**Section 1** **General Powers**. The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Corporation which are not by law required to be exercised by the stockholders. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law, may exercise the powers of the full Board of Directors until the vacancy is filled.

**Section 2** **Number, Tenure, and Qualification**. Subject to the rights of the holders of any series of preferred stock to elect any director, the number of directors authorized under these Bylaws shall range from a minimum of three (3) to a maximum of fifteen (15), and the actual number of directors within this range may be fixed or changed periodically by resolution of the Board of Directors. Each director shall hold office until the next annual meeting and until their successors are elected and qualified, or until their earlier death, resignation or removal. Directors are not required to be residents of the State of Delaware or stockholders of the Corporation.

**Section 3** **Eligibility for Nomination as a Director**. To be eligible to be a nominee for election or reelection as a director of the Corporation, a person must deliver (in accordance with the time periods prescribed for delivery of notice under Sections 1 and 2 of Article I of these Bylaws or such period as the Board of Directors may specify) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which form of questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "***Voting Commitment***") that has not been disclosed in writing to the Corporation or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, and (C) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation.

**Section 4** **Manner of Election; Vacancies**. The directors shall be elected by the stockholders at the annual meeting of stockholders, or any meeting held in lieu thereof, by a plurality vote of those stockholders present or represented by proxies. Unless and until filled by the stockholders, any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board of Directors and an unfilled vacancy resulting from the removal of any director for cause or without cause, may be filled by vote of a majority of the directors then in office although less than a quorum, or by the sole remaining director, unless the stockholders vote to leave the directorship vacant. A director elected to fill a vacancy shall hold office until the next annual meeting of stockholders and until his or her successor is elected and qualified or until his or her earlier death, resignation, or removal. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective. If at any time there are no directors in office, then an election of directors may be held

in accordance with the DGCL. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

**Section 5** **Resignation**. Any director may resign at any time upon written notice to the Corporation. Such resignation shall take effect at the time specified therein, or if no time is specified, at the time of its acceptance by the Board of Directors.

**Section 6** **Removal**. Except as may otherwise be provided by the DGCL, any director or the entire Board of Directors may be removed, with or without cause, at an annual meeting or at a special meeting called for that purpose, by the holders of a majority of the shares then entitled to vote at an election of directors. The vacancy or vacancies thus created may be filled by the stockholders at the meeting held for the purpose of removal or, if not so filled, by the directors in the manner provided in Section 4 of this Article II.

**Section 7** **Committees**. The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board of Directors, designate one or more committees, each committee to consist of one or more directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of such absent or disqualified member.

A majority of all the members of any such committee may fix its rules of procedure, determine its action and fix the time and place, whether within or without the State of Delaware, of its meetings and specify what notice thereof, if any, shall be given, unless the Board of Directors shall otherwise by resolution provide. The Board of Directors shall have the power to change the members of any such committee at any time, to fill vacancies therein and to discharge any such committee, either with or without cause, at any time.

Any such committee, unless otherwise provided in the resolution of the Board of Directors, or in these Bylaws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority denied it by Section 141 of the DGCL.

Each committee shall keep regular minutes of its meetings and make such reports as the Board of Directors may from time to time request.

**Section 8** **Meetings of the Board of Directors**. Regular meetings of the Board of Directors may be held without call or formal notice at such places either within or without the State of Delaware and at such times as the Board of Directors may by vote from time to time determine. A regular meeting of the Board of Directors may be held without call or formal notice immediately after and at the same place as the annual meeting of stockholders, or any special meeting of the stockholders at which a Board of Directors is elected.

Special meetings of the Board of Directors may be held at any place either within or without the State of Delaware at any time when called by the Chairman of the Board of Directors, the Chief Executive Officer, any officer, or any director, upon notice thereof being given to each director by the initiator of the special meeting or upon no notice thereof being given, provided all of the directors are present at such special meeting, or provided that those directors who are not present at such special meeting shall at any time waive notice thereof. The Board of Directors, in its discretion, may election a Chairman of the Board of Directors, who, when present, shall preside at all meetings of the Board of Directors and who shall have such other powers as the Board of Directors may prescribe. The Chief Executive Officer may preside in the absence of the Chairman. The Vice President may preside in the absence of both.

Directors or members of any committee designated by the directors may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

**Section 9** **Notice**. Notice of the place, date, and time of any special meeting shall be given to each director by whom it is not waived by mail or personal delivery or by telephone or by telegraphing or telexing or by facsimile or electronic transmission of the same at least two (2) days before such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, so addressed, with postage thereon prepaid. If notice is given by facsimile, such notice shall be deemed to be given when the notice is transmitted to the facsimile number shown on the Corporation's records for that director. If notice is given by electronic transmission, such notice shall be deemed to be given when the notice is transmitted to the electronic mail address shown on the Corporation's records for that director. Any director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**Section 10** **Quorum; Voting**. A majority of the total number of directors shall constitute a quorum, except that when a vacancy or vacancies exist in the Board of Directors, a majority of the directors then in office (but not less than one-third of the total number of the directors) shall constitute a quorum. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting from time to time. The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors, except where a different vote is required or permitted by law, by the certificate of incorporation, or by these Bylaws. At all meetings of the Board of Directors, each director shall have one vote, irrespective of the number of shares he or she may hold in the Corporation.

**Section 11** **Compensation**. Unless otherwise restricted by the certificate of incorporation, the Board of Directors, or a duly authorized committee thereof, shall have the authority to fix the compensation of the directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for

attendance at each meeting of the Board of Directors or paid a stated salary or paid other compensation as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed compensation for attending committee meetings.

**Section 12** **Action Without Meeting**. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting, and without notice, if a written consent thereto is signed by all members of the Board of Directors, or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board of Directors or such committee.

## ARTICLE III
## OFFICERS

**Section 1** **Officers; Qualifications**. The Corporation shall have a Chief Executive Officer, a President, and a Secretary, and may have such other Officers as the Board of Directors may prescribe, including a Vice President(s) and a Treasurer(s). Any two or more offices may be held by the same person.

**Section 2** **Appointment; Term of Office**. The Officers shall be appointed by the Board of Directors. Each Officer shall hold office until his or her successor has been duly appointed, unless removed in accordance with these Bylaws. A duly appointed Officer may appoint one or more Officers or Assistant Officers if such appointment is authorized by the Board of Directors.

**Section 3** **Duties; Powers**. The duties and powers of the Officers shall be as follows and shall hereafter be changed or modified only by resolution of the Board of Directors:

### Chief Executive Officer

The Chief Executive Officer shall, when present, preside at all meetings of the stockholders and, unless a Chairman of the Board of Directors has been elected and is present, shall preside at all meetings of the Board of Directors. He/she shall also have general and active management of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are put into effect. The Chief Executive Officer, unless some other person is specifically authorized by resolution of the Board of Directors, shall sign all certificates of stock, bonds, deeds, mortgages, leases, and other contracts of the Corporation. He/she shall have the power to hire and discharge agents and employees who are not Officers of the Corporation.

### President

The President shall be the chief operating and administrative officer of the Corporation. He or she shall have general responsibility for the management and control of the operations and administration of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief operating officer or which are delegated to him or her by the Board of Directors. Subject to the direction of the Board of Directors and the Chief Executive Officer, the President shall have power to sign all stock certificates, contracts, bonds, mortgages and other instruments of the Corporation and shall have general supervision and

direction of all of the other officers (other than the Chief Executive Officer), employees and agents of the Corporation, subject in all cases to the orders and resolutions of the Board of Directors and to the direction of the Chief Executive Officer

**Vice President**

The Vice President shall assist the Chief Executive Officer in the management of the business and affairs of the Corporation and shall perform such other duties as may be assigned by the Chief Executive Officer or the Board of Directors. He/she shall serve in the capacity of Chief Executive Officer at and during such times as the Chief Executive Officer is unable to fulfill his/her duties, which shall include presiding at Corporation meetings when the Chief Executive Officer is absent.

**Secretary**

The Secretary shall keep the minutes of all meetings of the stockholders and the Board of Directors. He/she shall also have custody of all the books, records, and papers of the Corporation, except such as shall be in the charge of the Treasurer or some other person authorized to have custody and possession thereof by resolution of the Board of Directors. He/she shall keep a register of the name and address of each stockholder. The Secretary shall, with the Chief Executive Officer, sign all certificates of stock, bonds, deeds, mortgages, leases, and other contracts of the Corporation. He/she also, from time to time, shall make such reports to the Officers, Board of Directors, and stockholders as may be required.

**Treasurer**

The Treasurer, subject to the order of the Board of Directors, shall have the care and custody of and be responsible for all of the monies, funds, securities, valuable papers, and other documents of the Corporation (other than his or her own bond, if any, which shall be in the custody of the Chief Executive Officer), and shall deposit such monies, funds, securities, valuable papers, and other documents of the Corporation in such banks and depositories as the Board of Directors may designate. He/she may be required to give bond in such form and amount, and with such sureties, as may be required by the Board of Directors. He/she shall make, sign, and endorse in the name of the Corporation all checks, drafts, notes, and other obligations for the payment of money, and pay out, deposit, or dispose of such under the direction of the Chief Executive Officer or the Board of Directors.

**Section 4** **Removal**. Any Officer may be removed by a majority vote of the Board of Directors at any time, with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an Officer shall not in itself create contract rights.

**Section 5** **Resignation**. Any Officer may resign his or her office at any time, such resignation to be made in writing and to take effect at the time specified therein or, if no time is specified, upon its acceptance by the Board of Directors. Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the Board of Directors.

**Section 6** **Vacancies**. Any vacancy occurring in any office in the Corporation shall be filled promptly by the Board of Directors, either at a regular meeting or a special meeting, for the unexpired portion of the term.

**Section 7** **Salaries**. The salaries of all of the Officers of the Corporation shall be fixed by the Board of Directors. No Officer shall be prevented from receiving a salary by reason of the fact that he or she is also a Director or a stockholder of the Corporation.

## ARTICLE IV
## CONTRACTS AND LOANS

**Section 1** **Contracts**. The Board of Directors may authorize any Officer or Officers or any other agent to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

**Section 2** **Loans**. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

## ARTICLE V
## SHARES OF THE CORPORATION

**Section 1** **Certificates; Uncertificated Shares**. Shares of the Corporation's stock shall be represented by certificates, provided the Board of Directors may provide, by resolution, that some or all classes or series of its stock may be uncertificated shares. Each holder of stock represented by a certificate, and upon request, every holder of uncertificated shares, shall be entitled to a certificate signed by, or in the name of the Corporation by, the Chief Executive Officer, the President, or the Secretary. Each certificate shall state on the face thereof the name of the Corporation, the state under which it is organized, the date of issuance, the number and class of shares for which the same is issued, and the name of the person to whom issued. Any or all signatures on the certificate may be facsimile or electronic transmission. No certificate for any shares shall be issued and delivered until such shares are fully paid. The Board of Directors may from time to time appoint one or more transfer agents and one or more registrars for the capital stock of the Corporation. In case any officer, transfer agent or registrar who has signed or whose facsimile or electronic transmission signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may nonetheless be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the certificate of incorporation, these Bylaws, applicable securities laws, or any agreement among any number of stockholder or among such holders and the Corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

**Section 2** **Subscriptions**. Subscriptions to the shares of the Corporation shall be paid at such times and in such installments as the Board of Directors by resolution may determine. If a default shall be made in the payment of any installment as required by such resolution, the Board of Directors may declare such shares as are not yet fully paid forfeited for the use of the Corporation in the manner prescribed by statute.

**Section 3** **Transfer**. Subject to restrictions on transfer imposed by the Board of Directors and referenced on each certificate, shares of stock may be transferred on the books of the Corporation by the surrender to the Corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the Corporation or its transfer agent may reasonably require. The Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to that stock, regardless of any transfer, pledge or other disposition of that stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these Bylaws.

**Section 4** **Loss**. A new certificate of stock may be issued in the place of any certificate theretofore issued by the Corporation and alleged to have been lost, stolen, destroyed, or mutilated, upon such terms in conformity with law as the Board of Directors shall prescribe. The directors may, in their discretion, require the owner of the lost, stolen, destroyed or mutilated certificate, or the owner's legal representatives, to give the Corporation a bond, in such sum as they may direct, to indemnify the Corporation against any claim that may be made against it on account of the alleged loss, theft, destruction or mutilation of any such certificate, or the issuance of any such new certificate.

**Section 5** **Transfer Book**. The transfer book of the Corporation may be closed for such period, not exceeding sixty (60) days, in anticipation of stockholders' meetings, as the Board of Directors may determine. In lieu of closing the transfer book, the Board of Directors may fix a day, not less than ten (10) days prior to any stockholders' meeting, as the day as of which stockholders entitled to notice of and to vote at such meeting shall be determined. Only stockholders of record on such day shall be entitled to notice of or to vote at such meeting.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. Unless otherwise fixed by the Board of Directors, the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is expressed. The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting

**Section 6** **Fractional Share Interests**. The Corporation may, but shall not be required to, issue fractions of a share. If the Corporation does not issue fractions of a share, it shall (i) arrange for the disposition of fractional interests by those entitled thereto, (ii) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined, or (iii) issue scrip or warrants in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip or warrants aggregating a full share. A certificate for a fractional share shall, but scrip or warrants shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the Corporation in the event of liquidation. The Board of Directors may cause scrip or warrants to be issued subject to the conditions that they shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the conditions that the shares for which scrip or warrants are exchangeable may be sold by the Corporation and the proceeds thereof distributed to the holders of scrip or warrants, or subject to any other conditions which the Board of Directors may impose.

## ARTICLE VI
## DIVIDENDS

Subject to the provisions of the certificate of incorporation, the Board of Directors at any regular or special meeting may declare and the Corporation may pay dividends on its outstanding shares in the manner and upon terms and conditions as are provided by law. Such dividends may be paid in cash, property, or shares of the Corporation.

## ARTICLE VII
## TRANSACTIONS BETWEEN CORPORATION AND INTERESTED OFFICERS AND DIRECTORS

No contract or transaction between the Corporation and one or more of the directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of the directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for that reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or a committee of the Board of Directors which authorizes the contract or transaction or solely because the vote of any such director is counted for such purpose, if:

(1) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or

(2) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or

(3) The contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee of the Board of Directors, or the stockholders.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

## ARTICLE VIII
## AMENDMENTS

**Section 1** **By the Board of Directors**. Subject to the provisions of the certificate of incorporation, these Bylaws may be altered, amended or repealed or new bylaws may be adopted by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present.

**Section 2** **By the Stockholders**. Subject to the provisions of the certificate of incorporation, these Bylaws may be altered, amended or repealed or new bylaws may be adopted by the affirmative vote of the holders of a majority of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at any regular meeting of stockholders, or at any special meeting of stockholders provided notice of such alteration, amendment, repeal or adoption of new bylaws shall have been stated in the notice of such special meeting.

## ARTICLE IX
## GENERAL PROVISIONS

**Section 1** **Fiscal Year**. Except as otherwise designated from time to time by the Board of Directors, the fiscal year of the Corporation shall begin on the first day of January and end on the last day of December.

**Section 2** **Corporate Seal**. The corporate seal shall be in such form as shall be approved by the Board of Directors. The Secretary shall be the custodian of the seal. The Board of Directors may authorize a duplicate seal to be kept and used by any other officer.

**Section 3** **Certificate of Incorporation**. All references in these Bylaws to the certificate of incorporation shall be deemed to refer to the certificate of incorporation of the Corporation, as in effect from time to time.

**Section 4** **Books and Records**. The books and records of the Corporation shall be kept at such places within or without the State of Delaware as the Board of Directors may from time to time determine.

**Exhibit 4.2**

**SEMLER SCIENTIFIC, INC.**

**INVESTORS' RIGHTS AGREEMENT**

**June 7, 2012**

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**SEMLER SCIENTIFIC, INC.**
**INVESTORS' RIGHTS AGREEMENT**

This Investors' Rights Agreement (this "**Agreement**") is made as of June 7, 2012, by and among Semler Scientific, Inc., an Oregon corporation (the "**Company**"), and the persons and entities (each, an "**Investor**" and collectively, the "**Investors**") listed on Exhibit A hereto. Unless otherwise defined herein, capitalized terms used in this Agreement have the meanings ascribed to them in **Section 1**.

**RECITALS**

**WHEREAS:** Each of the Investors is either a holder of Preferred Stock of the Company, or a warrant exercisable therefor, or a party to a Series A Preferred Stock and Warrant Subscription Agreement (the "**Subscription Agreement**", and all such Subscription Agreements, collectively, the "**Subscription Agreements**"), and it is a condition to the closing of the sale of the Series A Preferred Stock pursuant to the Subscription Agreements that the Investors and the Company execute and deliver this Agreement.

**NOW, THEREFORE:** In consideration of the mutual promises and covenants set forth herein, and other consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**Section 1**
**Definitions**

1.1 *Certain Definitions.* As used in this Agreement, the following terms shall have the meanings set forth below:

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

(b) "**Common Stock**" means the Common Stock of the Company.

(c) "**Conversion Stock**" shall mean shares of Common Stock issued upon conversion of the Shares.

(d) "**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, or any similar successor federal statute and the rules and regulations thereunder, all as the same shall be in effect from time to time.

(e) "**Holder**" shall mean any Investor who holds Registrable Securities and any holder of Registrable Securities to whom the registration rights conferred by this Agreement have been duly and validly transferred in accordance with **Section 2.12** of this Agreement.

(f) "**Indemnified Party**" shall have the meaning set forth in **Section 2.6(c)** hereto.

(g) "**Indemnifying Party**" shall have the meaning set forth in **Section 2.6(c)** hereto.

(h) "**Initial Public Offering**" shall mean the closing of the Company's first firm commitment underwritten public offering of the Company's Common Stock registered under the Securities Act.

(i) "**Initiating Holders**" shall mean any Holder or Holders who, in the aggregate, hold at least 10% of the then outstanding Registrable Securities.

(j) "**New Securities**" shall have the meaning set forth in **Section 4.1(a)** hereto.

(k) "**Other Selling Stockholders**" shall mean persons other than Holders who, by virtue of agreements with the Company, are entitled to include their Other Shares in certain registrations hereunder.

(l) "**Other Shares**" shall mean shares of Common Stock, other than Registrable Securities (as defined below), (including shares of Common Stock issuable upon conversion of shares of any currently unissued series of Preferred Stock of the Company) with respect to which registration rights have been granted.

(m) "**Registrable Securities**" shall mean (i) shares of Common Stock issued or issuable pursuant to the conversion of the Shares and (ii) any Common Stock issued as a dividend or other distribution with respect to or in exchange for or in replacement of the shares referenced in (i) above; *provided, however*, that Registrable Securities shall not include any shares of Common Stock described in clause (i) or (ii) above which have previously been registered or which have been sold to the public either pursuant to a registration statement or Rule 144, or which have been sold in a private transaction in which the transferor's rights under this Agreement are not validly assigned in accordance with this Agreement.

(n) The terms "**register**," "**registered**" and "**registration**" shall refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration or ordering of the effectiveness of such registration statement.

(o) "**Registration Expenses**" shall mean all expenses incurred in effecting any registration pursuant to this Agreement, including, without limitation, all registration, qualification, and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for the Company and one special counsel for the Holders, blue sky fees and expenses, and expenses of any regular or special audits incident to or required by any such registration, but shall not include Selling Expenses, fees and disbursements of other counsel for the Holders and the compensation of regular employees of the Company, which shall be paid in any event by the Company.

(p) " **Holders**" shall have the meaning assigned to it in the Company's Articles of Incorporation.

(q) "**Restricted Securities**" shall mean any Registrable Securities required to bear the first legend set forth in **Section 2.8(c)** hereof.

(r) "**Rule 144**" shall mean Rule 144 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(s) "**Rule 145**" shall mean Rule 145 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission

(t) "**Rule 415**" shall mean Rule 415 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(u) "**Securities Act**" shall mean the Securities Act of 1933, as amended, or any similar successor federal statute and the rules and regulations thereunder, all as the same shall be in effect from time to time.

(v) "**Selling Expenses**" shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities and fees and disbursements of counsel for any Holder (other than the fees and disbursements of one special counsel to the Holders included in Registration Expenses).

(w) "**Shares**" shall mean the Company's Series A Preferred Stock, Series A-1 Preferred Stock, and Series A-2 Preferred Stock.

(x) "**Withdrawn Registration**" shall mean a forfeited demand registration under **Section 2.1** in accordance with the terms and conditions of **Section 2.4**.

**Section 2**
**Registration Rights**

2.1 *Requested Registration*.

(a) Request for Registration. Subject to the conditions set forth in this **Section 2.1**, if the Company shall receive from Initiating Holders a written request signed by such Initiating Holders that the Company effect any registration with respect to all or a part of the Registrable Securities (such request shall state the number of shares of Registrable Securities to be disposed of and the intended methods of disposition of such shares by such Initiating Holders), the Company will:

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

(ii) as soon as practicable, file and use its commercially reasonable efforts to effect such registration (including, without limitation, filing post-effective amendments, appropriate qualifications under applicable blue sky or other state securities laws, and appropriate compliance with the Securities Act) and to permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within twenty (20) days after such written notice from the Company is mailed or delivered.

(b) Limitations on Requested Registration. The Company shall not be obligated to effect, or to take any action to effect, any such registration pursuant to this **Section 2.1**:

(i) Prior to the earlier of (A) the five (5) year anniversary of the date of this Agreement or (B) one hundred eighty (180) days following the effective date of the first registration statement filed by the Company covering an underwritten offering of any of its securities to the general public (or the subsequent date on which all market stand-off agreements applicable to the offering have terminated);

(ii) If the Initiating Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration statement, propose to sell Registrable Securities and such other securities (if any) the aggregate proceeds of which (after deduction for underwriter's discounts and expenses related to the issuance) are less than $10,000,000;

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

(iv) After the Company has initiated two such registrations pursuant to this **Section 2.1** (counting for these purposes only (x) registrations which have been declared or ordered effective and pursuant to which securities have been sold, and (y) Withdrawn Registrations);

(v) During the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of filing of, and ending on a date one hundred eighty (180) days after the effective date of, a Company-initiated registration (or ending on the subsequent date on which all market stand-off agreements applicable to the offering have terminated); *provided* that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; or

(vi) If the Initiating Holders propose to dispose of shares of Registrable Securities that may be registered on Form S-3 pursuant to a request made under **Section 2.3** hereof; or

(c) Deferral. If (i) in the good faith judgment of the Board of Directors of the Company, the filing of a registration statement covering the Registrable Securities would be detrimental to the Company and the Board of Directors of the Company concludes, as a result, that it is in the best interests of the Company to defer the filing of such registration statement at such time, and (ii) the Company shall furnish to such Holders a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors of the Company, it would be detrimental to the Company for such registration statement to be filed in the near future and that it is, therefore, in the best interests of the Company to defer the filing of such registration statement, then (in addition to the limitations set forth in **Section 2.1(b)(v)** above) the Company shall have the right to defer such filing for a period of not more than one hundred eighty (180) days after receipt of the request of the Initiating Holders, and, provided further, that the Company shall not defer its obligation in this manner more than twice in any twelve-month period.

(d) Other Shares. The registration statement filed pursuant to the request of the Initiating Holders may, subject to the provisions of **Section 2.1(e)**, include Other Shares, and may include securities of the Company being sold for the account of the Company.

(e) Underwriting. Unless the Registrable Securities may be registered by the Company on Form S-3, the right of any Holder to include all or any portion of its Registrable Securities in a registration pursuant to this **Section 2.1** shall be conditioned upon such Holder's participation in an underwriting and the

inclusion of such Holder's Registrable Securities to the extent provided herein. If the Company shall request inclusion in any registration pursuant to **Section 2.1** of securities being sold for its own account, or if other persons shall request inclusion in any registration pursuant to **Section 2.1**, the Initiating Holders shall, on behalf of all Holders, offer to include such securities in the underwriting and such offer shall be conditioned upon the participation of the Company or such other persons in such underwriting and the inclusion of the Company's and such person's other securities of the Company and their acceptance of the further applicable provisions of this **Section 2** (including **Section 2.10)**. The Company shall (together with all Holders and other persons proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected for such underwriting by the Company, which underwriters are reasonably acceptable to a majority-in-interest of the Initiating Holders.

Notwithstanding any other provision of this **Section 2.1**, if the underwriters advise the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, the number of Registrable Securities and Other Shares that may be so included shall be allocated as follows: (i) first, among all Holders requesting to include Registrable Securities in such registration statement based on the pro rata percentage of Registrable Securities held by such Holders, assuming conversion and (ii) second, to the Other Selling Stockholders.

If a person who has requested inclusion in such registration as provided above does not agree to the terms of any such underwriting, such person shall be excluded therefrom by written notice from the Company, the underwriter or the Initiating Holders. The securities so excluded shall also be withdrawn from registration. Any Registrable Securities or other securities excluded or withdrawn from such underwriting shall also be withdrawn from such registration. If shares are so withdrawn from the registration and if the number of shares to be included in such registration was previously reduced as a result of marketing factors pursuant to this **Section 2.1(e)**, then the Company shall then offer first to all Holders and, second to Other Selling Stockholders who have retained rights to include securities in the registration the right to include additional Registrable Securities or, as applicable, Other Shares in the registration in an aggregate amount equal to the number of shares so withdrawn, with such shares to be allocated first among such Holders and second among other Selling Stockholders requesting additional inclusion, as set forth above.

2.2 *Company Registration.*

(a) Company Registration. If the Company shall determine to register any of its securities either for its own account or the account of a security holder or holders, other than a registration pursuant to **Section 2.1** or **2.3**, a registration relating solely to employee benefit plans, a registration relating to the offer and sale of debt securities, a registration relating to a corporate reorganization or other Rule 145 transaction, or a registration on any registration form that does not permit secondary sales, the Company will:

(i) promptly give written notice of the proposed registration to all Holders; and

(ii) use its commercially reasonable efforts to include in such registration (and any related qualification under blue sky laws or other compliance), except as set forth in **Section 2.2(b)** below, and in any underwriting involved therein, all of such Registrable Securities as are specified in a written request or requests made by any Holder or Holders received by the Company within ten (10) days after such written notice from the Company is mailed or delivered. Such written request may specify all or a part of a Holder's Registrable Securities.

(b) Underwriting. If the registration of which the Company gives notice is for a registered public offering involving an underwriting, the Company shall so advise the Holders as a part of the written notice given pursuant to **Section 2.2(a)(i)**. In such event, the right of any Holder to registration pursuant to this **Section 2.2** shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company and the Other Selling Stockholders other holders of securities of the Company with registration rights to participate therein distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected by the Company.

Notwithstanding any other provision of this **Section 2.2**, if the underwriters advise the Company in writing that marketing factors require a limitation on the number of shares to be underwritten, the underwriters may (subject to the limitations set forth below) exclude all Registrable Securities from, or limit the number of Registrable Securities to be included in, the registration and underwriting. The Company shall so advise all holders of securities requesting registration, and the number of shares of securities that are entitled to be included in the registration and underwriting shall be allocated, as follows: (i) first, to the Company for securities being sold for its own account, (ii) second, to the Holders requesting to include Registrable Securities in such registration statement based on the pro rata percentage of Registrable Securities held by such Holders, assuming conversion and (iii) third, to the Other Selling Stockholders requesting to include Other Shares in such registration statement based on the pro rata percentage of Other Shares held by such Other Selling Stockholders, assuming conversion.

If a person who has requested inclusion in such registration as provided above does not agree to the terms of any such underwriting, such person shall also be excluded therefrom by written notice from the Company or the underwriter. The Registrable Securities or other securities so excluded shall also be withdrawn from such registration. Any Registrable Securities or other securities excluded or withdrawn from such underwriting shall be withdrawn from such registration.

(c) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this **Section 2.2** prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration.

2.3 *Registration on Form S-3.*

(a) Request for Form S-3 Registration. After its initial public offering, the Company shall use its commercially reasonable efforts to qualify for registration on Form S-3 or any comparable or successor form or forms. After the Company has qualified for the use of Form S-3, in addition to the rights contained in the foregoing provisions of this **Section 2** and subject to the conditions set forth in this **Section 2.3**, if the Company shall receive from a Holder or Holders of Registrable Securities a written request that the Company effect any registration on Form S-3 or any similar short form registration statement with respect to all or part of the Registrable Securities (such request shall state the number of shares of Registrable Securities to be disposed of and the intended methods of disposition of such shares by such Holder or Holders), the Company will take all such action with respect to such Registrable Securities as required by **Section 2.1(a)(i)** and **(ii)**.

(b) Limitations on Form S-3 Registration. The Company shall not be obligated to effect, or take any action to effect, any such registration pursuant to this **Section 2.3**:

(i) In the circumstances described in either **Sections 2.1(b)(i)**, **2.1(b)(iii)** or **2.1(b)(v)**;

(ii) If the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) on Form S-3 at an aggregate price to the public of less than $2,000,000; or

(iii) If, in a given twelve-month period, the Company has effected two (2) such registrations in such period.

(c) Deferral. The provisions of **Section 2.1(c)** shall apply to any registration pursuant to this **Section 2.3**.

(d) Underwriting. If the Holders of Registrable Securities requesting registration under this **Section 2.3** intend to distribute the Registrable Securities covered by their request by means of an underwriting, the provisions of **Sections 2.1(e)** shall apply to such registration. Notwithstanding anything contained herein to the contrary, registrations effected pursuant to this **Section 2.3** shall not be counted as requests for registration or registrations effected pursuant to **Section 2.1**.

2.4 *Expenses of Registration*. All Registration Expenses incurred in connection with registrations pursuant to **Sections 2.1**, **2.2** and **2.3** hereof shall be borne by the Company; *provided*, *however*, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to **Sections 2.1** and **2.3** if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered or because a sufficient number of Holders shall have withdrawn so that the minimum offering conditions set forth in **Sections 2.1** and **2.3** are no longer satisfied (in which case all participating Holders shall bear such expenses pro rata among each other based on the number of Registrable Securities requested to be so registered), unless the Holders of a majority of the Registrable Securities agree to forfeit their right to a demand registration pursuant to **Section 2.1**. All Selling Expenses relating to securities registered on behalf of the Holders shall be borne by the holders of securities included in such registration pro rata among each other on the basis of the number of Registrable Securities so registered.

2.5 *Registration Procedures*. In the case of each registration effected by the Company pursuant to **Section 2**, the Company will keep each Holder advised in writing as to the initiation of each registration and as to the completion thereof. At its expense, the Company will use its commercially reasonable efforts to:

(a) Keep such registration effective for a period of ending on the earlier of the date which is sixty (60) days from the effective date of the registration statement or such time as the Holder or Holders have completed the distribution described in the registration statement relating thereto;

(b) Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement for the period set forth in subsection (a) above;

(c) Furnish such number of prospectuses, including any preliminary prospectuses, and other documents incident thereto, including any amendment of or supplement to the prospectus, as a Holder from time to time may reasonably request;

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

(e) Notify each seller of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in light of the circumstances then existing, and following such notification promptly prepare and furnish to such seller a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such shares, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in light of the circumstances then existing;

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

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

(h) In connection with any underwritten offering pursuant to a registration statement filed pursuant to **Section 2.1** hereof, enter into an underwriting agreement in form reasonably necessary to effect the offer and sale of Common Stock, provided such underwriting agreement contains reasonable and customary provisions, and provided further, that each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

2.6 *Indemnification*.

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, each of its officers, directors and partners, legal counsel and accountants and each person controlling such Holder within the meaning of Section 15 of the Securities Act, with respect to which registration, qualification or compliance has been effected pursuant to this **Section 2**, and each underwriter, if any, and each person who controls within the meaning of Section 15 of the Securities Act any underwriter, against all expenses, claims, losses, damages and liabilities (or actions, proceedings or settlements in respect thereof) arising out of or based on: (i) any untrue statement (or alleged untrue statement) of a material fact contained or incorporated by reference in any registration statement, any prospectus included in the registration statement, any issuer free writing prospectus (as defined in Rule 433 of the Securities Act), any issuer information (as defined in Rule 433 of the Securities Act) filed or required to be filed pursuant to Rule 433(d) under the Securities Act or any other document incident to any such registration, qualification or compliance prepared by or on behalf of the Company or used or referred to by the Company, (ii) any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or (iii) any violation (or alleged violation) by the Company of the Securities Act, any state securities laws or any rule or regulation thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any offering covered by such registration, qualification

or compliance, and the Company will reimburse each such Holder, each of its officers, directors, partners, legal counsel and accountants and each person controlling such Holder, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses reasonably incurred in connection with investigating and defending or settling any such claim, loss, damage, liability or action; *provided* that the Company will not be liable in any such case to the extent that any such claim, loss, damage, liability, or action arises out of or is based on any untrue statement or omission based upon written information furnished to the Company by such Holder, any of such Holder's officers, directors, partners, legal counsel or accountants, any person controlling such Holder, such underwriter or any person who controls any such underwriter, and stated to be specifically for use therein; and *provided*, *further* that, the indemnity agreement contained in this **Section 2.6(a)** shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld).

(b) To the extent permitted by law, each Holder will, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify and hold harmless the Company, each of its directors, officers, partners, legal counsel and accountants and each underwriter, if any, of the Company's securities covered by such a registration statement, each person who controls the Company or such underwriter within the meaning of Section 15 of the Securities Act, each other such Holder, and each of their officers, directors and partners, and each person controlling each other such Holder, against all claims, losses, damages and liabilities (or actions in respect thereof) arising out of or based on: (i) any untrue statement (or alleged untrue statement) of a material fact contained or incorporated by reference in any prospectus, offering circular or other document (including any related registration statement, notification, or the like) incident to any such registration, qualification or compliance, or (ii) any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company and such Holders, directors, officers, partners, legal counsel and accountants, persons, underwriters, or control persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability or action, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to the Company by such Holder and stated to be specifically for use therein; *provided*, *however*, that the obligations of such Holder hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of such Holder (which consent shall not be unreasonably withheld); and *provided* that in no event shall any indemnity under this **Section 2.6** exceed the gross proceeds from the offering received by such Holder, except in the case of fraud or willful misconduct by such Holder.

(c) Each party entitled to indemnification under this **Section 2.6** (the "**Indemnified Party**") shall give notice to the party required to provide indemnification (the "**Indemnifying Party**") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of such claim or any litigation resulting therefrom; *provided* that counsel for the Indemnifying Party, who shall conduct the defense of such claim or any litigation resulting therefrom, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld), and the Indemnified Party may participate in such defense at such party's expense; and *provided further* that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this **Section 2.6**, to the extent such failure is not prejudicial. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement that does not

include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation. Each Indemnified Party shall furnish such information regarding itself or the claim in question as an Indemnifying Party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If the indemnification provided for in this **Section 2.6** is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any loss, liability, claim, damage, or expense referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage, or expense as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission. No person or entity guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

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

2.7 *Information by Holder*. Each Holder of Registrable Securities shall furnish to the Company such information regarding such Holder and the distribution proposed by such Holder as the Company may reasonably request in writing and as shall be reasonably required in connection with any registration, qualification, or compliance referred to in this **Section 2**.

2.8 *Restrictions on Transfer*.

(a) The holder of each certificate representing Registrable Securities by acceptance thereof agrees to comply in all respects with the provisions of this **Section 2.8**. Each Holder agrees not to make any sale, assignment, transfer, pledge or other disposition of all or any portion of the Restricted Securities, or any beneficial interest therein, unless and until the transferee thereof has agreed in writing for the benefit of the Company to take and hold such Restricted Securities subject to, and to be bound by, the terms and conditions set forth in this Agreement, including, without limitation, this **Section 2.8** and **Section 2.10**, and:

(i) There is then in effect a registration statement under the Securities Act covering such proposed disposition and the disposition is made in accordance with the registration statement; or

(ii) The Holder shall have given prior written notice to the Company of the Holder's intention to make such disposition and shall have furnished the Company with a detailed description of the manner and circumstances of the proposed disposition, and, if requested by the Company, the Holder

shall have furnished the Company, at its expense, with (i) an opinion of counsel reasonably satisfactory to the Company to the effect that such disposition will not require registration of such Restricted Securities under the Securities Act or (ii) a "no action" letter from the Commission to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, whereupon the holder of such Restricted Securities shall be entitled to transfer such Restricted Securities in accordance with the terms of the notice delivered by the Holder to the Company.

(b) Each certificate representing Registrable Securities shall (unless otherwise permitted by the provisions of this Agreement) be stamped or otherwise imprinted with a legend substantially similar to the following (in addition to any legend required under applicable state securities laws):

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS PURSUANT TO REGISTRATION OR AN EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION OTHERWISE COMPLIES WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.
>
> THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE, INCLUDING A LOCK-UP PERIOD IN THE EVENT OF A PUBLIC OFFERING, AS SET FORTH IN AN INVESTORS' RIGHTS AGREEMENT, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE COMPANY.

The Holders consent to the Company making a notation on its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer established in this **Section 2.8**.

(c) The first legend referring to federal and state securities laws identified in **Section 2.8(c)** hereof stamped on a certificate evidencing the Restricted Securities and the stock transfer instructions and record notations with respect to the Restricted Securities shall be removed and the Company shall issue a certificate without such legend to the holder of Restricted Securities if (i) those securities are registered under the Securities Act, or (ii) such holder provides the Company with an opinion of counsel reasonably acceptable to the Company to the effect that a sale or transfer of those securities may be made without registration or qualification.

2.9 *Rule 144 Reporting*. With a view to making available the benefits of certain rules and regulations of the Commission that may permit the sale of the Restricted Securities to the public without registration, the Company agrees to use its commercially reasonable efforts to:

(a) Make and keep adequate current public information with respect to the Company available in accordance with Rule 144 under the Securities Act, at all times from and after ninety (90) days

following the effective date of the first registration under the Securities Act filed by the Company for an offering of its securities to the general public;

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

(c) So long as a Holder owns any Restricted Securities, furnish to the Holder forthwith upon written request a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (at any time from and after ninety (90) days following the effective date of the first registration statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such securities without registration.

2.10 *Market Stand-Off Agreement*. Each Holder hereby agrees that such Holder shall not sell or otherwise transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, of any Common Stock (or other securities) of the Company held by such Holder (other than those included in the registration) during the one hundred eighty (180) day period following the effective date of a registration statement of the Company filed under the Securities Act (or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto). The obligations described in this **Section 2.10** shall not apply to a registration relating solely to employee benefit plans on Form S-l or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions and may stamp each such certificate with the second legend set forth in **Section 2.8(c)** hereof with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of such one hundred eighty (180) day (or other) period. Each Holder agrees to execute a market standoff agreement with said underwriters in customary form consistent with the provisions of this **Section 2.10**.

2.11 *Delay of Registration*. No Holder shall have any right to take any action to restrain, enjoin, or otherwise delay any registration as the result of any controversy that might arise with respect to the interpretation or implementation of this **Section 2**.

2.12 *Transfer or Assignment of Registration Rights*. The rights to cause the Company to register securities granted to a Holder by the Company under this **Section 2** may be transferred or assigned by a Holder only to a transferee or assignee of not less than 100,000 shares of Registrable Securities (as presently constituted and subject to subsequent adjustments for stock splits, stock dividends, reverse stock splits, and the like); *provided* that (i) such transfer or assignment of Registrable Securities is effected in accordance with the terms of **Section 2.8** hereof, and applicable securities laws, (ii) the Company is given written notice prior to said transfer or assignment, stating the name and address of the transferee or assignee and identifying the securities with respect to which such registration rights are intended to be transferred or assigned, and (iii) the transferee or assignee of such rights assumes in writing the obligations of such Holder under this Agreement, including without limitation the obligations set forth in **Section 2.10**.

2.13 *Termination of Registration Rights*. The right of any Holder to request registration or inclusion in any registration pursuant to **Section 2.1**, **2.2** or **2.3** shall terminate on the earlier of (i) such date, on or after the closing of the Company's first registered public offering of Common Stock, on which all shares of Registrable Securities held or entitled to be held upon conversion by such Holder may immediately be sold under Rule 144 during any ninety (90) day period, and (ii) five (5) years after the closing of the Company's Initial Public Offering.

**Section 3**
**Additional Covenants of the Company**

The Company hereby covenants and agrees, as follows:

3.1 *Basic Financial Information and Inspection Rights*. The Company will furnish the following reports to each Holder who owns at least 10,000 Shares and/or Conversion Stock (as presently constituted and subject to subsequent adjustments for stock splits, stock dividends, reverse stock splits, and the like):

(a) as soon as practicable after the end of each fiscal year of the Company, and in any event within ninety (90) days after the end of each fiscal year of the Company (the "**Audit Period**"), a consolidated balance sheet of the Company and its subsidiaries, if any, as at the end of such fiscal year, and consolidated statements of income and cash flows of the Company and its subsidiaries, if any, for such year, prepared in accordance with U.S. generally accepted accounting principles consistently applied and compared against the Company's operating plan for such year, and which, if requested in writing, not more than ninety (90) days before and not more than thirty (30) days after the end of the previous fiscal year, by those Investors holding at least 50% of the then outstanding Shares and/or Conversion Shares, shall be audited by a nationally recognized accounting firm (and, in which case, the Audit Period shall be extended to 180 days);

(b) As soon as practicable after the end of the first, second and third quarterly accounting periods in each fiscal year of the Company, and in any event within forty-five (45) days after the end of the first, second, and third quarterly accounting periods in each fiscal year of the Company, an unaudited consolidated balance sheet of the Company and its subsidiaries, if any, as of the end of each such quarterly period, and unaudited consolidated statements of income and cash flows of the Company and its subsidiaries, if any, for such period, prepared in accordance with U.S. generally accepted accounting principles consistently applied, subject to changes resulting from normal year-end audit adjustments; and

(c) not more than ninety (90) days and not less than thirty (30) days prior to the end of the previous fiscal year, an annual operating plan of the Company and its subsidiaries, if any.

3.2 *Actions Requiring Board Consent and Consent of Holders*. For so long as at least twenty-five percent (25%) of the shares of Series A Preferred Stock originally issued by the Company remain outstanding, the Company shall not, without first obtaining the consent of at least a majority of its Board of Directors and each Holder (as defined below):

(a) repurchase or redeem any securities or debt of the Company other than (i) pursuant to the exercise of redemption rights set forth in the Company's articles of incorporation, (ii) to the extent such debt is due in accordance with its terms, or (iii) in connection with repurchases at cost or less pursuant to employment or consulting agreements approved by the Board;

(b) liquidate, dissolve, or wind up the Company, or enter into any merger or other corporate reorganization that results in a change of control of the Company, or any transaction in which all or substantially all of the significant assets of the Company are sold;

(c) amend or waive any provision of the Company's Certificate of Incorporation or Bylaws;

(d) increase or decrease the authorized size of the Board

(e) effect a reclassification, reorganization or recapitalization of the outstanding capital stock of the Company;

(f) pay or declare any dividend on any shares of Common or Preferred Stock;

(g) acquire another company or the assets of another company;

(h) incurr any indebtedness, or permit any liens or encumbrances in connection with any indebtedness, in excess of $100,000 to be placed on the assets of the Company;

(i) issue any Common Stock or Preferred Stock except pursuant to any employee stock or option plan;

(j) approve the Company's annual operating budget;

(k) enter into or amend any material contract which creates payment obligations of the Company exceeding $100,000;

(l) increase the number of shares reserved for issuance pursuant to any employee stock or option plan;

(m) intentionally deviate from the expense levels included in the Approved Operating Plan by more than 20% for any material line item;

(n) enter into or be a party to any transaction with any director, officer or employee of the Company or any "associate" (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such person except transactions made in the ordinary course of business and pursuant to reasonable requirements of the Company's business and upon fair and reasonable terms that are approved by a majority of the Board of Directors, or transactions resulting in payments to or by the Company in an amount less than $10,000 per year; or

(o) materially change the salary or compensation of any officer of the Company;

(p) make any capital expenditures in excess of 110% of budgeted capital expenditures;

(q) change the Company's independent public accountants;

(r) adopt or amend any employment contract with Company officers and senior executive managers with authority equivalent to that of officers ("**Senior Management**"), or make any material change in salary or other compensation of Senior Management;

(s) enter into any joint venture or partnership, or otherwise establish any non-wholly owned subsidiaries;

(t) expand into any business not related to the Company's then current business.

3.3 *D&O Insurance*. As soon as practicable following the date hereof, the Company will obtain Directors & Officers' liability insurance with terms and policy limits satisfactory to the Board.

3.4 *Key Person Life Insurance*. As soon as practicable following the date hereof, the Company will obtain customary Key Person Life Insurance on Bob McRae, payable to the Company, with terms and policy limits satisfactory to the Board but not less than $3,000,000.

3.5 *Confidentiality*. Anything in this Agreement to the contrary notwithstanding, no Holder by reason of this Agreement shall have access to any trade secrets or classified information of the Company. The Company shall not be required to comply with any information rights of **Section 3** in respect of any Holder whom the Company reasonably determines to be a competitor or an officer, employee, director or holder of more than ten percent (10%) of a competitor. Each Holder acknowledges that the information received by them pursuant to this Agreement may be confidential and for its use only, and it will not use such confidential information in violation of the Exchange Act or reproduce, disclose or disseminate such information to any other person (other than its employees or agents having a need to know the contents of such information, and its attorneys), except in connection with the exercise of rights under this Agreement, unless the Company has made such information available to the public generally.

3.6 *Termination of Covenants*. The Company's obligations set forth in this **Section 3** shall terminate and be of no further force and effect after the closing of the Company's Initial Public Offering.

**Section 4**
**Right of First Refusal**

4.1 *Right of First Refusal to Holders*. The Company hereby grants to each Holder the right of first refusal to purchase its pro rata share of New Securities (as defined in this **Section 4.1(a)**) which the Company may, from time to time, propose to sell and issue after the date of this Agreement. A Holder's pro rata share, for purposes of this right of first refusal, is equal to the ratio of (a) the number of shares of Common Stock owned by such Holder immediately prior to the issuance of New Securities (assuming full conversion of the Shares and exercise of all outstanding convertible securities, rights, options and warrants, directly or indirectly, into Common Stock held by said Holder) to (b) the total number of shares of Common Stock outstanding immediately prior to the issuance of New Securities (assuming full conversion of the Shares and exercise of all outstanding convertible securities, rights, options and warrants, directly or indirectly, held by all of the Holders).

(a) "**New Securities**" shall mean any capital stock (including Common Stock and/or Preferred Stock) of the Company whether now authorized or not, and rights, convertible securities, options or warrants to purchase such capital stock, and securities of any type whatsoever that are, or may become, exercisable or convertible into capital stock; *provided* that the term "**New Securities**" does not include:

(i) the Shares and the Conversion Stock;

(ii) Common Stock issued or issuable to officers, employees, directors, consultants, placement agents, and other service providers of the Company (or any subsidiary) pursuant to

stock grants, option plans, purchase plans, agreements or other employee stock incentive programs or arrangements approved by the Board of Directors of the Company;

(iii) securities issued pursuant to the conversion or exercise of any outstanding convertible or exercisable securities as of this date of this Agreement;

(iv) securities issued or issuable as a dividend or distribution on Preferred Stock of the Company or pursuant to any event for which adjustment is made pursuant to paragraph 4(e), 4(f) or 4(g) of the Articles of Incorporation of the Company;

(v) securities offered pursuant to a registered public offering under the Securities Act;

(vi) securities issued or issuable pursuant to the acquisition of another corporation by the Company by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, *provided*, that such issuances are approved by the Board of Directors of the Company;

(vii) securities issued or issuable to banks, equipment lessors or other financial institutions pursuant to a commercial leasing or debt financing transaction approved by the Board of Directors of the Company;

(viii) shares of Common Stock issued or issuable in connection with any settlement of any action, suit, proceeding or litigation approved by the Board of Directors;

(ix) securities issued or issuable in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board of Directors of the Company;

(x) securities issued to suppliers or third party service providers in connection with the provision of goods or services pursuant to transactions approved by the Board of Directors of the Company;

(xi) shares of Series A Preferred Stock and warrants exercisable therefor (and the shares issued and issuable upon exercise of such warrants (the "**Warrant Shares**"), and the Common Stock issuable upon conversion of the Shares and the Warrant Shares) issued pursuant to the Subscription Agreements, whether entered into prior to or after the date hereof; and

(xii) any right, option or warrant to acquire any security convertible into the securities excluded from the definition of New Securities pursuant to subsections (i) through (x) above.

(b) In the event the Company proposes to undertake an issuance of New Securities, it shall give each Holder written notice of its intention, describing the type of New Securities, and their price and the general terms upon which the Company proposes to issue the same. Each Holder shall have ten (10) business days after any such notice is mailed or delivered to agree to purchase such Holder's pro rata share of such New Securities for the price and upon the terms specified in the notice by giving written notice to the Company, in substantially the form attached hereto as Schedule 1, and stating therein the quantity of New Securities to be purchased.

(c) In the event the Holders fail to exercise fully the right of first refusal within said ten (10) day period (the "**Election Period**"), the Company shall have ninety (90) days thereafter to sell or enter into an agreement (pursuant to which the sale of New Securities covered thereby shall be closed, if at all, within ninety (90) days from the date of said agreement) to sell that portion of the New Securities with respect to which the Holders' right of first refusal option set forth in this **Section 4.1** was not exercised, at a price and upon terms no more favorable to the purchasers thereof than specified in the Company's notice to Holders delivered pursuant to **Section 4.1(b)**. In the event the Company has not sold within such ninety (90) day period following the Election Period, or such ninety (90) day period following the date of said agreement, the Company shall not thereafter issue or sell any New Securities, without first again offering such securities to the Holders in the manner provided in this **Section 4.1**.

(d) The right of first refusal granted under this Agreement shall expire upon, and shall not be applicable to the first to occur of (x) the Company's Initial Public Offering, or (y) five years after the date of this Agreement.

**Section 5**
**Miscellaneous**

5.1 *Amendment*. Except as expressly provided herein, neither this Agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Agreement and signed by the Company, each of the Holders, and the Holders holding at least a majority of the Registrable Securities (excluding any of such shares that have been sold to the public or pursuant to Rule 144); *provided*, *however*, that any Investor purchasing Shares of Series A Preferred Stock pursuant to a Subscription Agreement entered into after the date hereof may become a party to this Agreement by executing a counterpart of this Agreement, without any amendment of this Agreement, pursuant to this paragraph or any consent or approval of any other Investor. Any such amendment, waiver, discharge or termination effected in accordance with this paragraph shall be binding upon each Holder and each future holder of all such securities of Holder. Each Holder acknowledges that by the operation of this paragraph, the Holders and the holders of a majority of the Registrable Securities (excluding any of such shares that have been sold to the public or pursuant to Rule 144) will have the right and power to diminish or eliminate all rights of such Holder under this Agreement.

5.2 *Notices*. All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or electronic mail or otherwise delivered by hand or by messenger addressed:

(a) if to an Investor, at the Investor's address, facsimile number or electronic mail address as shown in the Company's records, as may be updated in accordance with the provisions hereof;

(b) if to any Holder, at such address, facsimile number or electronic mail address as shown in the Company's records, or, until any such holder so furnishes an address, facsimile number or electronic mail address to the Company, then to and at the address of the last holder of such shares for which the Company has contact information in its records; or

(c) if to the Company, one copy should be sent to 256 Palm Valley Blvd, #109, San Jose, CA 95123, Attn: Chief Executive Officer, or at such other address as the Company shall have furnished to the Investors, with a copy to J. Casey McGlynn, WSGR, 650 Page Mill Road, Palo Alto, California 94304.

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given when delivered if delivered personally, or, if sent by mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid or, if sent by facsimile, upon confirmation of facsimile transfer or, if sent by electronic mail, when directed to the electronic mail address set forth on the Schedule of Investors.

5.3 *Governing Law*. This Agreement shall be governed in all respects by the internal laws of the State of Oregon as applied to agreements entered into among Oregon residents to be performed entirely within Oregon, without regard to principles of conflicts of law.

5.4 *Successors and Assigns*. This Agreement, and any and all rights, duties and obligations hereunder, shall not be assigned, transferred, delegated or sublicensed by any Investor without the prior written consent of the Company. Any attempt by an Investor without such permission to assign, transfer, delegate or sublicense any rights, duties or obligations that arise under this Agreement shall be void. Subject to the foregoing and except as otherwise provided herein, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

5.5 *Entire Agreement*. This Agreement and the exhibits hereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof. No party hereto shall be liable or bound to any other party in any manner with regard to the subjects hereof or thereof by any warranties, representations or covenants except as specifically set forth herein.

5.6 *Delays or Omissions*. Except as expressly provided herein, no delay or omission to exercise any right, power or remedy accruing to any party to this Agreement upon any breach or default of any other party under this Agreement shall impair any such right, power or remedy of such non-defaulting party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party to this Agreement, shall be cumulative and not alternative.

5.7 *Severability*. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this Agreement, and such court will replace such illegal, void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this Agreement shall be enforceable in accordance with its terms.

5.8 *Titles and Subtitles*. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

5.9 *Counterparts*. This Agreement may be executed in any number of counterparts, each of which shall be enforceable against the parties that execute such counterparts, and all of which together shall constitute one instrument.

5.10 *Telecopy Execution and Delivery*. A facsimile, telecopy or other reproduction of this Agreement may be executed by one or more parties hereto and delivered by such party by facsimile or any similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen. Such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute and deliver an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

5.11 *Jurisdiction; Venue*. With respect to any disputes arising out of or related to this Agreement, the parties consent to the exclusive jurisdiction of, and venue in, the state and federal courts in Multanomah County in the State of Oregon.

5.12 *Further Assurances*. Each party hereto agrees to execute and deliver, by the proper exercise of its corporate, limited liability company, partnership or other powers, all such other and additional instruments and documents and do all such other acts and things as may be necessary to more fully effectuate this Agreement.

5.13 *Termination Upon Change of Control*. Notwithstanding anything to the contrary herein, this Agreement (excluding any then-existing obligations) shall terminate upon (a) the acquisition of the Company by another entity by means of any transaction or series of related transactions to which the Company is party (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any sale of stock for capital raising purposes) other than a transaction or series of transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the Company held by such holders prior to such transaction, at least fifty percent (50%) of the total voting power represented by the voting securities of the Corporation or such surviving entity outstanding immediately after such transaction or series of transactions; or (b) a sale, lease or other conveyance of all substantially all of the assets of the Company.

5.14 *Conflict*. In the event of any conflict between the terms of this Agreement and the Company's Articles of Incorporation or its Bylaws, the terms of the Company's Articles of Incorporation or its Bylaws, as the case may be, will control.

5.15 *Attorneys' Fees*. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

5.16 *Aggregation of Stock*. All securities held or acquired by affiliated entities (including affiliated venture capital funds) or persons shall be aggregated together for purposes of determining the availability of any rights under this Agreement.

(*signature page follows*)

The parties hereto have executed this Investors' Rights Agreement effective as of the day and year first above written.

**SEMLER SCIENTIFIC, INC.**
an Oregon corporation

By: _____

Name: _____

Title: _____

(*Signature Page to Semler Scientific, Inc. Series A Preferred Stock Financing Investors' Rights Agreement*)

**INVESTOR:**

(*Print investor name*)

(*Signature*)

(*Print name of signatory, if signing for an entity*)

(*Print title of signatory, if signing for an entity*)

(*Signature Page to Semler Scientific, Inc. Series A Preferred Stock Financing Investors' Rights Agreement*)

**EXHIBIT A**

**INVESTORS**

Herbert J. Semler and Shirley L. Semler, as co-trustees of the Semler Trust
Eric Semler
Chang Family Trust, William H.C. Chang and Diana S. Chang Trustors and Trustees
Irrevocable Trust for Kimberly E. Chang, Betty C. Shon, Trustee, Dated June 12, 2006
Irrevocable Trust for Kristina C. Chang, Betty C. Shon, Trustee, Dated June 12, 2006
Irrevocable Trust for Kelly L. Chang, Betty C. Shon, Trustee, Dated June 12, 2006
William G. Marr Trust Dtd 10/90
Mark Tanoury
Paul Scott
Rob Chess
Ehrenberg Chesler Capital Partners Ltd
Dalal Revocable Trust UA 7/31/1990
Douglas Murphy-Chutorian
Patricia Tanoury
Jean-Jacques Bienaime
Anthony Sun
Cindy Guinasso
Wesley D. Sterman

**SCHEDULE 1**

**NOTICE AND WAIVER/ELECTION OF RIGHT OF FIRST REFUSAL**

**I do hereby waive or exercise, as indicated below, my rights of first refusal under the Investors' Rights Agreement dated as of June 7, 2012 (the "Agreement"):**

1. Waiver of 10 days notice period in which to exercise right of first refusal: **(please check only one)**

   ( ) **WAIVE** in full, on behalf of all Holders, the 10 day notice period provided to exercise my right of first refusal granted under the Agreement.

   ( ) **DO NOT WAIVE** the notice period described above.

2. Issuance and Sale of New Securities: **(please check only one)**

   ( ) **WAIVE** in full the right of first refusal granted under the Agreement with respect to the issuance of the New Securities.

   ( ) **ELECT TO PARTICIPATE** in $_____ (*please provide amount*) in New Securities proposed to be issued by Semler Scientific, Inc., an Oregon corporation, representing LESS than my pro rata portion of the aggregate of $[_____] in New Securities being offered in the financing.

   ( ) **ELECT TO PARTICIPATE** in $_____ in New Securities proposed to be issued by Semler Scientific, Inc., an Oregon corporation, representing my FULL pro rata portion of the aggregate of $[_____] in New Securities being offered in the financing.

   ( ) **ELECT TO PARTICIPATE** in my full pro rata portion of the aggregate of $[_____] in New Securities being made available in the financing AND, to the extent available, an additional $_____ (*please provide amount*) in New Securities being offered in the financing.

Date: _____

_____
(*Print investor name*)

_____
(*Signature*)

_____
(*Print name of signatory, if signing for an entity*)

_____
(*Print title of signatory, if signing for an entity*)

***This is neither a commitment to purchase nor a commitment to issue the New Securities described above. Such issuance can only be made by way of definitive documentation related to such issuance. The company will supply you with such definitive documentation upon request or if you indicate that you would like to exercise your first offer rights in whole or in part.***

**Exhibit 10.1**

THIS WARRANT AND THE UNDERLYING SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), OR UNDER THE SECURITIES LAWS OF ANY STATE. THESE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS IN ACCORDANCE WITH APPLICABLE REGISTRATION REQUIREMENTS OR AN EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH OFFER, SALE, TRANSFER, PLEDGE OR HYPOTHECATION OTHERWISE COMPLIES WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. THIS WARRANT MUST BE SURRENDERED TO THE COMPANY OR ITS TRANSFER AGENT AS A CONDITION PRECEDENT TO THE SALE, TRANSFER, PLEDGE OR HYPOTHECATION OF ANY INTEREST IN ANY OF THE SECURITIES REPRESENTED HEREBY.

**WARRANT TO PURCHASE SHARES OF SERIES [A][A-1][A-2] PREFERRED STOCK**
**of**
**SEMLER SCIENTIFIC, INC.**

**Dated as of [_____]**
**Void after the date specified in Section 8**

**No. 2013-__** **_____ Shares of Series [A][A-1][A-2] Preferred Stock**

THIS CERTIFIES THAT, for value received, _____, or its registered assigns (the "***Holder***"), is entitled, subject to the provisions and upon the terms and conditions set forth herein, to purchase from Semler Scientific, Inc., an Oregon corporation (the "***Company***"), upon the exercise hereof and the terms herein, up to _____ shares of the Company's Series [A][A-1][A-2] Preferred Stock (the "***Shares***") at such times and at the price per share set forth in Section 1. The term "***Warrant***" as used herein shall include this Warrant and any warrants delivered in substitution or exchange therefor as provided herein. After consideration of all relevant factors, the Company and the original Holder agree that the value of the Warrant is equal to $0.10 times the maximum number of shares purchasable upon exercise hereof; and Holder agrees to pay to the Company the aggregate purchase price of $_____ upon the issuance of this Warrant to Holder.

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

**1. Exercise Price and Exercise Period.**

(a) ***Exercise Price.*** The exercise price per Share shall be [4.50][1] for Series [A] Warrant.

[1] If Series A, exercise price is $4.50; if Series A-1, exercise price is $4.00; if Series A-2, exercise price is $2.00.

(b) ***Exercise Period.*** This Warrant shall be exercisable, in whole or in part, at any time after the issuance hereof and prior to the expiration of this Warrant as set forth in Section 8.

**2. Exercise of the Warrant.**

(a) ***Exercise.*** The purchase rights represented by this Warrant may be exercised at the election of the Holder, in whole or in part, in accordance with Section 1, by:

(i) the tender to the Company at its principal office (or such other office or agency as the Company may designate) of a notice of exercise in the form of Exhibit A (the "***Notice of Exercise***"), duly completed and executed by or on behalf of the Holder, together with the surrender of this Warrant; and

(ii) the payment to the Company of an amount equal to (x) the Exercise Price multiplied by (y) the number of Shares being purchased, by wire transfer or certified, cashier's or other check acceptable to the Company and payable to the order of the Company.

(b) ***Net Issue Exercise.*** In lieu of exercising this Warrant pursuant to Section 2(a)(ii), if the fair market value of one Share is greater than the Exercise Price (at the date of calculation as set forth below), the Holder may elect to receive a number of Shares equal to the value of this Warrant (or of any portion of this Warrant being canceled) by surrender of this Warrant at the principal office of the Company (or such other office or agency as the Company may designate) together with a properly completed and executed Notice of Exercise reflecting such election, in which event the Company shall issue to the Holder that number of Shares computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

Where:

X = The number of Shares to be issued to the Holder

Y = The number of Shares purchasable under this Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being canceled (at the date of such calculation)

A = The fair market value of one Share (at the date of such calculation)

B = The Exercise Price (as adjusted to the date of such calculation)

For purposes of the calculation above, the fair market value of one Share shall be determined by the Board of Directors of the Company, acting in good faith; *provided, however,* that:

(i) where a public market exists for the Company's common stock at the time of such exercise, the fair market value per Share shall be the average of the closing bid prices of the common stock or the closing price quoted on the national securities exchange on which the common stock is listed as published in the *Wall Street Journal*, as applicable, for the ten (10) trading day period ending five (5) trading days prior to the date of determination of fair market value; and

(ii) if the Warrant is exercised in connection with the Company's initial public offering of common stock, the fair market value per Share shall be the product of the per share offering price to the public of the Company's initial public offering.

(c) ***Stock Certificates.*** The rights under this Warrant shall be deemed to have been exercised and the Shares issuable upon such exercise shall be deemed to have been issued immediately prior to the close of business on the date this Warrant is exercised in accordance with its terms, and the person entitled to receive the Shares issuable upon such exercise shall be treated for all purposes as the holder of record of such Shares as of the close of business on such date. As promptly as reasonably practicable on or after such date, the Company shall issue and deliver to the person or persons entitled to receive the same a certificate or certificates for that number of shares issuable upon such exercise. In the event that the rights under this Warrant are exercised in part and have not expired, the Company shall execute and deliver a new Warrant reflecting the number of Shares that remain subject to this Warrant.

(d) ***No Fractional Shares or Scrip.*** No fractional shares or scrip representing fractional shares shall be issued upon the exercise of the rights under this Warrant. In lieu of such fractional share to which the Holder would otherwise be entitled, the Company shall make a cash payment equal to the Exercise Price multiplied by such fraction.

(e) ***Automatic Exercise.*** If the Holder of this Warrant has not elected to exercise this Warrant prior to expiration of this Warrant pursuant to Section 8, then this Warrant shall automatically (without any act on the part of the Holder) be exercised pursuant to Section 2(b) effective immediately prior to the expiration of the Warrant to the extent such net issue exercise would result in the issuance of Shares, unless Holder shall earlier provide written notice to the Company that the Holder desires that this Warrant expire unexercised. If this Warrant is automatically exercised, the Company shall notify the Holder of the automatic exercise as soon as reasonably practicable, and the Holder shall surrender the Warrant to the Company in accordance with the terms hereof.

(f) ***Reservation of Stock.*** The Company agrees during the term the rights under this Warrant are exercisable to take all reasonable action to reserve and keep available from its authorized and unissued shares of common stock for the purpose of effecting the exercise of this Warrant such number of shares as shall from time to time be sufficient to effect the exercise of the rights under this Warrant; and if at any time the number of authorized but unissued shares of common stock shall not be sufficient for purposes of the exercise of this Warrant in accordance with its terms, without limitation of such other remedies as may be available to the Holder, the Company will use all reasonable efforts to take such corporate action as may, in the opinion of counsel, be necessary to increase its authorized and unissued shares of its common stock to a number of shares as shall be sufficient for such purposes.

3. **Replacement of the Warrant.** Subject to the receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and substance to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company at the expense of the Holder shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor and amount.

**4. Transfer of the Warrant.**

(a) ***Warrant Register.*** The Company shall maintain a register (the "***Warrant Register***") containing the name and address of the Holder or Holders. Until this Warrant is transferred on the Warrant Register in accordance herewith, the Company may treat the Holder as shown on the Warrant Register as the

absolute owner of this Warrant for all purposes, notwithstanding any notice to the contrary. Any Holder of this Warrant (or of any portion of this Warrant) may change its address as shown on the Warrant Register by written notice to the Company requesting a change.

(b) ***Warrant Agent.*** The Company may appoint an agent for the purpose of maintaining the Warrant Register referred to in Section 4(a), issuing the Shares or other securities then issuable upon the exercise of the rights under this Warrant, exchanging this Warrant, replacing this Warrant or conducting related activities.

(c) ***Transferability of the Warrant.*** Subject to the provisions of this Warrant with respect to compliance with the Securities Act of 1933, as amended (the "***Securities Act***") and limitations on assignments and transfers, including without limitation compliance with the restrictions on transfer set forth in Section 5, title to this Warrant may be transferred by endorsement (by the transferor and the transferee executing the assignment form attached as Exhibit B (the "***Assignment Form***")) and delivery in the same manner as a negotiable instrument transferable by endorsement and delivery.

(d) ***Exchange of the Warrant upon a Transfer.*** On surrender of this Warrant (and a properly endorsed Assignment Form) for exchange, subject to the provisions of this Warrant with respect to compliance with the Securities Act and limitations on assignments and transfers, the Company shall issue to or on the order of the Holder a new warrant or warrants of like tenor, in the name of the Holder or as the Holder (on payment by the Holder of any applicable transfer taxes) may direct, for the number of shares issuable upon exercise hereof, and the Company shall register any such transfer upon the Warrant Register. This Warrant (and the securities issuable upon exercise of the rights under this Warrant) must be surrendered to the Company or its warrant or transfer agent, as applicable, as a condition precedent to the sale, pledge, hypothecation or other transfer of any interest in any of the securities represented hereby.

(e) ***Minimum Transfer.*** This Warrant may not be transferred in part.

(f) ***Taxes.*** In no event shall the Company be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of any certificate in a name other than that of the Holder, and the Company shall not be required to issue or deliver any such certificate unless and until the person or persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid or is not payable.

5. **Restrictions on Transfer of the Warrant and Shares; Compliance with Securities Laws.** By acceptance of this Warrant, the Holder agrees to comply with the following:

(a) ***Restrictions on Transfers.*** Subject to Section 5(b), this Warrant may not be transferred or assigned in whole or in part without the Company's prior written consent (which shall not be unreasonably withheld), and any attempt by Holder to transfer or assign any rights, duties or obligations that arise under this Warrant without such permission shall be void. Any transfer of this Warrant or the Shares (the "***Securities***") must be in compliance with all applicable federal and state securities laws. The Holder agrees not to make any sale, assignment, transfer, pledge or other disposition of all or any portion of the Securities, or any beneficial interest therein, unless and until the transferee thereof has agreed in writing for the benefit of the Company to take and hold such Securities subject to, and to be bound by, the terms and conditions set forth in this Warrant to the same extent as if the transferee were the original Holder hereunder, and

(i) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or

(ii) (A) such Holder shall have given prior written notice to the Company of such Holder's intention to make such disposition and shall have furnished the Company with a detailed description of the manner and circumstances of the proposed disposition, (B) the transferee shall have confirmed to the satisfaction of the Company in writing, substantially in the form of Exhibit A-1, that the Securities are being acquired (i) solely for the transferee's own account and not as a nominee for any other party, (ii) for investment and (iii) not with a view toward distribution or resale, and shall have confirmed such other matters related thereto as may be reasonably requested by the Company, and (C) such Holder shall have furnished the Company, at the Holder's expense, with (i) an opinion of counsel, reasonably satisfactory to the Company, to the effect that such disposition will not require registration of such Securities under the Securities Act or (ii) a "no action" letter from the Securities and Exchange Commission to the effect that the transfer of such Securities without registration will not result in a recommendation by the staff of the Securities and Exchange Commission that action be taken with respect thereto, whereupon such Holder shall be entitled to transfer such Securities in accordance with the terms of the notice delivered by the Holder to the Company. It is agreed that the Company will not require opinions of counsel for transactions made pursuant to Rule 144 except in unusual circumstances.

(b) ***Permitted Transfers.*** Permitted transfers include (i) a transfer not involving a change in beneficial ownership, or (ii) transactions involving the distribution without consideration of Securities by any Holder to (x) a parent, subsidiary or other affiliate of a Holder that is a corporation, (y) any of the Holder's partners, members or other equity owners, or retired partners or members, or to the estate of any of its partners, members or other equity owners or retired partners or members, or (z) a venture capital fund that is controlled by or under common control with one or more general partners or managing members of, or shares the same management company with, the Holder; *provided*, in each case, that the Holder shall give written notice to the Company of the Holder's intention to effect such disposition and shall have furnished the Company with a detailed description of the manner and circumstances of the proposed disposition.

(c) ***Investment Representation Statement.*** Unless the rights under this Warrant are exercised pursuant to an effective registration statement under the Securities Act that includes the Shares with respect to which the Warrant was exercised, it shall be a condition to any exercise of the rights under this Warrant that the Holder shall have confirmed to the satisfaction of the Company in writing, substantially in the form of Exhibit A-1, that the Shares so purchased are being acquired solely for the Holder's own account and not as a nominee for any other party, for investment and not with a view toward distribution or resale and that the Holder shall have confirmed such other matters related thereto as may be reasonably requested by the Company.

(d) ***Securities Law Legend.*** The Securities shall (unless otherwise permitted by the provisions of this Warrant) be stamped or imprinted with a legend substantially similar to the following (in addition to any legend required by state securities laws):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS IN ACCORDANCE WITH APPLICABLE REGISTRATION REQUIREMENTS OR AN EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION OTHERWISE COMPLIES WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. THIS CERTIFICATE MUST BE SURRENDERED TO THE COMPANY OR ITS TRANSFER AGENT AS A CONDITION PRECEDENT TO THE SALE,

TRANSFER, PLEDGE OR HYPOTHECATION OF ANY INTEREST IN ANY OF THE SECURITIES REPRESENTED HEREBY.

(e) ***Market Stand-off Legend.*** The Shares shall also be stamped or imprinted with a legend in substantially the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE, INCLUDING A LOCK-UP PERIOD IN THE EVENT OF A PUBLIC OFFERING, AS SET FORTH IN THE WARRANT PURSUANT TO WHICH THESE SHARES WERE ISSUED, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE COMPANY.

(f) ***Instructions Regarding Transfer Restrictions.*** The Holder consents to the Company making a notation on its records and giving instructions to any transfer agent in order to implement the restrictions on transfer established in this Section 5.

(g) ***Removal of Legend.*** The legend referring to federal and state securities laws identified in Section 5(d) stamped on a certificate evidencing the Shares and the stock transfer instructions and record notations with respect to such securities shall be removed and the Company shall issue a certificate without such legend to the holder of such securities if (i) such securities are registered under the Securities Act, or (ii) such holder provides the Company with an opinion of counsel reasonably acceptable to the Company to the effect that a sale or transfer of such securities may be made without registration or qualification.

6. **Adjustments.** Subject to the expiration of this Warrant pursuant to Section 8, the number and kind of shares purchasable hereunder and the Exercise Price therefor are subject to adjustment from time to time, as follows:

(a) ***Merger or Reorganization.*** If at any time there shall be any reorganization, recapitalization, merger or consolidation (a "***Reorganization***") involving the Company (other than as otherwise provided for herein or as would cause the expiration of this Warrant under Section 8) in which shares of the Company's stock are converted into or exchanged for securities, cash or other property, then, as a part of such Reorganization, lawful provision shall be made so that the Holder shall thereafter be entitled to receive upon exercise of this Warrant, the kind and amount of securities, cash or other property of the successor corporation resulting from such Reorganization, equivalent in value to that which a holder of the Shares deliverable upon exercise of this Warrant would have been entitled in such Reorganization if the right to purchase the Shares hereunder had been exercised immediately prior to such Reorganization. In any such case, appropriate adjustment (as determined in good faith by the Board of Directors of the successor corporation) shall be made in the application of the provisions of this Warrant with respect to the rights and interests of the Holder after such Reorganization to the end that the provisions of this Warrant shall be applicable after the event, as near as reasonably may be, in relation to any shares or other securities deliverable after that event upon the exercise of this Warrant.

(b) ***Reclassification of Shares.*** If the securities issuable upon exercise of this Warrant are changed into the same or a different number of securities of any other class or classes by reclassification, capital reorganization, conversion of all outstanding shares of the relevant class or series (other than as would cause the expiration of this Warrant pursuant to Section 8) or otherwise (other than as otherwise provided for herein) (a "***Reclassification***"), then, in any such event, in lieu of the number of Shares which the Holder would otherwise have been entitled to receive, the Holder shall have the right thereafter to exercise this Warrant for a number of shares of such other class or classes of stock that a holder of the number of securities

deliverable upon exercise of this Warrant immediately before that change would have been entitled to receive in such Reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(c) ***Subdivisions and Combinations.*** In the event that the outstanding shares of the securities issuable upon exercise of this Warrant are subdivided (by stock split, by payment of a stock dividend or otherwise) into a greater number of shares of such securities, the number of Shares issuable upon exercise of the rights under this Warrant immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately increased, and the Exercise Price shall be proportionately decreased, and in the event that the outstanding shares of the securities issuable upon exercise of this Warrant are combined (by reclassification or otherwise) into a lesser number of shares of such securities, the number of Shares issuable upon exercise of the rights under this Warrant immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately decreased, and the Exercise Price shall be proportionately increased.

(d) ***Notice of Adjustments.*** Upon any adjustment in accordance with this Section 6, the Company shall give notice thereof to the Holder, which notice shall state the event giving rise to the adjustment, the Exercise Price as adjusted and the number of securities or other property purchasable upon the exercise of the rights under this Warrant, setting forth in reasonable detail the method of calculation of each. The Company shall, upon the written request of any Holder, furnish or cause to be furnished to such Holder a certificate setting forth (i) such adjustments, (ii) the Exercise Price at the time in effect and (iii) the number of securities and the amount, if any, of other property that at the time would be received upon exercise of this Warrant.

7. **Notification of Certain Events.** Prior to the expiration of this Warrant pursuant to Section 8, in the event that the Company shall authorize:

(a) the issuance of any dividend or other distribution on the capital stock of the Company (other than (i) dividends or distributions otherwise provided for in Section 6, (ii) repurchases of common stock issued to or held by employees, officers, directors or consultants of the Company or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase; (iii) repurchases of common stock issued to or held by employees, officers, directors or consultants of the Company or its subsidiaries pursuant to rights of first refusal or first offer contained in agreements providing for such rights; or (iv) repurchases of capital stock of the Company in connection with the settlement of disputes with any stockholder), whether in cash, property, stock or other securities;

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

(c) any transaction resulting in the expiration of this Warrant pursuant to Section 8(b);

the Company shall send to the Holder of this Warrant at least ten (10) days prior written notice of the date on which a record shall be taken for any such dividend or distribution specified in clause (a) or the expected effective date of any such other event specified in clause (b) or (c), as applicable. The notice provisions set forth in this section may be shortened or waived prospectively or retrospectively by the consent of the holders of a majority of the Shares issuable upon exercise of the rights under the Warrants.

8. **Expiration of the Warrant.** This Warrant shall expire and shall no longer be exercisable as of the earlier of:

(a) 5:00 p.m., Pacific time, on [July 31, 2016][2];

(b) (i) the acquisition of the Company by another entity by means of any transaction or series of related transactions to which the Company is a party (including, without limitation, any stock acquisition, reorganization, merger or consolidation, but excluding any sale of stock for capital raising purposes and any transaction effected primarily for purposes of changing the Company's jurisdiction of incorporation) other than a transaction or series of related transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction or series of related transactions retain, immediately after such transaction or series of transactions, as a result of shares in the Company held by such holders prior to such transaction or series of transactions, at least a majority of the total voting power represented by the outstanding voting securities of the Company or such other surviving or resulting entity (or if the Company or such other surviving or resulting entity is a wholly-owned subsidiary immediately following such acquisition, its parent), or (ii) a sale, lease or other disposition of all or substantially all of the assets of the Company and its subsidiaries taken as a whole by means of any transaction or series of related transactions, except where such sale, lease or other disposition is to a wholly-owned subsidiary of the Company; or

9. **No Rights as a Stockholder.** Nothing contained herein shall entitle the Holder to any rights as a stockholder of the Company or to be deemed the holder of any securities that may at any time be issuable on the exercise of the rights hereunder for any purpose nor shall anything contained herein be construed to confer upon the Holder, as such, any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value or change of stock to no par value, consolidation, merger, conveyance or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or any other rights of a stockholder of the Company until the rights under the Warrant shall have been exercised and the Shares purchasable upon exercise of the rights hereunder shall have become deliverable as provided herein.

10. **Market Stand-off.** The Holder of this Warrant hereby agrees that such Holder shall not sell or otherwise transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, of any common stock (or other securities) of the Company held by the Holder (other than those included in the registration) during the one hundred eighty (180) day period following the effective date of a registration statement of the Company filed under the Securities Act (or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto), *provided* that all officers and directors of the Company and holders of at least one percent (1%) of the Company's voting securities are bound by and have entered into similar agreements. The obligations described in this section shall not apply to a registration relating solely to employee benefit plans on Form S-l or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions and

[2] If Series A, expiration date is July 31, 2016; if Series A-1, expiration date is June 30, 2023; if Series A-2, expiration date is June 30, 2022.

may stamp each certificate with a legend as substantially set forth in Section 5(e) with respect to the shares of common stock (or other securities) subject to the foregoing restriction until the end of such one hundred eighty (180) day (or other) period. The Holder agrees to execute a market stand-off agreement with the underwriters in the offering in customary form consistent with the provisions of this section.

11. **Representations and Warranties of the Holder.** By acceptance of this Warrant, the Holder represents and warrants to the Company as follows:

(a) ***No Registration.*** The Holder understands that the Securities have not been, and will not be, registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the *bona fide* nature of the investment intent and the accuracy of the Holder's representations as expressed herein or otherwise made pursuant hereto.

(b) ***Investment Intent.*** The Holder is acquiring the Securities for investment for its own account, not as a nominee or agent, and not with a view to, or for resale in connection with, any distribution thereof. The Holder has no present intention of selling, granting any participation in, or otherwise distributing the Securities, nor does it have any contract, undertaking, agreement or arrangement for the same.

(c) ***Investment Experience.*** The Holder has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company, and has such knowledge and experience in financial or business matters so that it is capable of evaluating the merits and risks of its investment in the Company and protecting its own interests.

(d) ***Speculative Nature of Investment.*** The Holder understands and acknowledges that the Company has a limited financial and operating history and that its investment in the Company is highly speculative and involves substantial risks. The Holder can bear the economic risk of its investment and is able, without impairing its financial condition, to hold the Securities for an indefinite period of time and to suffer a complete loss of its investment.

(e) ***Access to Data.*** The Holder has had an opportunity to ask questions of officers of the Company, which questions were answered to its satisfaction. The Holder believes that it has received all the information that it considers necessary or appropriate for deciding whether to acquire the Securities. The Holder understands that any such discussions, as well as any information issued by the Company, were intended to describe certain aspects of the Company's business and prospects, but were not necessarily a thorough or exhaustive description. The Holder acknowledges that any business plans prepared by the Company have been, and continue to be, subject to change and that any projections included in such business plans or otherwise are necessarily speculative in nature, and it can be expected that some or all of the assumptions underlying the projections will not materialize or will vary significantly from actual results.

(f) ***Accredited Investor.*** The Holder is an "accredited investor" within the meaning of Regulation D, Rule 501(a), promulgated by the Securities and Exchange Commission and agrees to submit to the Company such further assurances of such status as may be reasonably requested by the Company.

(g) ***Residency.*** The residency of the Holder (or, in the case of a partnership or corporation, such entity's principal place of business) is correctly set forth on the signature page hereto.

(h) ***Restrictions on Resales.*** The Holder acknowledges that the Securities must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Holder is aware of the provisions of Rule 144 promulgated under the Securities Act, which

permit resale of shares purchased in a private placement subject to the satisfaction of certain conditions, which may include, among other things, the availability of certain current public information about the Company; the resale occurring not less than a specified period after a party has purchased and paid for the security to be sold; the number of shares being sold during any three-month period not exceeding specified limitations; the sale being effected through a "broker's transaction," a transaction directly with a "market maker" or a "riskless principal transaction" (as those terms are defined in the Securities Act or the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder); and the filing of a Form 144 notice, if applicable. The Holder acknowledges and understands that the Company may not be satisfying the current public information requirement of Rule 144 at the time the Holder wishes to sell the Securities and that, in such event, the Holder may be precluded from selling the Securities under Rule 144 even if the other applicable requirements of Rule 144 have been satisfied. The Holder acknowledges that, in the event the applicable requirements of Rule 144 are not met, registration under the Securities Act or an exemption from registration will be required for any disposition of the Securities. The Holder understands that, although Rule 144 is not exclusive, the Securities and Exchange Commission has expressed its opinion that persons proposing to sell restricted securities received in a private offering other than in a registered offering or pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales and that such persons and the brokers who participate in the transactions do so at their own risk.

(i) ***No Public Market.*** The Holder understands and acknowledges that no public market now exists for any of the securities issued by the Company and that the Company has made no assurances that a public market will ever exist for the Company's securities.

(j) ***Brokers and Finders.*** The Holder has not engaged any brokers, finders or agents in connection with the Securities, and the Company has not incurred nor will incur, directly or indirectly, as a result of any action taken by the Holder, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with the Securities.

(k) ***Legal Counsel.*** The Holder has had the opportunity to review this Warrant, the exhibits and schedules attached hereto and the transactions contemplated by this Warrant with its own legal counsel. The Holder is not relying on any statements or representations of the Company or its agents for legal advice with respect to this investment or the transactions contemplated by this Warrant.

(l) ***Tax Advisors.*** The Holder has reviewed with its own tax advisors the U.S. federal, state and local and non-U.S. tax consequences of this investment and the transactions contemplated by this Warrant. With respect to such matters, the Holder relies solely on any such advisors and not on any statements or representations of the Company or any of its agents, written or oral. The Holder understands that it (and not the Company) shall be responsible for its own tax liability that may arise as a result of this investment and the transactions contemplated by this Warrant.

12. **Miscellaneous.**

(a) ***Amendments.*** Except as expressly provided herein, neither this Warrant nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Warrant and signed by the Company and the holders of Warrants representing not less than a majority of the Shares issuable upon exercise of any and all outstanding Warrants, which majority does not need to include the consent of the Holder. Any amendment, waiver, discharge or termination effected in accordance with this Section 12(a) shall be binding upon each holder of the Warrants, each future holder of such Warrants and the Company.

(b) ***Waivers.*** No waiver of any single breach or default shall be deemed a waiver of any other breach or default theretofore or thereafter occurring.

(c) ***Notices.*** All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or electronic mail (if to the Holder) or otherwise delivered by hand, messenger or courier service addressed:

(i) if to the Holder, to the Holder at the Holder's address, facsimile number or electronic mail address as shown in the Company's records, as may be updated in accordance with the provisions hereof, or until any such Holder so furnishes an address, facsimile number or electronic mail address to the Company, then to and at the address, facsimile number or electronic mail address of the last holder of this Warrant for which the Company has contact information in its records; or

(ii) if to the Company, to the attention of the President or Chief Financial Officer of the Company at the Company's address as shown on the signature page hereto, or at such other address as the Company shall have furnished to the Holder, with a copy to J. Casey McGlynn, Wilson Sonsini Goodrich & Rosati, P.C., 650 Page Mill Road, Palo Alto, California 94304.

Each such notice or other communication shall for all purposes of this Warrant be treated as effective or having been given (i) if delivered by hand, messenger or courier service, when delivered, or (ii) if sent by mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid, or (iii) if sent by facsimile, upon confirmation of facsimile transfer or, if sent by electronic mail, upon confirmation of delivery when directed to the relevant electronic mail address. In the event of any conflict between the Company's books and records and this Warrant or any notice delivered hereunder, the Company's books and records will control absent fraud or error.

(d) ***Governing Law.*** This Warrant and all actions arising out of or in connection with this Warrant shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California, or of any other state.

(e) ***Jurisdiction and Venue.*** Each of the Holder and the Company irrevocably consents to the exclusive jurisdiction and venue of any court within Santa Clara County, State of California, in connection with any matter based upon or arising out of this Warrant or the matters contemplated herein, and agrees that process may be served upon them in any manner authorized by the laws of the State of California for such persons.

(f) ***Titles and Subtitles.*** The titles and subtitles used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant. All references in this Warrant to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

(g) ***Severability.*** If any provision of this Warrant becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this Warrant, and such illegal, unenforceable or void provision shall be replaced with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, unenforceable or void provision. The balance of this Warrant shall be enforceable in accordance with its terms.

(h) ***Waiver of Jury Trial.*** **EACH OF THE HOLDER AND THE COMPANY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS WARRANT.** If the waiver of jury trial set forth in this paragraph is not enforceable, then any claim or cause of action arising out of or relating to this Warrant shall be settled by judicial reference pursuant to California Code of Civil Procedure Section 638 *et seq.* before a referee sitting without a jury, such referee to be mutually acceptable to the parties or, if no agreement is reached, by a referee appointed by the Presiding Judge of the California Superior Court for Santa Clara County. This paragraph shall not restrict the Holder or the Company from exercising remedies under the Uniform Commercial Code or from exercising pre-judgment remedies under applicable law.

(i) ***California Corporate Securities Law.*** THE SALE OF THE SECURITIES THAT ARE THE SUBJECT OF THIS WARRANT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102, OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS WARRANT ARE EXPRESSLY CONDITIONED UPON THE QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

(j) ***Saturdays, Sundays and Holidays.*** If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday, Sunday or U.S. federal holiday, then such action may be taken or such right may be exercised on the next succeeding day that is not a Saturday, Sunday or U.S. federal holiday.

(k) ***Rights and Obligations Survive Exercise of the Warrant.*** Except as otherwise provided herein, the rights and obligations of the Company and the Holder under this Warrant shall survive exercise of this Warrant.

(l) ***Entire Agreement.*** Except as expressly set forth herein, this Warrant (including the exhibits attached hereto) constitutes the entire agreement and understanding of the Company and the Holder with respect to the subject matter hereof and supersede all prior agreements and understandings relating to the subject matter hereof.

(*signature page follows*)

The Company and the Holder sign this Warrant No. 2013-__ as of the date stated on the first page.

**SEMLER SCIENTIFIC, INC.**

By: _____

Name: Daniel E. Conger

Title: VP, Finance

Address:
2330 N.W. Everett St
Portland, OR 97210

**AGREED AND ACKNOWLEDGED,**

_____

By: _____

Name: _____

Title: _____

Address:

_____

_____

Fascimile number: _____
Email address: _____

**EXHIBIT A**

**NOTICE OF EXERCISE**

**TO:** **SEMLER SCIENTIFIC, INC. (the "*Company*")**

**Attention:** **President**

(1) **Exercise.** The undersigned elects to purchase the following pursuant to the terms of the attached warrant:

Number of shares: _____

Type of security: _____

(2) **Method of Exercise.** The undersigned elects to exercise the attached warrant pursuant to:

0 A cash payment, and tenders herewith payment of the purchase price for such shares in full, together with all applicable transfer taxes, if any.

0 The net issue exercise provisions of Section 2(b) of the attached warrant.

(3) **Stock Certificate.** Please issue a certificate or certificates representing the shares in the name of:

0 The undersigned

0 Other—Name: _____

Address: _____

_____

(4) **Unexercised Portion of the Warrant.** Please issue a new warrant for the unexercised portion of the attached warrant in the name of:

0 The undersigned

0 Other—Name: _____

Address: _____

_____

0 Not applicable

(5) **Investment Intent.** The undersigned represents and warrants that the aforesaid shares are being acquired for investment for its own account, not as a nominee or agent, and not with a view to, or for resale in connection with, the distribution thereof, and that the undersigned has no present intention of selling, granting any participation in, or otherwise distributing the shares, nor does it have any contract, undertaking, agreement or arrangement for the same, and all representations and warranties of the undersigned set forth in Section 11 of the attached warrant are true and correct as of the date hereof.

(6) **Investment Representation Statement and Market Stand-Off Agreement.** The undersigned has executed, and delivers herewith, an Investment Representation Statement and Market Stand-Off Agreement in a form substantially similar to the form attached to the warrant as Exhibit A-1.

(7) **Consent to Receipt of Electronic Notice.** Subject to the limitations set forth in Delaware General Corporation Law §232(e), the undersigned consents to the delivery of any notice to stockholders given by the Company under the Delaware General Corporation Law or the Company's certificate of incorporation or bylaws by (i) facsimile telecommunication to the facsimile number provided below (or to any other facsimile number for the undersigned in the Company's records), (ii) electronic mail to the electronic mail address provided below (or to any other electronic mail address for the undersigned in the Company's records), (iii) posting on an electronic network together with separate notice to the undersigned of such specific posting or (iv) any other form of electronic transmission (as defined in the Delaware General Corporation Law) directed to the undersigned. This consent may be revoked by the undersigned by written notice to the Company and may be deemed revoked in the circumstances specified in Delaware General Corporation Law §232.

_____
(*Print name of the warrant holder*)

_____
(*Signature*)

_____
(*Name and title of signatory, if applicable*)

_____
(*Date*)

_____
(*Fax number*)

_____
(*Email address*)

***(Signature page to the Notice of Exercise)***

**EXHIBIT A-l**

**INVESTMENT REPRESENTATION STATEMENT**
**AND**
**MARKET STAND-OFF AGREEMENT**

INVESTOR: _____

COMPANY: SEMLER SCIENTIFIC, INC.

SECURITIES: THE WARRANT, NO. 2013-__, ISSUED ON [_____], 2013 (THE "***WARRANT***") AND THE SECURITIES ISSUED OR ISSUABLE UPON EXERCISE THEREOF

DATE: _____

In connection with the purchase or acquisition of the above-listed Securities, the undersigned Investor represents and warrants to, and agrees with, the Company as follows:

1. **No Registration.** The Investor understands that the Securities have not been, and will not be, registered under the Securities Act of 1933, as amended (the "***Securities Act***"), by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends upon, among other things, the *bona fide* nature of the investment intent and the accuracy of the Investor's representations as expressed herein or otherwise made pursuant hereto.

2. **Investment Intent.** The Investor is acquiring the Securities for investment for its own account, not as a nominee or agent, and not with a view to, or for resale in connection with, any distribution thereof. The Investor has no present intention of selling, granting any participation in, or otherwise distributing the Securities, nor does it have any contract, undertaking, agreement or arrangement for the same.

3. **Investment Experience.** The Investor has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company, and has such knowledge and experience in financial or business matters so that it is capable of evaluating the merits and risks of its investment in the Company and protecting its own interests.

4. **Speculative Nature of Investment.** The Investor understands and acknowledges that the Company has a limited financial and operating history and that its investment in the Company is highly speculative and involves substantial risks. The Investor can bear the economic risk of its investment and is able, without impairing its financial condition, to hold the Securities for an indefinite period of time and to suffer a complete loss of its investment.

5. **Access to Data.** The Investor has had an opportunity to ask questions of officers of the Company, which questions were answered to its satisfaction. The Investor believes that it has received all the information that it considers necessary or appropriate for deciding whether to acquire the Securities. The Investor understands that any such discussions, as well as any information issued by the Company, were intended to describe certain aspects of the Company's business and prospects, but were not necessarily a thorough or exhaustive description. The Investor acknowledges that any business plans prepared by the Company have been, and continue to be, subject to change and that any projections included in such business

plans or otherwise are necessarily speculative in nature, and it can be expected that some or all of the assumptions underlying the projections will not materialize or will vary significantly from actual results.

6. **Accredited Investor.** The Investor is an "accredited investor" within the meaning of Regulation D, Rule 501(a), promulgated by the Securities and Exchange Commission and agrees to submit to the Company such further assurances of such status as may be reasonably requested by the Company.

7. **Residency.** The residency of the Investor (or, in the case of a partnership or corporation, such entity's principal place of business) is correctly set forth on the signature page hereto.

8. **Restrictions on Resales.** The Investor acknowledges that the Securities must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Investor is aware of the provisions of Rule 144 promulgated under the Securities Act, which permit resale of shares purchased in a private placement subject to the satisfaction of certain conditions, which may include, among other things, the availability of certain current public information about the Company; the resale occurring not less than a specified period after a party has purchased and paid for the security to be sold; the number of shares being sold during any three-month period not exceeding specified limitations; the sale being effected through a "broker's transaction," a transaction directly with a "market maker" or a "riskless principal transaction" (as those terms are defined in the Securities Act or the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder); and the filing of a Form 144 notice, if applicable. The Investor acknowledges and understands that the Company may not be satisfying the current public information requirement of Rule 144 at the time the Investor wishes to sell the Securities and that, in such event, the Investor may be precluded from selling the Securities under Rule 144 even if the other applicable requirements of Rule 144 have been satisfied. The Investor understands and acknowledges that, in the event the applicable requirements of Rule 144 are not met, registration under the Securities Act or an exemption from registration will be required for any disposition of the Securities. The Investor understands that, although Rule 144 is not exclusive, the Securities and Exchange Commission has expressed its opinion that persons proposing to sell restricted securities received in a private offering other than in a registered offering or pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for those offers or sales and that those persons and the brokers who participate in the transactions do so at their own risk.

9. **No Public Market.** The Holder understands and acknowledges that no public market now exists for any of the securities issued by the Company and that the Company has made no assurances that a public market will ever exist for the Company's securities.

10. **Brokers and Finders.** The Investor has not engaged any brokers, finders or agents in connection with the Securities, and the Company has not incurred nor will incur, directly or indirectly, as a result of any action taken by the Investor, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with the Securities.

11. **Legal Counsel.** The Investor has had the opportunity to review the Warrant, the exhibits and schedules attached thereto and the transactions contemplated by the Warrant with its own legal counsel. The Investor is not relying on any statements or representations of the Company or its agents for legal advice with respect to this investment or the transactions contemplated by the Warrant.

12. **Tax Advisors.** The Investor has reviewed with its own tax advisors the U.S. federal, state and local and non-U.S. tax consequences of this investment and the transactions contemplated by the Warrant. With respect to such matters, the Investor relies solely on such advisors and not on any statements or representations of the Company or any of its agents, written or oral. The Investor understands that it (and not

the Company) shall be responsible for its own tax liability that may arise as a result of this investment or the transactions contemplated by the Warrant.

13. **Market Stand-off.** The Investor agrees that the Investor shall not sell or otherwise transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, of any common stock (or other securities) of the Company held by the Investor (other than those included in the registration) during the one hundred eighty (180) day period following the effective date of a registration statement of the Company filed under the Securities Act (or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto), *provided* that all officers and directors of the Company and holders of at least one percent (1%) of the Company's voting securities are bound by and have entered into similar agreements. The obligations described in this section shall not apply to a registration relating solely to employee benefit plans on Form S-l or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions and may stamp each certificate with a legend with respect to the shares of common stock (or other securities) subject to the foregoing restriction until the end of such one hundred eighty (180) day (or other) period. The Investor agrees to execute a market stand-off agreement with the relevant underwriters in customary form consistent with the provisions of this section.

(*signature page follows*)

The Investor is signing this Investment Representation Statement and Market Stand-Off Agreement on the date first written above.

**INVESTOR**

(*Print name of the investor*)

(*Signature*)

(*Name and title of signatory, if applicable*)

(*Street address*)

(*City, state and ZIP*)

**EXHIBIT B**

**ASSIGNMENT FORM**

ASSIGNOR: _____

COMPANY: SEMLER SCIENTIFIC, INC.

WARRANT: THE WARRANT NO. 2013-__ TO PURCHASE SHARES OF SERIES [A][A-1[A-2] PREFERRED STOCK ISSUED ON [_____], 2013 (THE "***WARRANT***")

DATE: _____

(1) **Assignment.** The undersigned registered holder of the Warrant ("***Assignor***") assigns and transfers to the assignee named below ("***Assignee***") all of the rights of Assignor under the Warrant, with respect to the number of shares set forth below:

Name of Assignee: _____

Address of Assignee: _____

_____

Number of Shares Assigned: _____

and does irrevocably constitute and appoint _____ as attorney to make such transfer on the books of Semler Scientific, Inc., maintained for the purpose, with full power of substitution in the premises.

(2) **Obligations of Assignee.** Assignee agrees to take and hold the Warrant and any shares of stock to be issued upon exercise of the rights thereunder (the "***Securities***") subject to, and to be bound by, the terms and conditions set forth in the Warrant to the same extent as if Assignee were the original holder thereof.

(3) **Investment Intent.** Assignee represents and warrants that the Securities are being acquired for investment for its own account, not as a nominee or agent, and not with a view to, or for resale in connection with, the distribution thereof, and that Assignee has no present intention of selling, granting any participation in, or otherwise distributing the shares, nor does it have any contract, undertaking, agreement or arrangement for the same, and all representations and warranties set forth in Section 11 of the Warrant are true and correct as to Assignee as of the date hereof.

(4) **Investment Representation Statement and Market Stand-Off Agreement.** Assignee has executed, and delivers herewith, an Investment Representation Statement and Market Stand-Off Agreement in a form substantially similar to the form attached to the Warrant as Exhibit A-1.

Assignor and Assignee are signing this Assignment Form on the date first set forth above.

| **ASSIGNOR** | **ASSIGNEE** |
| --- | --- |
| (*Print name of Assignor*) | (*Print name of Assignee*) |
| (*Signature of Assignor*) | (*Signature of Assignee*) |
| (*Print name of signatory, if applicable*) | (*Print name of signatory, if applicable*) |
| (*Print title of signatory, if applicable*) | (*Print title of signatory, if applicable*) |
| Address: | Address: |

**Exhibit 10.2**

Form of Representative's Warrant Agreement

THE REGISTERED HOLDER OF THIS PURCHASE WARRANT BY ITS ACCEPTANCE HEREOF, AGREES THAT IT WILL NOT SELL, TRANSFER OR ASSIGN THIS PURCHASE WARRANT EXCEPT AS HEREIN PROVIDED AND THE REGISTERED HOLDER OF THIS PURCHASE WARRANT AGREES THAT IT WILL NOT SELL, TRANSFER, ASSIGN, PLEDGE OR HYPOTHECATE THIS PURCHASE WARRANT FOR A PERIOD OF 180 DAYS FOLLOWING THE EFFECTIVE DATE OF THE REGISTRATION STATEMENT (DEFINED BELOW) TO ANYONE OTHER THAN (I) AEGIS CAPITAL CORP. OR AN UNDERWRITER OR A SELECTED DEALER IN CONNECTION WITH THE OFFERING, OR (II) A BONA FIDE OFFICER OR PARTNER OF AEGIS CAPITAL CORP. OR OF ANY SUCH UNDERWRITER OR SELECTED DEALER.

THIS PURCHASE WARRANT IS NOT EXERCISABLE PRIOR TO [·], 20[14]. VOID AFTER 5:00 P.M., EASTERN TIME, [·], 20[18].

COMMON STOCK PURCHASE WARRANT

For the Purchase of [·] Shares of Common Stock

of

SEMLER SCIENTIFIC, INC.

1. Purchase Warrant. THIS CERTIFIES THAT, in consideration of funds duly paid by or on behalf of [·] ("**Holder**"), as registered owner of this Purchase Warrant, to Semler Scientific, Inc., a Delaware corporation (the "**Company**"), Holder is entitled, at any time or from time to time from [·], 20[14] (the "**Commencement Date**"), and at or before 5:00 p.m., Eastern time, [·], 20[18] (the "**Expiration Date**"), but not thereafter, to subscribe for, purchase and receive, in whole or in part, up to [·] shares of common stock of the Company [equal to 5% of the Shares sold in the Offering], par value $0.001 per share (the "**Shares**"), subject to adjustment as provided in Section 6 hereof. If the Expiration Date is a day on which banking institutions are authorized by law to close, then this Purchase Warrant may be exercised on the next succeeding day which is not such a day in accordance with the terms herein. During the period ending on the Expiration Date, the Company agrees not to take any action that would terminate the Purchase Warrant. This Purchase Warrant is initially exercisable at $[·] per Share (125% of the price of the Shares sold in the Offering); provided, however, that upon the occurrence of any of the events specified in Section 6 hereof, the rights granted by this Purchase Warrant, including the exercise price per Share and the number of Shares to be received upon such exercise, shall be adjusted as therein specified. The term "**Exercise Price**" shall mean the initial exercise price or the adjusted exercise price, depending on the context.

2. Exercise.

2.1 Exercise Form. In order to exercise this Purchase Warrant, the exercise form attached hereto must be duly executed and completed and delivered to the Company, together with this Purchase Warrant and payment of the Exercise Price for the Shares being purchased payable in cash by wire transfer of immediately available funds to an account designated by the Company or by certified check or official bank check. If the subscription rights represented hereby shall not be exercised at or before 5:00 p.m., Eastern time, on the Expiration Date, this Purchase Warrant shall become and be void without further force or effect, and all rights represented hereby shall cease and expire.

2.2 Cashless Exercise. If at any time after the Commencement Date there is no effective registration statement registering, or no current prospectus available for, the resale of the Shares by the Holder, then in lieu of exercising this Purchase Warrant by payment of cash or check payable to the order of the Company pursuant to Section 2.1 above, Holder may elect to receive the number of Shares equal to the value of this Purchase Warrant (or the portion thereof being exercised), by surrender of this Purchase Warrant to the Company, together with the

exercise form attached hereto, in which event the Company shall issue to Holder, Shares in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where,

| | | | |
|---|---|---|---|
| X | = | The number of Shares to be issued to Holder; |
| Y | = | The number of Shares for which the Purchase Warrant is being exercised; |
| A | = | The fair market value of one Share; and |
| B | = | The Exercise Price. |

For purposes of this Section 2.2, the fair market value of a Share is defined as follows:

(i) if the Company's common stock is traded on a securities exchange, the value shall be deemed to be the closing price on such exchange prior to the exercise form being submitted in connection with the exercise of the Purchase Warrant; or

(ii) if the Company's common stock is actively traded over-the-counter, the value shall be deemed to be the closing bid price prior to the exercise form being submitted in connection with the exercise of the Purchase Warrant; if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Company's Board of Directors.

2.3 Legend. Each certificate for the securities purchased under this Purchase Warrant shall bear a legend as follows unless such securities have been registered under the Securities Act of 1933, as amended (the "**Act**"):

> "The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended (the "**Act**"), or applicable state law. Neither the securities nor any interest therein may be offered for sale, sold or otherwise transferred except pursuant to an effective registration statement under the Act, or pursuant to an exemption from registration under the Act and applicable state law which, in the opinion of counsel to the Company, is available."

3. Transfer.

3.1 General Restrictions. The registered Holder of this Purchase Warrant agrees by his, her or its acceptance hereof, that such Holder will not: (a) sell, transfer, assign, pledge or hypothecate this Purchase Warrant for a period of 180 days following the effective date of the registration statement on form S-1 (Registration No. 333-[·]) of the Company (the **"Registration Statement"**) to anyone other than: (i) Aegis Capital Corp. ("**Aegis**") or an underwriter or a selected dealer participating in the Offering, or (ii) a bona fide officer or partner of Aegis or of any such underwriter or selected dealer, in each case in accordance with FINRA Conduct Rule 5110(g)(1), or (b) cause this Purchase Warrant or the securities issuable hereunder to be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of this Purchase Warrant or the securities hereunder, except as provided for in FINRA Rule 5110(g)(2). On and after that date that is 180 days after the effective date of the Registration Statement, transfers to others may be made subject to compliance with or exemptions from applicable securities laws. In order to make any permitted assignment, the Holder must deliver to the Company the assignment form attached hereto duly executed and completed, together with the Purchase Warrant and payment of all transfer taxes, if any, payable in connection therewith. The Company shall within five (5) Business Days transfer this Purchase Warrant on the books of the Company and shall execute and deliver a new Purchase Warrant or Purchase Warrants of like tenor to the appropriate assignee(s) expressly evidencing the right to purchase the aggregate number of Shares purchasable hereunder or such portion of such number as shall be contemplated by any such assignment.

3.2 Restrictions Imposed by the Act. The securities evidenced by this Purchase Warrant shall not be transferred unless and until: (i) the Company has received the opinion of counsel for the Holder that the securities may be transferred pursuant to an exemption from registration under the Act and applicable state securities laws, the availability of which is established to the reasonable satisfaction of the Company, or (ii) a registration statement or a

post-effective amendment to the Registration Statement relating to the offer and sale of such securities has been filed by the Company and declared effective by the U.S. Securities and Exchange Commission (the "**Commission**") and compliance with applicable state securities law has been established.

4. Registration Rights.

4.1 Demand Registration.

4.1.1 Grant of Right. The Company, upon written demand (a "**Demand Notice**") of the Holder(s) of at least 51% of the Purchase Warrants and/or the underlying Shares ("**Majority Holders**"), agrees to register, on one occasion, all or any portion of the Shares underlying the Purchase Warrants (collectively, the "**Registrable Securities**"). On such occasion, the Company will file a registration statement with the Commission covering the Registrable Securities within sixty (60) days after receipt of a Demand Notice and use its reasonable best efforts to have the registration statement declared effective promptly thereafter, subject to compliance with review by the Commission; provided, however, that the Company shall not be required to comply with a Demand Notice if the Company has filed a registration statement with respect to which the Holder is entitled to piggyback registration rights pursuant to Section 4.2 hereof and either: (i) the Holder has elected to participate in the offering covered by such registration statement or (ii) if such registration statement relates to an underwritten primary offering of securities of the Company, until the offering covered by such registration statement has been withdrawn or until thirty (30) days after such offering is consummated. The demand for registration may be made at any time during a period of four (4) years beginning one year after the effective date of the Registration Statement. The Company covenants and agrees to give written notice of its receipt of any Demand Notice by any Holder(s) to all other registered Holders of the Purchase Warrants and/or the Registrable Securities within ten (10) days after the date of the receipt of any such Demand Notice.

4.1.2 Terms. The Company shall bear all fees and expenses attendant to the registration of the Registrable Securities pursuant to Section 4.1.1, but the Holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the Holders to represent them in connection with the sale of the Registrable Securities. The Company agrees to use its reasonable best efforts to cause the filing required herein to become effective promptly and to qualify or register the Registrable Securities in such States as are reasonably requested by the Holder(s); provided, however, that in no event shall the Company be required to register the Registrable Securities in a State in which such registration would cause: (i) the Company to be obligated to register or license to do business in such State or submit to general service of process in such State, or (ii) the principal shareholders of the Company to be obligated to escrow their shares of capital stock of the Company. The Company shall cause any registration statement filed pursuant to the demand right granted under Section 4.1.1 to remain effective for a period of at least twelve (12) consecutive months after the date that the Holders of the Registrable Securities covered by such registration statement are first given the opportunity to sell all of such securities. The Holders shall only use the prospectuses provided by the Company to sell the shares covered by such registration statement, and will immediately cease to use any prospectus furnished by the Company if the Company advises the Holder that such prospectus may no longer be used due to a material misstatement or omission. Notwithstanding the provisions of this Section 4.1.2, the Holder shall be entitled to a demand registration under this Section 4.1.2 on only one (1) occasion and such demand registration right shall terminate on the fifth anniversary of the effective date of the Registration Statement in accordance with FINRA Rule 5110(f)(2)(H)(iv).

4.2 "Piggy-Back" Registration.

4.2.1 Grant of Right. In addition to the demand right of registration described in Section 4.1 hereof, the Holder shall have the right, for a period of six (6) years commencing one year after the effective date of the Registration Statement, to include the Registrable Securities as part of any other registration of securities filed by the Company (other than in connection with a transaction contemplated by Rule 145 promulgated under the Act or pursuant to Form S-8 or any equivalent form); provided, however, that if, solely in connection with any primary underwritten public offering for the account of the Company, the managing underwriter(s) thereof shall, in its reasonable discretion, impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only such limited portion of the Registrable Securities with respect to which the Holder requested

inclusion hereunder as the underwriter shall reasonably permit. Any exclusion of Registrable Securities shall be made pro rata among the Holders seeking to include Registrable Securities in proportion to the number of Registrable Securities sought to be included by such Holders; provided, however, that the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities.

4.2.2 Terms. The Company shall bear all fees and expenses attendant to registering the Registrable Securities pursuant to Section 4.2.1 hereof, but the Holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the Holders to represent them in connection with the sale of the Registrable Securities. In the event of such a proposed registration, the Company shall furnish the then Holders of outstanding Registrable Securities with not less than thirty (30) days written notice prior to the proposed date of filing of such registration statement. Such notice to the Holders shall continue to be given for each registration statement filed by the Company until such time as all of the Registrable Securities have been sold by the Holder. The holders of the Registrable Securities shall exercise the "piggy-back" rights provided for herein by giving written notice, within ten (10) days of the receipt of the Company's notice of its intention to file a registration statement. Except as otherwise provided in this Purchase Warrant, there shall be no limit on the number of times the Holder may request registration under this Section 4.2.2; provided, however, that such registration rights shall terminate on the seventh anniversary of the effective date of the Registration Statement.

4.3 General Terms.

4.3.1 Indemnification. The Company shall indemnify the Holder(s) of the Registrable Securities to be sold pursuant to any registration statement hereunder 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 reasonable attorneys' fees and other 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 the Underwriters contained in Section 7(a) of the Underwriting Agreement between the Underwriters and the Company, dated as of [·], 2013. The Holder(s) of the Registrable Securities to be sold pursuant to such registration statement, and their successors and assigns, shall severally, and not jointly, indemnify the Company, against all loss, claim, damage, expense or liability (including all reasonable attorneys' fees and other 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, in writing, for specific inclusion in such registration statement to the same extent and with the same effect as the provisions contained in Section [·] of the Underwriting Agreement pursuant to which the Underwriters have agreed to indemnify the Company.

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

4.3.3 Documents Delivered to Holders. The Company shall furnish to each Holder participating in any of the foregoing offerings and to each underwriter of any such offering, 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 any underwriting agreement related thereto), 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 registered public accounting firm which has 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. The Company shall also deliver promptly to each Holder participating in the offering requesting the correspondence and memoranda

described below and to the managing underwriter, if any, 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 FINRA. 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 as any such Holder shall reasonably request.

4.3.4 Underwriting Agreement. The Company shall enter into an underwriting agreement with the managing underwriter(s), if any, selected by any Holders whose Registrable Securities are being registered pursuant to this Section 4, which managing underwriter shall be reasonably satisfactory to the Company. Such agreement shall be reasonably satisfactory in form and substance to the Company, each Holder and such managing underwriters, 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. The Holders shall be parties to any underwriting agreement relating to an underwritten sale of their Registrable Securities and may, at their option, require that any or all the representations, warranties and covenants of the Company to or for the benefit of such underwriters 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 underwriters except as they may relate to such Holders, their Shares and their intended methods of distribution.

4.3.5 Documents to be Delivered by Holder(s). Each of the Holder(s) participating in any of the foregoing offerings shall furnish to the Company a completed and executed questionnaire provided by the Company requesting information customarily sought of selling security holders.

4.3.6 Damages. Should the registration or the effectiveness thereof required by Section 4.1 and Section 4.2 hereof be delayed by the Company or the Company otherwise fails to comply with such provisions, the Holder(s) shall, in addition to any other legal or other relief available to the Holder(s), be entitled to obtain specific performance or other equitable (including injunctive) relief against the threatened breach of such provisions or the continuation of any such breach, without the necessity of proving actual damages and without the necessity of posting bond or other security.

5. New Purchase Warrants to be Issued.

5.1 Partial Exercise or Transfer. Subject to the restrictions in Section 3 hereof, this Purchase Warrant may be exercised or assigned in whole or in part. In the event of the exercise or assignment hereof in part only, upon surrender of this Purchase Warrant for cancellation, together with the duly executed exercise or assignment form and funds sufficient to pay any Exercise Price and/or transfer tax if exercised pursuant to Section 2.1 hereof, the Company shall cause to be delivered to the Holder without charge a new Purchase Warrant of like tenor to this Purchase Warrant in the name of the Holder evidencing the right of the Holder to purchase the number of Shares purchasable hereunder as to which this Purchase Warrant has not been exercised or assigned.

5.2 Lost Certificate. Upon receipt by the Company of evidence satisfactory to it of the loss, theft, destruction or mutilation of this Purchase Warrant and of reasonably satisfactory indemnification or the posting of a bond, the Company shall execute and deliver a new Purchase Warrant of like tenor and date. Any such new Purchase Warrant executed and delivered as a result of such loss, theft, mutilation or destruction shall constitute a substitute contractual obligation on the part of the Company.

6. Adjustments.

6.1 Adjustments to Exercise Price and Number of Securities. The Exercise Price and the number of Shares underlying the Purchase Warrant shall be subject to adjustment from time to time as hereinafter set forth:

6.1.1 Share Dividends; Split Ups. If, after the date hereof, and subject to the provisions of Section 6.3 below, the number of outstanding Shares is increased by a stock dividend payable in Shares or by a split up of Shares or other similar event, then, on the effective day thereof, the number of Shares purchasable hereunder

shall be increased in proportion to such increase in outstanding shares, and the Exercise Price shall be proportionately decreased.

6.1.2 Aggregation of Shares. If, after the date hereof, and subject to the provisions of Section 6.3 below, the number of outstanding Shares is decreased by a consolidation, combination or reclassification of Shares or other similar event, then, on the effective date thereof, the number of Shares purchasable hereunder shall be decreased in proportion to such decrease in outstanding shares, and the Exercise Price shall be proportionately increased.

6.1.3 Replacement of Securities upon Reorganization, etc. In case of any reclassification or reorganization of the outstanding Shares other than a change covered by Section 6.1.1 or Section 6.1.2 hereof or that solely affects the par value of such Shares, or in the case of any share reconstruction or amalgamation or consolidation of the Company with or into another corporation (other than a consolidation or share reconstruction or amalgamation in which the Company is the continuing corporation and that does not result in any reclassification or reorganization of the outstanding Shares), or in the case of any sale or conveyance to another corporation or entity of the property of the Company as an entirety or substantially as an entirety in connection with which the Company is dissolved, the Holder of this Purchase Warrant shall have the right thereafter (until the expiration of the right of exercise of this Purchase Warrant) to receive upon the exercise hereof, for the same aggregate Exercise Price payable hereunder immediately prior to such event, the kind and amount of shares of stock or other securities or property (including cash) receivable upon such reclassification, reorganization, share reconstruction or amalgamation, or consolidation, or upon a dissolution following any such sale or transfer, by a Holder of the number of Shares of the Company obtainable upon exercise of this Purchase Warrant immediately prior to such event; and if any reclassification also results in a change in Shares covered by Section 6.1.1 or Section 6.1.2, then such adjustment shall be made pursuant to Section 6.1.1, Section 6.1.2 and this Section 6.1.3. The provisions of this Section 6.1.3 shall similarly apply to successive reclassifications, reorganizations, share reconstructions or amalgamations, or consolidations, sales or other transfers.

6.1.4 Changes in Form of Purchase Warrant. This form of Purchase Warrant need not be changed because of any change pursuant to this Section 6.1, and Purchase Warrants issued after such change may state the same Exercise Price and the same number of Shares as are stated in the Purchase Warrants initially issued pursuant to this Agreement. The acceptance by any Holder of the issuance of new Purchase Warrants reflecting a required or permissive change shall not be deemed to waive any rights to an adjustment occurring after the Commencement Date or the computation thereof.

6.2 Substitute Purchase Warrant. In case of any consolidation of the Company with, or share reconstruction or amalgamation of the Company with or into, another corporation (other than a consolidation or share reconstruction or amalgamation which does not result in any reclassification or change of the outstanding Shares), the corporation formed by such consolidation or share reconstruction or amalgamation shall execute and deliver to the Holder a supplemental Purchase Warrant providing that the holder of each Purchase Warrant then outstanding or to be outstanding shall have the right thereafter (until the stated expiration of such Purchase Warrant) to receive, upon exercise of such Purchase Warrant, the kind and amount of shares of stock and other securities and property receivable upon such consolidation or share reconstruction or amalgamation, by a holder of the number of Shares of the Company for which such Purchase Warrant might have been exercised immediately prior to such consolidation, share reconstruction or amalgamation, sale or transfer. Such supplemental Purchase Warrant shall provide for adjustments which shall be identical to the adjustments provided for in this Section 6. The above provision of this Section 6 shall similarly apply to successive consolidations or share reconstructions or amalgamations.

6.3 Elimination of Fractional Interests. The Company shall not be required to issue certificates representing fractions of Shares upon the exercise of the Purchase Warrant, nor shall it be required to issue scrip or pay cash in lieu of any fractional interests, it being the intent of the parties that all fractional interests shall be eliminated by rounding any fraction up or down, as the case may be, to the nearest whole number of Shares or other securities, properties or rights.

7. Reservation and Listing. The Company shall at all times reserve and keep available out of its authorized Shares, solely for the purpose of issuance upon exercise of the Purchase Warrants, such number of Shares or other

securities, properties or rights as shall be issuable upon the exercise thereof. The Company covenants and agrees that, upon exercise of the Purchase Warrants and payment of the Exercise Price therefor, in accordance with the terms hereby, all Shares and other securities issuable upon such exercise shall be duly and validly issued, fully paid and non-assessable and not subject to preemptive rights of any shareholder. The Company further covenants and agrees that upon exercise of the Purchase Warrants and payment of the exercise price therefor, all Shares and other securities issuable upon such exercise shall be duly and validly issued, fully paid and non-assessable and not subject to preemptive rights of any shareholder. As long as the Purchase Warrants shall be outstanding, the Company shall use its commercially reasonable efforts to cause all Shares issuable upon exercise of the Purchase Warrants to be listed (subject to official notice of issuance) on all national securities exchanges (or, if applicable, on the OTC Bulletin Board or any successor trading market) on which the Shares issued to the public in the Offering may then be listed and/or quoted.

8. Certain Notice Requirements.

8.1 Holder's Right to Receive Notice. Nothing herein shall be construed as conferring upon the Holders the right to vote or consent or to receive notice as a shareholder for the election of directors or any other matter, or as having any rights whatsoever as a shareholder of the Company. If, however, at any time prior to the expiration of the Purchase Warrants and their exercise, any of the events described in Section 8.2 shall occur, then, in one or more of said events, the Company shall give written notice of such event at least fifteen days prior to the date fixed as a record date or the date of closing the transfer books (the "**Notice Date**") for the determination of the shareholders entitled to such dividend, distribution, conversion or exchange of 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 the closing of the transfer books, as the case may be. Notwithstanding the foregoing, the Company shall deliver to each Holder a copy of each notice given to the other shareholders of the Company at the same time and in the same manner that such notice is given to the shareholders.

8.2 Events Requiring Notice. The Company shall be required to give the notice described in this Section 8 upon one or more of the following events: (i) if the Company shall take a record of the holders of its Shares 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 retained earnings, as indicated by the accounting treatment of such dividend or distribution on the books of the Company, (ii) the Company shall offer to all the holders of its Shares 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 (iii) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation or share reconstruction or amalgamation) or a sale of all or substantially all of its property, assets and business shall be proposed.

8.3 Notice of Change in Exercise Price. The Company shall, promptly after an event requiring a change in the Exercise Price pursuant to Section 6 hereof, send notice to the Holders of such event and change ("**Price Notice**"). The Price Notice shall describe the event causing the change and the method of calculating same and shall be certified as being true and accurate by the Company's Chief Financial Officer.

8.4 Transmittal of Notices. All notices, requests, consents and other communications under this Purchase Warrant shall be in writing and shall be deemed to have been duly made (1) when hand delivered, (2) when mailed by express mail or private courier service or (3) when the event requiring notice is disclosed in all material respects and filed in a current report on Form 8-K or in a definitive proxy statement on Schedule 14A prior to the Notice Date: (i) if to the registered Holder of the Purchase Warrant, to the address of such Holder as shown on the books of the Company, or (ii) if to the Company, to following address or to such other address as the Company may designate by notice to the Holders:

If to the Holder:

Aegis Capital Corp.
810 Seventh Avenue, 11th Floor
New York, New York 10019
Attn: Mr. David Bocchi, Managing Director of
Investment Banking
Fax No.: (212) 813-1047

With a copy (which shall not constitute notice) to:

Blank Rome LLP
405 Lexington Avenue
New York, NY 10174
Attn: Brad Shiffman, Esq.
Fax: (917) 332-3725

If to the Company:

Semler Scientific, Inc.
2330 NW Everett St.
Portland, OR 97210
Attention: Douglas Murphy-Chutorian, M.D., Chief Executive Officer
Fax No: [·]

with a copy (which shall not constitute notice) to:

Reed Smith LLP
599 Lexington Avenue
New York, New York 10174
Attention: Yvan Claude-Pierre, Esq.
Fax No: (212) 521-5450

9. Miscellaneous.

9.1 Amendments. The Company and Aegis may from time to time supplement or amend this Purchase Warrant without the approval of any of the Holders in order to cure any ambiguity, to correct or supplement any provision contained herein that may be defective or inconsistent with any other provisions herein, or to make any other provisions in regard to matters or questions arising hereunder that the Company and Aegis may deem necessary or desirable and that the Company and Aegis deem shall not adversely affect the interest of the Holders. All other modifications or amendments shall require the written consent of and be signed by the party against whom enforcement of the modification or amendment is sought.

9.2 Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Purchase Warrant.

9.3. Entire Agreement. This Purchase Warrant (together with the other agreements and documents being delivered pursuant to or in connection with this Purchase Warrant) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings of the parties, oral and written, with respect to the subject matter hereof.

9.4 Binding Effect. This Purchase Warrant shall inure solely to the benefit of and shall be binding upon, the Holder and the Company and their permitted assignees, respective successors, legal representative 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 Purchase Warrant or any provisions herein contained.

9.5 Governing Law; Submission to Jurisdiction. This Purchase Warrant shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without giving effect to conflict of laws principles thereof. The Company hereby agrees that any action, proceeding or claim against it arising out of, or relating in any way to this Purchase Warrant shall be brought and enforced in the New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. The Company hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum. Any process or summons to be served upon the Company may be served by transmitting a copy thereof by registered or certified mail, return receipt requested, postage prepaid, addressed to it at the address set forth in Section 8 hereof. Such mailing shall be deemed personal service and shall be legal and binding upon the Company in any action, proceeding or claim. The Company and the Holder agree that the prevailing party(ies) in any such action shall be entitled to recover from the other party(ies) all of its reasonable attorneys' fees and expenses relating to such action or proceeding and/or incurred in connection with the preparation therefor. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and the Holder hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this agreement or the transactions contemplated hereby.

9.6 Waiver, etc. The failure of the Company or the Holder to at any time enforce any of the provisions of this Purchase Warrant shall not be deemed or construed to be a waiver of any such provision, nor to in any way affect the validity of this Purchase Warrant or any provision hereof or the right of the Company or any Holder to thereafter enforce each and every provision of this Purchase Warrant. No waiver of any breach, non-compliance or non-fulfillment of any of the provisions of this Purchase Warrant shall be effective unless set forth in a written instrument executed by the party or parties against whom or which enforcement of such waiver is sought; and no waiver of any such breach, non-compliance or non-fulfillment shall be construed or deemed to be a waiver of any other or subsequent breach, non-compliance or non-fulfillment.

9.7 Execution in Counterparts. This Purchase Warrant may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts has been signed by each of the parties hereto and delivered to each of the other parties hereto. Such counterparts may be delivered by facsimile transmission or other electronic transmission.

9.8 Exchange Agreement. As a condition of the Holder's receipt and acceptance of this Purchase Warrant, Holder agrees that, at any time prior to the complete exercise of this Purchase Warrant by Holder, if the Company and Aegis enter into an agreement ("**Exchange Agreement**") pursuant to which they agree that all outstanding Purchase Warrants will be exchanged for securities or cash or a combination of both, then Holder shall agree to such exchange and become a party to the Exchange Agreement.

**[Remainder of page intentionally left blank.]**

**IN WITNESS WHEREOF**, the Company has caused this Purchase Warrant to be signed by its duly authorized officer as of the ____ day of _____, 20[13].

SEMLER SCIENTIFIC, INC.

By:_____
Name:
Title:

Form to be used to exercise Purchase Warrant:

Date: _____, 20___

The undersigned hereby elects irrevocably to exercise the Purchase Warrant for _____ Shares of Semler Scientific, Inc., a Delaware corporation (the "**Company**") and hereby makes payment of $____ (at the rate of $____ per Share) in payment of the Exercise Price pursuant thereto. Please issue the Shares as to which this Purchase Warrant is exercised in accordance with the instructions given below and, if applicable, a new Purchase Warrant representing the number of Shares for which this Purchase Warrant has not been exercised.

or

The undersigned hereby elects irrevocably to convert its right to purchase ___ Shares under the Purchase Warrant for _____ Shares, as determined in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

| | | | |
|---|---|---|---|
| Where, | X | = | The number of Shares to be issued to Holder; |
| | Y | = | The number of Shares for which the Purchase Warrant is being exercised; |
| | A | = | The fair market value of one Share which is equal to $_____; and |
| | B | = | The Exercise Price which is equal to $_____ per share |

The undersigned agrees and acknowledges that the calculation set forth above is subject to confirmation by the Company and any disagreement with respect to the calculation shall be resolved by the Company in its sole discretion.

Please issue the Shares as to which this Purchase Warrant is exercised in accordance with the instructions given below and, if applicable, a new Purchase Warrant representing the number of Shares for which this Purchase Warrant has not been converted.

Signature

Signature Guaranteed

INSTRUCTIONS FOR REGISTRATION OF SECURITIES

Name:
(Print in Block Letters)
Address:

NOTICE: The signature to this form must correspond with the name as written upon the face of the Purchase Warrant without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank, other than a savings bank, or by a trust company or by a firm having membership on a registered national securities exchange.

Form to be used to assign Purchase Warrant:
ASSIGNMENT

(To be executed by the registered Holder to effect a transfer of the within Purchase Warrant):

FOR VALUE RECEIVED, _____ does hereby sell, assign and transfer unto the right to purchase shares of Semler Scientific, Inc., a Delaware corporation (the "**Company**"), evidenced by the Purchase Warrant and does hereby authorize the Company to transfer such right on the books of the Company.

Dated: _____, 20__

Signature

Signature Guaranteed

NOTICE: The signature to this form must correspond with the name as written upon the face of the within Purchase Warrant without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank, other than a savings bank, or by a trust company or by a firm having membership on a registered national securities exchange.

**Exhibit 10.3**

**SEMLER SCIENTIFIC, INC.**

**2007 KEY PERSON STOCK OPTION PLAN**

**EFFECTIVE DATE: October 1, 2007**

## I. PURPOSE OF THE PLAN

The SEMLER SCIENTIFIC, INC. 2007 KEY PERSON STOCK OPTION PLAN (the "Plan") is intended to provide a means whereby certain employees and other key persons of Semler Scientific, Inc., an Oregon corporation (the "Company"), and its subsidiaries may develop a sense of proprietorship and personal involvement in the development and financial success of the Company, and to encourage them to remain with and devote their best efforts to the business of the Company, thereby advancing the interests of the Company and its stockholders. Accordingly, the Company may grant to certain employees, directors, and other affiliates ("Optionees") the option ("Option") to purchase shares of the common stock of the Company ("Stock"), as hereinafter set forth. The Options granted under this plan are Non-Qualified Stock Options within the meaning of the United States Internal Revenue Code (the "Code").

## II. ADMINISTRATION

The Plan shall be administered by the Office of the Chief Executive Officer of the Company (the "OOC"). The OOC shall have sole authority to select the Optionees from among those individuals eligible hereunder and to establish the number of shares which may be issued under each Option, except that grants to the Chief Executive Officer may be made only by the Board of Directors. In selecting the Optionees from among individuals eligible hereunder and in establishing the number of shares that may be issued under each Option, the OOC may take into account the nature of the services rendered by such individuals, their present and potential contributions to the Company's success and such other factors as the OOC in its discretion shall deem relevant. The OOC is authorized to interpret the Plan and may from time to time adopt such rules and regulations, consistent with the provisions of the Plan, as it may deem advisable to carry out the Plan. All decisions made by the OOC in selecting the Optionees, in establishing the number of shares which may be issued under each Option and in construing the provisions of the Plan shall be final.

## III. OPTION AGREEMENTS

(a) Each Option shall be evidenced by a written agreement executed on behalf of the Company ("Option Agreement") which shall contain such terms and conditions as may be approved by the OOC. The terms and conditions of the respective Option Agreements need not be identical. Any question as to the interpretation of any provision of an Option Agreement, including the determination of the existence or nonexistence of a specified condition or circumstance, shall be determined by the OOC, and its determination shall be final.

(b) The OOC may at any time and from time to time, in its sole discretion, accelerate the time at which an Option then outstanding may be exercised. Any such action by the OOC

may vary among individual Optionees and may vary among Options held by any individual Optionee.

(c) For all purposes under the Plan, the fair market value of a share of Stock on a particular date shall be equal to the average of the high and low sales prices of the Stock (i) reported by the Nasdaq National Market on that date or (ii) if the Stock is listed on a national stock exchange, reported on the stock exchange composite tape on that date; or, in either case, if no prices are reported on that date, on the last preceding date on which such prices of the Stock are so reported. If the Stock is traded over the counter at the time a determination of its fair market value is required to be made hereunder, its fair market value shall be deemed to be equal to the average between the reported high and low or closing bid and asked prices of Stock on the most recent date on which Stock was publicly traded. In the event Stock is not publicly traded at the time a determination of its value is required to be made hereunder, the determination of its fair market value shall be made by the OOC in such manner as it deems appropriate.

(d) Each Option and all rights granted thereunder shall not be transferable other than by will or the laws of descent and distribution.

(e) As used in Option Agreements, the following terms shall have the respective meanings set forth below:

(i) "Disability" shall mean, with respect to a person, a physical or mental impairment of sufficient severity that, in the opinion of the Company, the person is unable to continue performing the duties the person performed before such impairment and that impairment or condition is cited by the Company as the reason for termination of the person's employment or other affiliation with the Company and its Subsidiaries (as defined below).

(ii) "Normal Retirement" shall mean, with respect to a person, the termination of such person's employment or other affiliation with the Company and its Subsidiaries by reason of retirement at any time on or after the date on which the person reaches age 65 if the person is employed in the United States of America or such other age as provided for by the OOC as the normal retirement age in the country where the person is employed.

## IV. ELIGIBILITY OF OPTIONEE

Options may be granted hereunder to any individual who is an employee or director of, or a consultant or advisor to, the Company or any Subsidiary of the Company at the time the Option is granted. For purposes of the Plan, the term "Subsidiary" of the Company shall mean any corporation, limited partnership or other entity of which a majority of the voting power of the voting equity securities or a majority of the equity interests is owned, directly or indirectly, by the Company.

## V. SHARES SUBJECT TO THE PLAN

The aggregate number of shares which may be issued under Options granted under the Plan shall not exceed 250,000 shares of Stock. Such shares may consist of authorized but unissued shares of Stock or (where permitted by applicable law) previously issued shares of Stock reacquired by the Company. Any of such shares which remain unissued and which are not

subject to outstanding Options at the termination of the Plan shall cease to be subject to the Plan, but, until termination of the Plan, the Company shall at all times make available a sufficient number of shares to meet the requirements of the Plan. Should any Option hereunder expire or terminate prior to its exercise in full, the shares theretofore subject to such Option may again be subject to an Option granted under the Plan. The aggregate number of shares which may be issued under the Plan shall be subject to adjustment in the same manner as provided in Paragraph VIII hereof with respect to shares of Stock subject to Options then outstanding. Exercise of an Option in any manner shall result in a decrease in the number of shares of Stock which may thereafter be available by the number of shares as to which the Option is exercised.

**VI. OPTION PRICE**

The purchase price of Stock issued under each Option shall be determined by the 00C, but such purchase price shall not be less than 100 percent of the fair market value of Stock subject to the Option on the date the Option is granted.

**VII. TERM OF PLAN**

The Plan shall be effective upon the date of its adoption by the Board of Directors of the Company (the "Board"). Except with respect to Options then outstanding, if not sooner terminated under the provisions of Paragraph IX, the Plan shall terminate upon and no further Options shall be granted after the expiration of ten years from the date of its adoption by the Board.

**VIII. RECAPITALIZATION OR REORGANIZATION**

(a) The existence of the Plan and the Options granted hereunder shall not affect in any way the right or power of the Board or the stockholders of the Company to make or authorize any adjustment, recapitalization., reorganization or other change in the Company's capital structure or its business, any merger or consolidation of the Company, any issue of debt or equity securities, the dissolution or liquidation of the Company or any sale, lease, exchange or other disposition of all or any part of its assets or business or any other corporate act or proceeding.

(b) The shares with respect to which Options may be granted are shares of Stock as presently constituted, but if, and whenever, prior to the expiration of an Option theretofore granted, the Company shall effect a subdivision or consolidation of shares of Stock or the payment of a stock dividend on Stock without receipt of consideration by the Company, the number of shares of Stock with respect to which such Option may thereafter be exercised (i) in the event of an increase in the number of outstanding shares shall be proportionately increased, and the purchase price per share shall be proportionately reduced, and (ii) in the event of a reduction in the number of outstanding shares shall be proportionately reduced, and the purchase price per share shall be proportionately increased.

(c) If the Company recapitalizes, reclassifies its capital stock, or otherwise changes its capital structure (a "recapitalization"), the number and class of shares of Stock covered by an Option theretofore granted shall be adjusted so that such Option shall thereafter cover the number and class of shares of stock and/or securities to which the Optionee would have been

entitled pursuant to the terms of the recapitalization if, immediately prior to the recapitalization, the Optionee had been the holder of record of the number of shares of Stock then covered by such Option. If:

(i) the Company shall not be the surviving entity in any merger, consolidation or other reorganization (or survives only as a subsidiary of an entity),

(ii) the Company sells, leases or exchanges all or substantially all of its assets to any other person or entity,

(iii) the Company is to be dissolved and liquidated,

(iv) any person or entity, including a "group" as contemplated by Section 13(d)(3) of the 1934 Act, acquires or gains ownership or control (including, without limitation, power to vote) of more than 50% of the outstanding shares of the Company's voting stock (based upon voting power), or

(v) as a result of or in connection with a contested election of directors, the persons who were directors of the Company before such election shall cease to constitute a majority of the Board (each such event is referred to herein as a "Corporate Change"),

then no later than (a) ten days after the approval by the stockholders of the Company of such merger, consolidation, reorganization, sale, lease or exchange of assets or dissolution or such election of directors or (b) thirty days after a change of control of the type described in Clause (iv), the Board, acting in its sole discretion without the consent or approval of any Optionee, shall act to effect one or more of the following alternatives, which may vary among individual Optionees and which may vary among Options held by any individual Optionee:

(1) accelerate the time at which Options then outstanding may be exercised so that such Options may be exercised in full for a limited period of time on or before a specified date (before or after such Corporate Change) fixed by the Board, after which specified date all unexercised Options and all rights of Optionees thereunder shall terminate,

(2) require the mandatory surrender to the Company by selected Optionees of some or all of the outstanding Options held by such Optionees (irrespective of whether such Options are then exercisable under the provisions of the Plan) as of a date, before or after such Corporate Change, specified by the Board, in which event the Board shall thereupon cancel such Options and the Company shall pay to each Optionee an amount of cash per share equal to the excess, if any, of the amount calculated in Subparagraph (d) below (the "Change of Control Value") of the shares subject to such Option over the exercise price(s) under such Options for such shares,

(3) make such adjustments to Options then outstanding as the Board deems appropriate to reflect such Corporate Change (provided, however, that the Board may determine in its sole discretion that no adjustment is necessary to Options then outstanding) or

(4) provide that the number and class of shares of Stock covered by an Option theretofore granted shall be adjusted so that such Option shall thereafter cover the

number and class of shares of stock or other securities or property (including, without limitation, cash) to which the Optionee would have been entitled pursuant to the terms of the agreement of merger, consolidation or sale of assets and dissolution if, immediately prior to such merger, consolidation or sale of assets and dissolution, the Optionee had been the holder of record of the number of shares of Stock then covered by such Option.

(d) For the purposes of clause (2) in Subparagraph (c) above, the "Change of Control Value" shall equal the amount determined in clause (i), (ii) or whichever is applicable, as follows: (i) the per share price offered to stockholders of the Company in any such merger, consolidation, reorganization, sale of assets or dissolution transaction, (ii) the price per share offered to stockholders of the Company in any tender offer or exchange offer whereby a Corporate Change takes place, or (iii) if such Corporate Change occurs other than pursuant to a tender or exchange offer, the fair market value per share of the shares into which such Options being surrendered are exercisable, as determined by the Board as of the date determined by the Board to be the date of cancellation and surrender of such Options. In the event that the consideration offered to stockholders of the Company in any transaction described in this Subparagraph (d) or Subparagraph (c) above consists of anything other than cash, the Board shall determine the fair cash equivalent of the portion of the consideration offered which is other than cash.

(e) Any adjustment provided for in Subparagraphs (b) or (c) above shall be subject to any required shareholder action.

(f) Except as hereinbefore expressly provided, the issuance by the Company of shares of stock of any class or securities convertible into shares of stock of any class, for cash, property, labor or services, upon direct sale, upon the exercise of rights or warrants to subscribe therefor, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, and in any case whether or not for fair value, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Stock subject to Options theretofore granted or the purchase price per share.

**IX. AMENDMENT OR TERMINATION OF THE PLAN**

The Board in its discretion may terminate the Plan at any time with respect to any shares for which Options have not theretofore been granted. The Board shall have the right to alter or amend the Plan or any part thereof from time to time. In addition, the OOC (without the necessity of specific Board action) shall have the power and authority to make or approve revisions or modifications to the terms and provisions of the Plan on behalf of the Board and from time to time, so long as such revisions or modifications are (in the judgment of the OOC) necessary, appropriate or desirable to effectuate the purposes of the Plan and do not effect a material change in the structure or purposes of the Plan. Notwithstanding the above, however, no change in any Option theretofore granted may be made which would impair the rights of the Optionee without the consent of such Optionee.

## X. SECURITIES LAWS

(a) The Company shall not be obligated to issue any Stock pursuant to any Option granted under the Plan, unless at the time of issuance either (i) the shares covered by such Option have been registered under the Securities Act of 1933 (the "Securities Act") and such other state, federal or foreign laws, rules or regulations as the Company or the Board deems applicable, or (ii) in the opinion of legal counsel for the Company, the issuance of the Stock to the holder of the Option is covered by an exemption from the registration requirements of such laws, rules or regulations for the offering and sale of such shares.

(b) At the time of any exercise of an Option, the Company may, as a condition precedent to the exercise of such Option, require from the holder of the Option such written representations, if any, concerning the holder's intentions with regard to the retention or disposition of the shares of stock being acquired pursuant to such exercise and such written covenants and agreements, if any, as to the manner of disposal of such shares as, in the opinion of counsel to the Company, may be necessary to ensure that any disposition by that holder will not involve a violation of the Securities Act or any other applicable securities law or regulation.

(c) The certificates representing the shares of common stock issued pursuant to an exercise of Options may bear such legend or legends as the OOC deems appropriate in order to assure compliance with applicable securities laws and regulations. The Company may refuse to register the transfer of the shares of common stock issued pursuant to an exercise of Options on the stock transfer records of the Company if such proposed transfer would, in the opinion of counsel to the Company, constitute a violation of any applicable securities law or regulation, and the Company may give related instructions to its transfer agent, if any, to stock registration of the transfer of the shares of common stock issued pursuant to an exercise of Options.

## XI. GOVERNING LAW

The Plan, and all Option Agreements issued under the Plan, shall be governed by, and construed in accordance with, the laws of the State of Oregon.

**Certification of Secretary**

As Secretary of Semler Scientific, Inc., an Oregon corporation, I certify that the foregoing is a complete copy of the 2007 Key Employee Stock Option Plan of the corporation as adopted effective as of October 1, 2007.

/s/ Shirley L. Semler
Shirley L. Semler, Secretary
Semler Scientific, Inc.

**SEMLER SCIENTIFIC, INC.**
**AT-WILL EMPLOYMENT, CONFIDENTIAL INFORMATION,**
**INVENTION ASSIGNMENT,**
**AND ARBITRATION AGREEMENT**

As a condition of my employment with Semler Scientific, Inc., its subsidiaries, affiliates, successors or assigns (together the "**Company**"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following provisions of this Semler Scientific, Inc. At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (this "**Agreement**"):

1. *At-Will Employment*.

I UNDERSTAND AND ACKNOWLEDGE THAT MY EMPLOYMENT WITH THE COMPANY IS FOR NO SPECIFIED TERM AND CONSTITUTES "AT-WILL" EMPLOYMENT. I ALSO UNDERSTAND THAT ANY REPRESENTATION TO THE CONTRARY IS UNAUTHORIZED AND NOT VALID UNLESS IN WRITING AND SIGNED BY THE PRESIDENT OR CEO OF THE COMPANY. ACCORDINGLY, I ACKNOWLEDGE THAT MY EMPLOYMENT RELATIONSHIP MAY BE TERMINATED AT ANY TIME, WITH OR WITHOUT GOOD CAUSE OR FOR ANY OR NO CAUSE, AT MY OPTION OR AT THE OPTION OF THE COMPANY, WITH OR WITHOUT NOTICE. I FURTHER ACKNOWLEDGE THAT THE COMPANY MAY MODIFY JOB TITLES, SALARIES, AND BENEFITS FROM TIME TO TIME AS IT DEEMS NECESSARY.

2. *Confidential Information*.

A. *Company Information*. I agree that during and after my employment with the Company, I will hold in the strictest confidence, and will not use (except for the benefit of the Company during my employment) or disclose to any person, firm, or corporation (without written authorization of the President, CEO, or the Board of Directors of the Company) any Company Confidential Information. I understand that my unauthorized use or disclosure of Company Confidential Information during my employment may lead to disciplinary action, up to and including immediate termination and legal action by the Company. I understand that "**Company Confidential Information**" means any non-public information that relates to the actual or anticipated business, research or development of the Company, or to the Company's technical data, trade secrets, or know-how, including, but not limited to, research, product plans, or other information regarding the Company's products or services and markets therefor, customer lists and customers (including, but not limited to, customers of the Company on which I called or with which I may become acquainted during the term of my employment), software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other business information; provided, however, Company Confidential Information does not include any of the foregoing items to the extent the same have become publicly known and made generally available through no wrongful act of mine or of others. I understand that nothing in this Agreement is intended to limit employees' rights to discuss the terms, wages, and working conditions of their employment, as protected by applicable law.

B. *Former Employer Information*. I agree that during my employment with the Company, I will not improperly use, disclose, or induce the Company to use any proprietary information or trade secrets of any former or concurrent employer or other person or entity. I further agree that I will not bring onto the premises of the Company or transfer onto the Company's technology systems any unpublished document, proprietary information, or trade secrets belonging to any such employer, person, or entity unless consented to in writing by both the Company and such employer, person, or entity.

C. *Third Party Information*. I recognize that the Company may have received and in the future may receive from third parties associated with the Company, e.g., the Company's customers, suppliers, licensors, licensees, partners, or collaborators ("**Associated Third Parties**"), their confidential or proprietary information ("**Associated Third Party Confidential Information**"). By way of example, Associated Third Party Confidential Information may include the habits or practices of Associated Third Parties, the technology of Associated Third Parties, requirements of Associated Third Parties, and information related to the business conducted between the Company and such Associated Third Parties. I agree at all times during my employment with the Company and thereafter to hold in the strictest confidence, and not to use or to disclose to any person, firm, or corporation, any Associated Third Party Confidential Information, except as necessary in carrying out my work for the Company consistent with the Company's agreement with such Associated Third Parties. I further agree to comply with any and all Company policies and guidelines that may be adopted from time to time regarding Associated Third Parties and Associated Third Party Confidential Information. I understand that my unauthorized use or disclosure of Associated Third Party Confidential Information or violation of any Company policies during my employment may lead to disciplinary action, up to and including immediate termination and legal action by the Company.

3. *Inventions*.

A. *Inventions Retained and Licensed*. I have attached hereto as Exhibit A, a list describing all inventions, discoveries, original works of authorship, developments, improvements, and trade secrets that were conceived in whole or in part by me prior to my employment with the Company and to which I have any right, title, or interest, which are subject to California Labor Code Section 2870 (attached hereto as Exhibit B), and which relate to the Company's proposed business, products, or research and development ("Prior Inventions"); or, if no such list is attached, I represent and warrant that there are no such Prior Inventions. Furthermore, I represent and warrant that if any **Prior Inventions** are included on Exhibit A, they will not materially affect my ability to perform all obligations under this Agreement. If, in the course of my employment with the Company, I incorporate into or use in connection with any product, process, service, technology, or other work by or on behalf of the Company any Prior Invention, I hereby grant to the Company a non-exclusive, royalty-free, fully paid-up, irrevocable, perpetual, transferable, worldwide license, with the right to grant and authorize sublicenses, to make, have made, modify, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Prior Invention without restriction, including, without limitation, as part of or in connection with such product, process, service, technology, or other work, and to practice any method related thereto.

B. *Assignment of Inventions*. I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and agree to assign and hereby do irrevocably assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements, designs, discoveries, ideas, trademarks, or trade secrets, whether or not patentable or registrable under patent, copyright, or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (including during my off-duty hours), or with the use of Company's equipment, supplies, facilities, or Company Confidential Information, except as provided in Section 3.F below (collectively referred to as "**Inventions**"). I further acknowledge that all original works of authorship that are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and that are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act. I understand and agree that the decision whether or not to commercialize or market any Inventions is within the Company's sole discretion and for the Company's sole benefit, and that no royalty or other consideration will be due to me as a result of the Company's efforts to commercialize or market any such Inventions.

C. *Moral Rights*. Any assignment to the Company of Inventions includes all rights of attribution, paternity, integrity, modification, disclosure and withdrawal, and any other rights throughout the world that may be known as or referred to as "moral rights," "artist's rights," "droit moral," or the like (collectively, "**Moral Rights**"). To the extent that Moral Rights cannot be assigned under applicable law, I hereby waive and agree not to enforce any and all Moral Rights, including, without limitation, any right to identification of authorship or limitation on subsequent modification that I may have in the assigned Inventions.

D. *Maintenance of Records*. I agree to keep and maintain adequate, current, accurate, and authentic written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, electronic files, reports, or any other format that may be specified by the Company. The records are and will be available to and remain the sole property of the Company at all times.

E. *Further Assurances*. I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, and all other instruments that the Company shall deem proper or necessary in order to apply for, register, obtain, maintain, defend, and enforce such rights, and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title, and interest in and to such Inventions and any rights relating thereto, and testifying in a suit or other proceeding relating to such Inventions and any rights relating thereto. I further agree that my obligations under this Section 3E shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature with respect to any Inventions, including, without limitation, to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering such Inventions, then I hereby irrevocably designate and appoint

the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead, to execute and file any papers and oaths, and to do all other lawfully permitted acts with respect to such Inventions with the same legal force and effect as if executed by me.

F. *Exception to Assignments*. I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention that qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in California Labor Code Section 2870 and are not otherwise disclosed on Exhibit A.

4. *Conflicting Employment*.

A. *Current Obligations*. I agree that during the term of my employment with the Company, I will not engage in or undertake any other employment, occupation, consulting relationship, or commitment that is directly related to the business in which the Company is now involved or becomes involved or has plans to become involved, nor will I engage in any other activities that conflict with my obligations to the Company.

B. *Prior Relationships*. Without limiting Section 4.A, I represent that I have no other agreements, relationships, or commitments to any other person or entity that conflict with my obligations to the Company under this Agreement or my ability to become employed and perform the services for which I am being hired by the Company. I further agree that if I have signed a confidentiality agreement or similar type of agreement with any former employer or other entity, I will comply with the terms of any such agreement to the extent that its terms are lawful under applicable law. I represent and warrant that after undertaking a careful search (including searches of my computers, cell phones, electronic devices, and documents), I have returned all property and confidential information belonging to all prior employers. Moreover, I agree to fully indemnify the Company, its directors, officers, agents, employees, investors, shareholders, administrators, affiliates, divisions, subsidiaries, predecessor and successor corporations, and assigns for all verdicts, judgments, settlements, and other losses incurred by any of them resulting from my breach of my obligations under any agreement to which I am a party or obligation to which I am bound, as well as any reasonable attorneys' fees and costs if the plaintiff is the prevailing party in such an action, except as prohibited by law.

5. *Returning Company Documents*. Upon separation from employment with the Company or on demand by the Company during my employment, I will immediately deliver to the Company, and will not keep in my possession, recreate, or deliver to anyone else, any and all Company property, including, but not limited to, Company Confidential Information, Associated Third Party Confidential Information, as well as all devices and equipment belonging to the Company (including computers, handheld electronic devices, telephone equipment, and other electronic devices), Company credit cards, records, data, notes, notebooks, reports, files, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, photographs, charts, any other documents and property, and reproductions of any and all of the aforementioned items that were developed by me pursuant to my employment with the Company, obtained by me in connection with my employment with the Company, or otherwise

belonging to the Company, its successors, or assigns, including, without limitation, those records maintained pursuant to Section 3.C. I also consent to an exit interview to confirm my compliance with this Section 5.

6. *Termination Certification*. Upon separation from employment with the Company, I agree to immediately sign and deliver to the Company the "Termination Certification" attached hereto as Exhibit C. I also agree to keep the Company advised of my home and business address for a period of three (3) years after termination of my employment with the Company, so that the Company can contact me regarding my continuing obligations provided by this Agreement.

7. *Notification of New Employer*. In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my obligations under this Agreement.

8. *Solicitation of Employees*. I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether voluntary or involuntary, with or without cause, I shall not either directly or indirectly solicit any of the Company's employees to leave their employment, or attempt to solicit employees of the Company, either for myself or for any other person or entity. I agree that nothing in this Section 8 shall affect my continuing obligations under this Agreement during and after this twelve (12) month period, including, without limitation, my obligations under Section 2A.

9. *Conflict of Interest Guidelines*. I agree to diligently adhere to all policies of the Company, including the Company's insider's trading policies and the Company's Conflict of Interest Guidelines. A copy of the Company's current Conflict of Interest Guidelines is attached as Exhibit D hereto, but I understand that these Conflict of Interest Guidelines may be revised from time to time during my employment.

10. *Representations*. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence information acquired by me in confidence or in trust prior to my employment by the Company. I hereby represent and warrant that I have not entered into, and I will not enter into, any oral or written agreement in conflict herewith.

11. *Audit*. I acknowledge that I have no reasonable expectation of privacy in any computer, technology system, email, handheld device, telephone, or documents that are used to conduct the business of the Company. As such, the Company has the right to audit and search all such items and systems, without further notice to me, to ensure that the Company is licensed to use the software on the Company's devices in compliance with the Company's software licensing policies, to ensure compliance with the Company's policies, and for any other business-related purposes in the Company's sole discretion. I understand that I am not permitted to add any unlicensed, unauthorized, or non-compliant applications to the Company's technology systems, including, without limitation, open source or free software not authorized by the Company, and that I shall refrain from copying unlicensed software onto the Company's technology systems or using non-licensed software or websites. I understand that it is my

responsibility to comply with the Company's policies governing use of the Company's documents and the internet, email, telephone, and technology systems to which I will have access in connection with my employment.

12. *Arbitration and Equitable Relief.*

A. *Arbitration*. IN CONSIDERATION OF MY EMPLOYMENT WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL EMPLOYMENT-RELATED DISPUTES, AND MY RECEIPT OF THE COMPENSATION, PAY RAISES, AND OTHER BENEFITS PAID TO ME BY THE COMPANY, AT PRESENT AND IN THE FUTURE, I AGREE THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING THE COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER, OR BENEFIT PLAN OF THE COMPANY, IN THEIR CAPACITY AS SUCH OR OTHERWISE), WHETHER BROUGHT ON AN INDIVIDUAL, GROUP, OR CLASS BASIS, ARISING OUT OF, RELATING TO, OR RESULTING FROM MY EMPLOYMENT WITH THE COMPANY OR THE TERMINATION OF MY EMPLOYMENT WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION UNDER THE ARBITRATION RULES SET FORTH IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1280 THROUGH 1294.2, INCLUDING SECTION 1281.8 (THE "**ACT**"), AND PURSUANT TO CALIFORNIA LAW. THE FEDERAL ARBITRATION ACT SHALL CONTINUE TO APPLY WITH FULL FORCE AND EFFECT NOTWITHSTANDING THE APPLICATION OF PROCEDURAL RULES SET FORTH IN THE ACT. DISPUTES THAT I AGREE TO ARBITRATE, AND THEREBY AGREE TO WAIVE ANY RIGHT TO A TRIAL BY JURY, INCLUDE ANY STATUTORY CLAIMS UNDER LOCAL, STATE, OR FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CLAIMS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AMERICANS WITH DISABILITIES ACT OF 1990, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE OLDER WORKERS BENEFIT PROTECTION ACT, THE SARBANES-OXLEY ACT, THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE CALIFORNIA FAMILY RIGHTS ACT, THE CALIFORNIA LABOR CODE, CLAIMS OF HARASSMENT, DISCRIMINATION, AND WRONGFUL TERMINATION, AND ANY STATUTORY OR COMMON LAW CLAIMS. I FURTHER UNDERSTAND THAT THIS AGREEMENT TO ARBITRATE ALSO APPLIES TO ANY DISPUTES THAT THE COMPANY MAY HAVE WITH ME.

B. *Procedure*. I AGREE THAT ANY ARBITRATION WILL BE ADMINISTERED BY JUDICIAL ARBITRATION & MEDIATION SERVICES, INC. ("**JAMS**"), PURSUANT TO ITS EMPLOYMENT ARBITRATION RULES & PROCEDURES (THE "**JAMS RULES**"). I AGREE THAT THE ARBITRATOR SHALL HAVE THE POWER TO DECIDE ANY MOTIONS BROUGHT BY ANY PARTY TO THE ARBITRATION, INCLUDING MOTIONS FOR SUMMARY JUDGMENT AND/OR ADJUDICATION, MOTIONS TO DISMISS AND DEMURRERS, AND MOTIONS FOR CLASS CERTIFICATION, PRIOR TO ANY ARBITRATION HEARING. I ALSO AGREE THAT THE ARBITRATOR SHALL HAVE THE POWER TO AWARD ANY REMEDIES AVAILABLE UNDER APPLICABLE LAW, AND THAT THE ARBITRATOR SHALL AWARD ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY, EXCEPT AS

PROHIBITED BY LAW. I AGREE THAT THE DECREE OR AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED AS A FINAL AND BINDING JUDGMENT IN ANY COURT HAVING JURISDICTION THEREOF. I UNDERSTAND THAT THE COMPANY WILL PAY FOR ANY ADMINISTRATIVE OR HEARING FEES CHARGED BY THE ARBITRATOR OR JAMS EXCEPT THAT I SHALL PAY ANY FILING FEES ASSOCIATED WITH ANY ARBITRATION THAT I INITIATE, BUT ONLY SO MUCH OF THE FILING FEES AS I WOULD HAVE INSTEAD PAID HAD I FILED A COMPLAINT IN A COURT OF LAW. I AGREE THAT THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH CALIFORNIA LAW, INCLUDING THE CALIFORNIA CODE OF CIVIL PROCEDURE, AND THAT THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL CALIFORNIA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO RULES OF CONFLICT OF LAW. TO THE EXTENT THAT THE JAMS RULES CONFLICT WITH CALIFORNIA LAW, CALIFORNIA LAW SHALL TAKE PRECEDENCE. I AGREE THAT THE DECISION OF THE ARBITRATOR SHALL BE IN WRITING. I AGREE THAT ANY ARBITRATION UNDER THIS AGREEMENT SHALL BE CONDUCTED IN SANTA CLARA COUNTY, CALIFORNIA.

C. *Remedy*. EXCEPT AS PROVIDED BY THE ACT AND THIS AGREEMENT, ARBITRATION SHALL BE THE SOLE, EXCLUSIVE, AND FINAL REMEDY FOR ANY DISPUTE BETWEEN ME AND THE COMPANY. ACCORDINGLY, EXCEPT AS PROVIDED FOR BY THE ACT AND THIS AGREEMENT, NEITHER I NOR THE COMPANY WILL BE PERMITTED TO PURSUE COURT ACTION REGARDING CLAIMS THAT ARE SUBJECT TO ARBITRATION.

D. *Administrative Relief*. I UNDERSTAND THAT THIS AGREEMENT DOES NOT PROHIBIT ME FROM PURSUING AN ADMINISTRATIVE CLAIM WITH A LOCAL, STATE, OR FEDERAL ADMINISTRATIVE BODY OR GOVERNMENT AGENCY THAT IS AUTHORIZED TO ENFORCE OR ADMINISTER LAWS RELATED TO EMPLOYMENT, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE NATIONAL LABOR RELATIONS BOARD, OR THE WORKERS' COMPENSATION BOARD. THIS AGREEMENT DOES, HOWEVER, PRECLUDE ME FROM PURSUING COURT ACTION REGARDING ANY SUCH CLAIM, EXCEPT AS PERMITTED BY LAW.

E. *Voluntary Nature of Agreement*. I ACKNOWLEDGE AND AGREE THAT I AM EXECUTING THIS AGREEMENT VOLUNTARILY AND WITHOUT ANY DURESS OR UNDUE INFLUENCE BY THE COMPANY OR ANYONE ELSE. I FURTHER ACKNOWLEDGE AND AGREE THAT I HAVE CAREFULLY READ THIS AGREEMENT AND THAT I HAVE ASKED ANY QUESTIONS NEEDED FOR ME TO UNDERSTAND THE TERMS, CONSEQUENCES, AND BINDING EFFECT OF THIS AGREEMENT AND FULLY UNDERSTAND IT, INCLUDING THAT ***I AM WAIVING MY RIGHT TO A JURY TRIAL***. FINALLY, I AGREE THAT I HAVE BEEN PROVIDED AN OPPORTUNITY TO SEEK THE ADVICE OF AN ATTORNEY OF MY CHOICE BEFORE SIGNING THIS AGREEMENT.

13. *General Provisions.*

A. *Governing Law; Consent to Personal Jurisdiction*. This Agreement will be governed by the laws of the State of California without giving effect to any choice-of-law rules or principles that may result in the application of the laws of any jurisdiction other than California. To the extent that any lawsuit is permitted under this Agreement, I hereby expressly consent to the personal and exclusive jurisdiction and venue of the state and federal courts located in California for any lawsuit filed against me by the Company.

B. *Entire Agreement*. This Agreement, together with the Exhibits herein and any executed written offer letter between me and the Company, to the extent such materials are not in conflict with this Agreement, sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and supersedes all prior discussions or representations between us, including, but not limited to, any representations made during my interview(s) or relocation negotiations, whether written or oral. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the President or CEO of the Company and me. Any subsequent change or changes in my duties, salary, or compensation will not affect the validity or scope of this Agreement.

C. *Severability*. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

D. *Successors and Assigns*. This Agreement will be binding upon my heirs, executors, assigns, administrators, and other legal representatives, and will be for the benefit of the Company, its successors, and its assigns. There are no intended third-party beneficiaries to this Agreement, except as expressly stated. Notwithstanding anything to the contrary herein, Company may assign this Agreement and its rights and obligations under this Agreement to any successor to all or substantially all of Company's relevant assets, whether by merger, consolidation, sale of assets or stock, or otherwise.

E. *Waiver*. Waiver by the Company of a breach of any provision of this Agreement will not operate as a waiver of any other or subsequent breach.

F. *Survivorship*. The rights and obligations of the parties to this Agreement will survive termination of my employment with the Company.

G. *Signatures*. This Agreement may be signed in two counterparts, each of which shall be deemed an original, with the same force and effectiveness as though executed in a single document.

Date: 11/1/10

/s/ Bob McRae
Signature

Bob McRae
Name of Employee (typed or printed)

Witness:

/s/ Daniel E. Conger
Signature

Daniel E. Conger
Name (typed or printed)

**Exhibit A**

**LIST OF PRIOR INVENTIONS**
**AND ORIGINAL WORKS OF AUTHORSHIP**

| Title | Date | Identifying Number or Brief Description |
|---|---|---|
| | | |

_____ No inventions or improvements

_____ Additional Sheets Attached

Signature of Employee: _____

Print Name of Employee: _____

Date: _____

**Exhibit B**

**CALIFORNIA LABOR CODE SECTION 2870**
**INVENTION ON OWN TIME-EXEMPTION FROM AGREEMENT**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

**Exhibit C**

**SEMLER SCIENTIFIC, INC.**

**TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, any other documents or property, or reproductions of any and all aforementioned items belonging to Semler Scientific, Inc., its subsidiaries, affiliates, successors or assigns (together, the "**Company**").

I further certify that I have complied with all the terms of the Company's At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein) conceived or made by me (solely or jointly with others), as covered by that agreement.

I further agree that, in compliance with the At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement, I will preserve as confidential all Company Confidential Information and Associated Third Party Confidential Information, including trade secrets, confidential knowledge, data, or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, databases, other original works of authorship, customer lists, business plans, financial information, or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants, or licensees.

I also agree that for twelve (12) months from this date, I will not either directly or indirectly solicit any of the Company's employees to leave their employment, or to enter into an employment, consulting, contractor, or other relationship with any other person, firm, business entity, or organization (including with myself). I agree that nothing in this paragraph shall affect my continuing obligations under the At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement during and after this twelve (12) month period, including, without limitation, my obligations under Section 2A thereof.

After leaving the Company's employment, I will be employed by _____ in the position of: _____.

Signature of employee

Print name

Date

Address for Notifications:

**Exhibit D**

**SEMLER SCIENTIFIC, INC.**

**CONFLICT OF INTEREST GUIDELINES**

It is the policy of Semler Scientific, Inc. to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees, and independent contractors must avoid activities that are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations that must be avoided:

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement elaborates on this principle and is a binding agreement.)

2. Accepting or offering substantial gifts, excessive entertainment, favors, or payments that may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.

3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.

4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.

5. Initiating or approving any form of personal or social harassment of employees.

6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.

7. Borrowing from or lending to employees, customers, or suppliers.

8. Acquiring real estate of interest to the Company.

9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.

10. Unlawfully discussing prices, costs, customers, sales, or markets with competing companies or their employees.

11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions that are the subject of patent claims of any other person or entity.

13. Engaging in any conduct that is not in the best interest of the Company.

Each officer, employee, and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

**Exhibit 10.5**

**SEMLER SCIENTIFIC, INC.**
**AT-WILL EMPLOYMENT, CONFIDENTIAL INFORMATION,**
**INVENTION ASSIGNMENT,**
**AND ARBITRATION AGREEMENT**

As a condition of my employment with Semler Scientific, Inc., its subsidiaries, affiliates, successors or assigns (together the "**Company**"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following provisions of this Semler Scientific, Inc. At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (this "**Agreement**"):

1. *At-Will Employment*.

I UNDERSTAND AND ACKNOWLEDGE THAT MY EMPLOYMENT WITH THE COMPANY IS FOR NO SPECIFIED TERM AND CONSTITUTES "AT-WILL" EMPLOYMENT. I ALSO UNDERSTAND THAT ANY REPRESENTATION TO THE CONTRARY IS UNAUTHORIZED AND NOT VALID UNLESS IN WRITING AND SIGNED BY THE PRESIDENT OR CEO OF THE COMPANY. ACCORDINGLY, I ACKNOWLEDGE THAT MY EMPLOYMENT RELATIONSHIP MAY BE TERMINATED AT ANY TIME, WITH OR WITHOUT GOOD CAUSE OR FOR ANY OR NO CAUSE, AT MY OPTION OR AT THE OPTION OF THE COMPANY, WITH OR WITHOUT NOTICE. I FURTHER ACKNOWLEDGE THAT THE COMPANY MAY MODIFY JOB TITLES, SALARIES, AND BENEFITS FROM TIME TO TIME AS IT DEEMS NECESSARY.

2. *Confidential Information*.

A. *Company Information*. I agree that during and after my employment with the Company, I will hold in the strictest confidence, and will not use (except for the benefit of the Company during my employment) or disclose to any person, firm, or corporation (without written authorization of the President, CEO, or the Board of Directors of the Company) any Company Confidential Information. I understand that my unauthorized use or disclosure of Company Confidential Information during my employment may lead to disciplinary action, up to and including immediate termination and legal action by the Company. I understand that "**Company Confidential Information**" means any non-public information that relates to the actual or anticipated business, research or development of the Company, or to the Company's technical data, trade secrets, or know-how, including, but not limited to, research, product plans, or other information regarding the Company's products or services and markets therefor, customer lists and customers (including, but not limited to, customers of the Company on which I called or with which I may become acquainted during the term of my employment), software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other business information; provided, however, Company Confidential Information does not include any of the foregoing items to the extent the same have become publicly known and made generally available through no wrongful act of mine or of others. I understand that nothing in this Agreement is intended to limit employees' rights to discuss the terms, wages, and working conditions of their employment, as protected by applicable law.

B. *Former Employer Information*. I agree that during my employment with the Company, I will not improperly use, disclose, or induce the Company to use any proprietary information or trade secrets of any former or concurrent employer or other person or entity. I further agree that I will not bring onto the premises of the Company or transfer onto the Company's technology systems any unpublished document, proprietary information, or trade secrets belonging to any such employer, person, or entity unless consented to in writing by both the Company and such employer, person, or entity.

C. *Third Party Information*. I recognize that the Company may have received and in the future may receive from third parties associated with the Company, e.g., the Company's customers, suppliers, licensors, licensees, partners, or collaborators ("**Associated Third Parties**"), their confidential or proprietary information ("**Associated Third Party Confidential Information**"). By way of example, Associated Third Party Confidential Information may include the habits or practices of Associated Third Parties, the technology of Associated Third Parties, requirements of Associated Third Parties, and information related to the business conducted between the Company and such Associated Third Parties. I agree at all times during my employment with the Company and thereafter to hold in the strictest confidence, and not to use or to disclose to any person, firm, or corporation, any Associated Third Party Confidential Information, except as necessary in carrying out my work for the Company consistent with the Company's agreement with such Associated Third Parties. I further agree to comply with any and all Company policies and guidelines that may be adopted from time to time regarding Associated Third Parties and Associated Third Party Confidential Information. I understand that my unauthorized use or disclosure of Associated Third Party Confidential Information or violation of any Company policies during my employment may lead to disciplinary action, up to and including immediate termination and legal action by the Company.

3. *Inventions*.

A. *Inventions Retained and Licensed*. I have attached hereto as Exhibit A, a list describing all inventions, discoveries, original works of authorship, developments, improvements, and trade secrets that were conceived in whole or in part by me prior to my employment with the Company and to which I have any right, title, or interest, which are subject to California Labor Code Section 2870 (attached hereto as Exhibit B), and which relate to the Company's proposed business, products, or research and development ("Prior Inventions"); or, if no such list is attached, I represent and warrant that there are no such Prior Inventions. Furthermore, I represent and warrant that if any **Prior Inventions** are included on Exhibit A, they will not materially affect my ability to perform all obligations under this Agreement. If, in the course of my employment with the Company, I incorporate into or use in connection with any product, process, service, technology, or other work by or on behalf of the Company any Prior Invention, I hereby grant to the Company a non-exclusive, royalty-free, fully paid-up, irrevocable, perpetual, transferable, worldwide license, with the right to grant and authorize sublicenses, to make, have made, modify, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Prior Invention without restriction, including, without limitation, as part of or in connection with such product, process, service, technology, or other work, and to practice any method related thereto.

B. *Assignment of Inventions*. I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and agree to assign and hereby do irrevocably assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements, designs, discoveries, ideas, trademarks, or trade secrets, whether or not patentable or registrable under patent, copyright, or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (including during my off-duty hours), or with the use of Company's equipment, supplies, facilities, or Company Confidential Information, except as provided in Section 3.F below (collectively referred to as "**Inventions**"). I further acknowledge that all original works of authorship that are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and that are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act. I understand and agree that the decision whether or not to commercialize or market any Inventions is within the Company's sole discretion and for the Company's sole benefit, and that no royalty or other consideration will be due to me as a result of the Company's efforts to commercialize or market any such Inventions.

C. *Moral Rights*. Any assignment to the Company of Inventions includes all rights of attribution, paternity, integrity, modification, disclosure and withdrawal, and any other rights throughout the world that may be known as or referred to as "moral rights," "artist's rights," "droit moral," or the like (collectively, "**Moral Rights**"). To the extent that Moral Rights cannot be assigned under applicable law, I hereby waive and agree not to enforce any and all Moral Rights, including, without limitation, any right to identification of authorship or limitation on subsequent modification that I may have in the assigned Inventions.

D. *Maintenance of Records*. I agree to keep and maintain adequate, current, accurate, and authentic written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, electronic files, reports, or any other format that may be specified by the Company. The records are and will be available to and remain the sole property of the Company at all times.

E. *Further Assurances*. I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, and all other instruments that the Company shall deem proper or necessary in order to apply for, register, obtain, maintain, defend, and enforce such rights, and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title, and interest in and to such Inventions and any rights relating thereto, and testifying in a suit or other proceeding relating to such Inventions and any rights relating thereto. I further agree that my obligations under this Section 3E shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature with respect to any Inventions, including, without limitation, to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering such Inventions, then I hereby irrevocably designate and appoint

the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead, to execute and file any papers and oaths, and to do all other lawfully permitted acts with respect to such Inventions with the same legal force and effect as if executed by me.

F. *Exception to Assignments*. I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention that qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in California Labor Code Section 2870 and are not otherwise disclosed on Exhibit A.

4. *Conflicting Employment*.

A. *Current Obligations*. I agree that during the term of my employment with the Company, I will not engage in or undertake any other employment, occupation, consulting relationship, or commitment that is directly related to the business in which the Company is now involved or becomes involved or has plans to become involved, nor will I engage in any other activities that conflict with my obligations to the Company.

B. *Prior Relationships*. Without limiting Section 4.A, I represent that I have no other agreements, relationships, or commitments to any other person or entity that conflict with my obligations to the Company under this Agreement or my ability to become employed and perform the services for which I am being hired by the Company. I further agree that if I have signed a confidentiality agreement or similar type of agreement with any former employer or other entity, I will comply with the terms of any such agreement to the extent that its terms are lawful under applicable law. I represent and warrant that after undertaking a careful search (including searches of my computers, cell phones, electronic devices, and documents), I have returned all property and confidential information belonging to all prior employers. Moreover, I agree to fully indemnify the Company, its directors, officers, agents, employees, investors, shareholders, administrators, affiliates, divisions, subsidiaries, predecessor and successor corporations, and assigns for all verdicts, judgments, settlements, and other losses incurred by any of them resulting from my breach of my obligations under any agreement to which I am a party or obligation to which I am bound, as well as any reasonable attorneys' fees and costs if the plaintiff is the prevailing party in such an action, except as prohibited by law.

5. *Returning Company Documents*. Upon separation from employment with the Company or on demand by the Company during my employment, I will immediately deliver to the Company, and will not keep in my possession, recreate, or deliver to anyone else, any and all Company property, including, but not limited to, Company Confidential Information, Associated Third Party Confidential Information, as well as all devices and equipment belonging to the Company (including computers, handheld electronic devices, telephone equipment, and other electronic devices), Company credit cards, records, data, notes, notebooks, reports, files, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, photographs, charts, any other documents and property, and reproductions of any and all of the aforementioned items that were developed by me pursuant to my employment with the Company, obtained by me in connection with my employment with the Company, or otherwise

belonging to the Company, its successors, or assigns, including, without limitation, those records maintained pursuant to Section 3.C. I also consent to an exit interview to confirm my compliance with this Section 5.

6. *Termination Certification*. Upon separation from employment with the Company, I agree to immediately sign and deliver to the Company the "Termination Certification" attached hereto as Exhibit C. I also agree to keep the Company advised of my home and business address for a period of three (3) years after termination of my employment with the Company, so that the Company can contact me regarding my continuing obligations provided by this Agreement.

7. *Notification of New Employer*. In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my obligations under this Agreement.

8. *Solicitation of Employees*. I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether voluntary or involuntary, with or without cause, I shall not either directly or indirectly solicit any of the Company's employees to leave their employment, or attempt to solicit employees of the Company, either for myself or for any other person or entity. I agree that nothing in this Section 8 shall affect my continuing obligations under this Agreement during and after this twelve (12) month period, including, without limitation, my obligations under Section 2A.

9. *Conflict of Interest Guidelines*. I agree to diligently adhere to all policies of the Company, including the Company's insider's trading policies and the Company's Conflict of Interest Guidelines. A copy of the Company's current Conflict of Interest Guidelines is attached as Exhibit D hereto, but I understand that these Conflict of Interest Guidelines may be revised from time to time during my employment.

10. *Representations*. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence information acquired by me in confidence or in trust prior to my employment by the Company. I hereby represent and warrant that I have not entered into, and I will not enter into, any oral or written agreement in conflict herewith.

11. *Audit*. I acknowledge that I have no reasonable expectation of privacy in any computer, technology system, email, handheld device, telephone, or documents that are used to conduct the business of the Company. As such, the Company has the right to audit and search all such items and systems, without further notice to me, to ensure that the Company is licensed to use the software on the Company's devices in compliance with the Company's software licensing policies, to ensure compliance with the Company's policies, and for any other business-related purposes in the Company's sole discretion. I understand that I am not permitted to add any unlicensed, unauthorized, or non-compliant applications to the Company's technology systems, including, without limitation, open source or free software not authorized by the Company, and that I shall refrain from copying unlicensed software onto the Company's technology systems or using non-licensed software or websites. I understand that it is my

responsibility to comply with the Company's policies governing use of the Company's documents and the internet, email, telephone, and technology systems to which I will have access in connection with my employment.

12. *Arbitration and Equitable Relief.*

A. *Arbitration*. IN CONSIDERATION OF MY EMPLOYMENT WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL EMPLOYMENT-RELATED DISPUTES, AND MY RECEIPT OF THE COMPENSATION, PAY RAISES, AND OTHER BENEFITS PAID TO ME BY THE COMPANY, AT PRESENT AND IN THE FUTURE, I AGREE THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING THE COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER, OR BENEFIT PLAN OF THE COMPANY, IN THEIR CAPACITY AS SUCH OR OTHERWISE), WHETHER BROUGHT ON AN INDIVIDUAL, GROUP, OR CLASS BASIS, ARISING OUT OF, RELATING TO, OR RESULTING FROM MY EMPLOYMENT WITH THE COMPANY OR THE TERMINATION OF MY EMPLOYMENT WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION UNDER THE ARBITRATION RULES SET FORTH IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1280 THROUGH 1294.2, INCLUDING SECTION 1281.8 (THE "**ACT**"), AND PURSUANT TO CALIFORNIA LAW. THE FEDERAL ARBITRATION ACT SHALL CONTINUE TO APPLY WITH FULL FORCE AND EFFECT NOTWITHSTANDING THE APPLICATION OF PROCEDURAL RULES SET FORTH IN THE ACT. DISPUTES THAT I AGREE TO ARBITRATE, AND THEREBY AGREE TO WAIVE ANY RIGHT TO A TRIAL BY JURY, INCLUDE ANY STATUTORY CLAIMS UNDER LOCAL, STATE, OR FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CLAIMS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AMERICANS WITH DISABILITIES ACT OF 1990, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE OLDER WORKERS BENEFIT PROTECTION ACT, THE SARBANES-OXLEY ACT, THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE CALIFORNIA FAMILY RIGHTS ACT, THE CALIFORNIA LABOR CODE, CLAIMS OF HARASSMENT, DISCRIMINATION, AND WRONGFUL TERMINATION, AND ANY STATUTORY OR COMMON LAW CLAIMS. I FURTHER UNDERSTAND THAT THIS AGREEMENT TO ARBITRATE ALSO APPLIES TO ANY DISPUTES THAT THE COMPANY MAY HAVE WITH ME.

B. *Procedure*. I AGREE THAT ANY ARBITRATION WILL BE ADMINISTERED BY JUDICIAL ARBITRATION & MEDIATION SERVICES, INC. ("**JAMS**"), PURSUANT TO ITS EMPLOYMENT ARBITRATION RULES & PROCEDURES (THE "**JAMS RULES**"). I AGREE THAT THE ARBITRATOR SHALL HAVE THE POWER TO DECIDE ANY MOTIONS BROUGHT BY ANY PARTY TO THE ARBITRATION, INCLUDING MOTIONS FOR SUMMARY JUDGMENT AND/OR ADJUDICATION, MOTIONS TO DISMISS AND DEMURRERS, AND MOTIONS FOR CLASS CERTIFICATION, PRIOR TO ANY ARBITRATION HEARING. I ALSO AGREE THAT THE ARBITRATOR SHALL HAVE THE POWER TO AWARD ANY REMEDIES AVAILABLE UNDER APPLICABLE LAW, AND THAT THE ARBITRATOR SHALL AWARD ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY, EXCEPT AS

PROHIBITED BY LAW. I AGREE THAT THE DECREE OR AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED AS A FINAL AND BINDING JUDGMENT IN ANY COURT HAVING JURISDICTION THEREOF. I UNDERSTAND THAT THE COMPANY WILL PAY FOR ANY ADMINISTRATIVE OR HEARING FEES CHARGED BY THE ARBITRATOR OR JAMS EXCEPT THAT I SHALL PAY ANY FILING FEES ASSOCIATED WITH ANY ARBITRATION THAT I INITIATE, BUT ONLY SO MUCH OF THE FILING FEES AS I WOULD HAVE INSTEAD PAID HAD I FILED A COMPLAINT IN A COURT OF LAW. I AGREE THAT THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH CALIFORNIA LAW, INCLUDING THE CALIFORNIA CODE OF CIVIL PROCEDURE, AND THAT THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL CALIFORNIA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO RULES OF CONFLICT OF LAW. TO THE EXTENT THAT THE JAMS RULES CONFLICT WITH CALIFORNIA LAW, CALIFORNIA LAW SHALL TAKE PRECEDENCE. I AGREE THAT THE DECISION OF THE ARBITRATOR SHALL BE IN WRITING. I AGREE THAT ANY ARBITRATION UNDER THIS AGREEMENT SHALL BE CONDUCTED IN SANTA CLARA COUNTY, CALIFORNIA.

C. *Remedy*. EXCEPT AS PROVIDED BY THE ACT AND THIS AGREEMENT, ARBITRATION SHALL BE THE SOLE, EXCLUSIVE, AND FINAL REMEDY FOR ANY DISPUTE BETWEEN ME AND THE COMPANY. ACCORDINGLY, EXCEPT AS PROVIDED FOR BY THE ACT AND THIS AGREEMENT, NEITHER I NOR THE COMPANY WILL BE PERMITTED TO PURSUE COURT ACTION REGARDING CLAIMS THAT ARE SUBJECT TO ARBITRATION.

D. *Administrative Relief*. I UNDERSTAND THAT THIS AGREEMENT DOES NOT PROHIBIT ME FROM PURSUING AN ADMINISTRATIVE CLAIM WITH A LOCAL, STATE, OR FEDERAL ADMINISTRATIVE BODY OR GOVERNMENT AGENCY THAT IS AUTHORIZED TO ENFORCE OR ADMINISTER LAWS RELATED TO EMPLOYMENT, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE NATIONAL LABOR RELATIONS BOARD, OR THE WORKERS' COMPENSATION BOARD. THIS AGREEMENT DOES, HOWEVER, PRECLUDE ME FROM PURSUING COURT ACTION REGARDING ANY SUCH CLAIM, EXCEPT AS PERMITTED BY LAW.

E. *Voluntary Nature of Agreement*. I ACKNOWLEDGE AND AGREE THAT I AM EXECUTING THIS AGREEMENT VOLUNTARILY AND WITHOUT ANY DURESS OR UNDUE INFLUENCE BY THE COMPANY OR ANYONE ELSE. I FURTHER ACKNOWLEDGE AND AGREE THAT I HAVE CAREFULLY READ THIS AGREEMENT AND THAT I HAVE ASKED ANY QUESTIONS NEEDED FOR ME TO UNDERSTAND THE TERMS, CONSEQUENCES, AND BINDING EFFECT OF THIS AGREEMENT AND FULLY UNDERSTAND IT, INCLUDING THAT ***I AM WAIVING MY RIGHT TO A JURY TRIAL***. FINALLY, I AGREE THAT I HAVE BEEN PROVIDED AN OPPORTUNITY TO SEEK THE ADVICE OF AN ATTORNEY OF MY CHOICE BEFORE SIGNING THIS AGREEMENT.

13. *General Provisions.*

A. *Governing Law; Consent to Personal Jurisdiction*. This Agreement will be governed by the laws of the State of California without giving effect to any choice-of-law rules or principles that may result in the application of the laws of any jurisdiction other than California. To the extent that any lawsuit is permitted under this Agreement, I hereby expressly consent to the personal and exclusive jurisdiction and venue of the state and federal courts located in California for any lawsuit filed against me by the Company.

B. *Entire Agreement*. This Agreement, together with the Exhibits herein and any executed written offer letter between me and the Company, to the extent such materials are not in conflict with this Agreement, sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and supersedes all prior discussions or representations between us, including, but not limited to, any representations made during my interview(s) or relocation negotiations, whether written or oral. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the President or CEO of the Company and me. Any subsequent change or changes in my duties, salary, or compensation will not affect the validity or scope of this Agreement.

C. *Severability*. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

D. *Successors and Assigns*. This Agreement will be binding upon my heirs, executors, assigns, administrators, and other legal representatives, and will be for the benefit of the Company, its successors, and its assigns. There are no intended third-party beneficiaries to this Agreement, except as expressly stated. Notwithstanding anything to the contrary herein, Company may assign this Agreement and its rights and obligations under this Agreement to any successor to all or substantially all of Company's relevant assets, whether by merger, consolidation, sale of assets or stock, or otherwise.

E. *Waiver*. Waiver by the Company of a breach of any provision of this Agreement will not operate as a waiver of any other or subsequent breach.

F. *Survivorship*. The rights and obligations of the parties to this Agreement will survive termination of my employment with the Company.

G. *Signatures*. This Agreement may be signed in two counterparts, each of which shall be deemed an original, with the same force and effectiveness as though executed in a single document.

Date: 10/18/2010

/s/ Dan E. Conger
Signature

Dan E. Conger
Name of Employee (typed or printed)

Witness:

_____

Signature

_____

Name (typed or printed)

**Exhibit A**

**LIST OF PRIOR INVENTIONS**
**AND ORIGINAL WORKS OF AUTHORSHIP**

| Title | Date | Identifying Number or Brief Description |
|---|---|---|
| | | |

_____ No inventions or improvements

_____ Additional Sheets Attached

Signature of Employee: _____

Print Name of Employee: _____

Date: _____

**Exhibit B**

**CALIFORNIA LABOR CODE SECTION 2870**
**INVENTION ON OWN TIME-EXEMPTION FROM AGREEMENT**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

**Exhibit C**

**SEMLER SCIENTIFIC, INC.**

**TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, any other documents or property, or reproductions of any and all aforementioned items belonging to Semler Scientific, Inc., its subsidiaries, affiliates, successors or assigns (together, the "**Company**").

I further certify that I have complied with all the terms of the Company's At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein) conceived or made by me (solely or jointly with others), as covered by that agreement.

I further agree that, in compliance with the At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement, I will preserve as confidential all Company Confidential Information and Associated Third Party Confidential Information, including trade secrets, confidential knowledge, data, or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, databases, other original works of authorship, customer lists, business plans, financial information, or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants, or licensees.

I also agree that for twelve (12) months from this date, I will not either directly or indirectly solicit any of the Company's employees to leave their employment, or to enter into an employment, consulting, contractor, or other relationship with any other person, firm, business entity, or organization (including with myself). I agree that nothing in this paragraph shall affect my continuing obligations under the At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement during and after this twelve (12) month period, including, without limitation, my obligations under Section 2A thereof.

After leaving the Company's employment, I will be employed by _____ in the position of: _____.

Signature of employee

Print name

Date

Address for Notifications:

**Exhibit D**

**SEMLER SCIENTIFIC, INC.**

**CONFLICT OF INTEREST GUIDELINES**

It is the policy of Semler Scientific, Inc. to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees, and independent contractors must avoid activities that are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations that must be avoided:

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement elaborates on this principle and is a binding agreement.)

2. Accepting or offering substantial gifts, excessive entertainment, favors, or payments that may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.

3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.

4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.

5. Initiating or approving any form of personal or social harassment of employees.

6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.

7. Borrowing from or lending to employees, customers, or suppliers.

8. Acquiring real estate of interest to the Company.

9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.

10. Unlawfully discussing prices, costs, customers, sales, or markets with competing companies or their employees.

11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions that are the subject of patent claims of any other person or entity.

13. Engaging in any conduct that is not in the best interest of the Company.

Each officer, employee, and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

**Exhibit 10.6**

**SEMLER SCIENTIFIC, INC.**
**AT-WILL EMPLOYMENT, CONFIDENTIAL INFORMATION,**
**INVENTION ASSIGNMENT,**
**AND ARBITRATION AGREEMENT**

As a condition of my employment with Semler Scientific, Inc., its subsidiaries, affiliates, successors or assigns (together the "**Company**"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following provisions of this Semler Scientific, Inc. At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (this "**Agreement**"):

1. *At-Will Employment*.

I UNDERSTAND AND ACKNOWLEDGE THAT MY EMPLOYMENT WITH THE COMPANY IS FOR NO SPECIFIED TERM AND CONSTITUTES "AT-WILL" EMPLOYMENT. I ALSO UNDERSTAND THAT ANY REPRESENTATION TO THE CONTRARY IS UNAUTHORIZED AND NOT VALID UNLESS IN WRITING AND SIGNED BY THE PRESIDENT OR CEO OF THE COMPANY. ACCORDINGLY, I ACKNOWLEDGE THAT MY EMPLOYMENT RELATIONSHIP MAY BE TERMINATED AT ANY TIME, WITH OR WITHOUT GOOD CAUSE OR FOR ANY OR NO CAUSE, AT MY OPTION OR AT THE OPTION OF THE COMPANY, WITH OR WITHOUT NOTICE. I FURTHER ACKNOWLEDGE THAT THE COMPANY MAY MODIFY JOB TITLES, SALARIES, AND BENEFITS FROM TIME TO TIME AS IT DEEMS NECESSARY.

2. *Confidential Information*.

A. *Company Information*. I agree that during and after my employment with the Company, I will hold in the strictest confidence, and will not use (except for the benefit of the Company during my employment) or disclose to any person, firm, or corporation (without written authorization of the President, CEO, or the Board of Directors of the Company) any Company Confidential Information. I understand that my unauthorized use or disclosure of Company Confidential Information during my employment may lead to disciplinary action, up to and including immediate termination and legal action by the Company. I understand that "**Company Confidential Information**" means any non-public information that relates to the actual or anticipated business, research or development of the Company, or to the Company's technical data, trade secrets, or know-how, including, but not limited to, research, product plans, or other information regarding the Company's products or services and markets therefor, customer lists and customers (including, but not limited to, customers of the Company on which I called or with which I may become acquainted during the term of my employment), software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other business information; provided, however, Company Confidential Information does not include any of the foregoing items to the extent the same have become publicly known and made generally available through no wrongful act of mine or of others. I understand that nothing in this Agreement is intended to limit

employees' rights to discuss the terms, wages, and working conditions of their employment, as protected by applicable law.

B. *Former Employer Information*. I agree that during my employment with the Company, I will not improperly use, disclose, or induce the Company to use any proprietary information or trade secrets of any former or concurrent employer or other person or entity. I further agree that I will not bring onto the premises of the Company or transfer onto the Company's technology systems any unpublished document, proprietary information, or trade secrets belonging to any such employer, person, or entity unless consented to in writing by both the Company and such employer, person, or entity.

C. *Third Party Information*. I recognize that the Company may have received and in the future may receive from third parties associated with the Company, e.g., the Company's customers, suppliers, licensors, licensees, partners, or collaborators ("**Associated Third Parties**"), their confidential or proprietary information ("**Associated Third Party Confidential Information**"). By way of example, Associated Third Party Confidential Information may include the habits or practices of Associated Third Parties, the technology of Associated Third Parties, requirements of Associated Third Parties, and information related to the business conducted between the Company and such Associated Third Parties. I agree at all times during my employment with the Company and thereafter to hold in the strictest confidence, and not to use or to disclose to any person, firm, or corporation, any Associated Third Party Confidential Information, except as necessary in carrying out my work for the Company consistent with the Company's agreement with such Associated Third Parties. I further agree to comply with any and all Company policies and guidelines that may be adopted from time to time regarding Associated Third Parties and Associated Third Party Confidential Information. I understand that my unauthorized use or disclosure of Associated Third Party Confidential Information or violation of any Company policies during my employment may lead to disciplinary action, up to and including immediate termination and legal action by the Company.

3. *Inventions*.

A. *Inventions Retained and Licensed*. I have attached hereto as Exhibit A, a list describing all inventions, discoveries, original works of authorship, developments, improvements, and trade secrets that were conceived in whole or in part by me prior to my employment with the Company and to which I have any right, title, or interest, which are subject to California Labor Code Section 2870 **(**attached hereto as Exhibit B), and which relate to the Company's proposed business, products, or research and development ("**Prior Inventions**"); or, if no such list is attached, I represent and warrant that there are no such Prior Inventions. Furthermore, I represent and warrant that if any Prior Inventions are included on Exhibit A, they will not materially affect my ability to perform all obligations under this Agreement. If, in the course of my employment with the Company, I incorporate into or use in connection with any product, process, service, technology, or other work by or on behalf of the Company any Prior Invention, I hereby grant to

the Company a non-exclusive, royalty-free, fully paid-up, irrevocable, perpetual, transferable, worldwide license, with the right to grant and authorize sublicenses, to make, have made, modify, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Prior Invention without restriction, including, without limitation, as part of or in connection with such product, process, service, technology, or other work, and to practice any method related thereto.

B. *Assignment of Inventions*. I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and agree to assign and hereby do irrevocably assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements, designs, discoveries, ideas, trademarks, or trade secrets, whether or not patentable or registrable under patent, copyright, or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (including during my off-duty hours), or with the use of Company's equipment, supplies, facilities, or Company Confidential Information, except as provided in Section 3.F below (collectively referred to as "**Inventions**"). I further acknowledge that all original works of authorship that are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and that are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act. I understand and agree that the decision whether or not to commercialize or market any Inventions is within the Company's sole discretion and for the Company's sole benefit, and that no royalty or other consideration will be due to me as a result of the Company's efforts to commercialize or market any such Inventions.

C. *Moral Rights*. Any assignment to the Company of Inventions includes all rights of attribution, paternity, integrity, modification, disclosure and withdrawal, and any other rights throughout the world that may be known as or referred to as "moral rights," "artist's rights," "droit moral," or the like (collectively, "**Moral Rights**"). To the extent that Moral Rights cannot be assigned under applicable law, I hereby waive and agree not to enforce any and all Moral Rights, including, without limitation, any right to identification of authorship or limitation on subsequent modification that I may have in the assigned Inventions.

D. *Maintenance of Records*. I agree to keep and maintain adequate, current, accurate, and authentic written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, electronic files, reports, or any other format that may be specified by the Company. The records are and will be available to and remain the sole property of the Company at all times.

E. *Further Assurances*. I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any

rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, and all other instruments that the Company shall deem proper or necessary in order to apply for, register, obtain, maintain, defend, and enforce such rights, and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title, and interest in and to such Inventions and any rights relating thereto, and testifying in a suit or other proceeding relating to such Inventions and any rights relating thereto. I further agree that my obligations under this Section 3E shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature with respect to any Inventions, including, without limitation, to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering such Inventions, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead, to execute and file any papers and oaths, and to do all other lawfully permitted acts with respect to such Inventions with the same legal force and effect as if executed by me.

F. *Exception to Assignments*. I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention that qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in California Labor Code Section 2870 and are not otherwise disclosed on Exhibit A.

4. *Conflicting Employment*.

A. *Current Obligations.* I agree that during the term of my employment with the Company, I will not engage in or undertake any other employment, occupation, consulting relationship, or commitment that is directly related to the business in which the Company is now involved or becomes involved or has plans to become involved, nor will I engage in any other activities that conflict with my obligations to the Company.

*B. Prior Relationships*. Without limiting Section 4.A, I represent that I have no other agreements, relationships, or commitments to any other person or entity that conflict with my obligations to the Company under this Agreement or my ability to become employed and perform the services for which I am being hired by the Company. I further agree that if I have signed a confidentiality agreement or similar type of agreement with any former employer or other entity, I will comply with the terms of any such agreement to the extent that its terms are lawful under applicable law. I represent and warrant that after undertaking a careful search (including searches of my computers, cell phones, electronic devices, and documents), I have returned all property and confidential information belonging to all prior employers. Moreover, I agree to fully indemnify the Company, its directors, officers, agents, employees, investors, shareholders, administrators, affiliates, divisions, subsidiaries, predecessor and successor corporations, and

assigns for all verdicts, judgments, settlements, and other losses incurred by any of them resulting from my breach of my obligations under any agreement to which I am a party or obligation to which I am bound, as well as any reasonable attorneys' fees and costs if the plaintiff is the prevailing party in such an action, except as prohibited by law.

5. *Returning Company Documents*. Upon separation from employment with the Company or on demand by the Company during my employment, I will immediately deliver to the Company, and will not keep in my possession, recreate, or deliver to anyone else, any and all Company property, including, but not limited to, Company Confidential Information, Associated Third Party Confidential Information, as well as all devices and equipment belonging to the Company (including computers, handheld electronic devices, telephone equipment, and other electronic devices), Company credit cards, records, data, notes, notebooks, reports, files, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, photographs, charts, any other documents and property, and reproductions of any and all of the aforementioned items that were developed by me pursuant to my employment with the Company, obtained by me in connection with my employment with the Company, or otherwise belonging to the Company, its successors, or assigns, including, without limitation, those records maintained pursuant to Section 3.C. I also consent to an exit interview to confirm my compliance with this Section 5.

6. *Termination Certification.* Upon separation from employment with the Company, I agree to immediately sign and deliver to the Company the "Termination Certification" attached hereto as Exhibit C. I also agree to keep the Company advised of my home and business address for a period of three (3) years after termination of my employment with the Company, so that the Company can contact me regarding my continuing obligations provided by this Agreement.

7. *Notification of New Employer*. In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my obligations under this Agreement.

8. *Solicitation of Employees*. I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether voluntary or involuntary, with or without cause, I shall not either directly or indirectly solicit any of the Company's employees to leave their employment, or attempt to solicit employees of the Company, either for myself or for any other person or entity. I agree that nothing in this Section 8 shall affect my continuing obligations under this Agreement during and after this twelve (12) month period, including, without limitation, my obligations under Section 2A.

9. *Conflict of Interest Guidelines*. I agree to diligently adhere to all policies of the Company, including the Company's insider's trading policies and the Company's Conflict of Interest Guidelines. A copy of the Company's current Conflict of Interest Guidelines is attached as Exhibit D hereto, but I understand that these Conflict of Interest Guidelines may be revised from time to time during my employment.

10. *Representations*. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence information acquired by me in confidence or in trust prior to my employment by the Company. I hereby represent and warrant that I have not entered into, and I will not enter into, any oral or written agreement in conflict herewith.

11. *Audit.* I acknowledge that I have no reasonable expectation of privacy in any computer, technology system, email, handheld device, telephone, or documents that are used to conduct the business of the Company. As such, the Company has the right to audit and search all such items and systems, without further notice to me, to ensure that the Company is licensed to use the software on the Company's devices in compliance with the Company's software licensing policies, to ensure compliance with the Company's policies, and for any other business-related purposes in the Company's sole discretion. I understand that I am not permitted to add any unlicensed, unauthorized, or non-compliant applications to the Company's technology systems, including, without limitation, open source or free software not authorized by the Company, and that I shall refrain from copying unlicensed software onto the Company's technology systems or using non-licensed software or websites. I understand that it is my responsibility to comply with the Company's policies governing use of the Company's documents and the internet, email, telephone, and technology systems to which I will have access in connection with my employment.

12. *Arbitration and Equitable Relief*.

A. *Arbitration*. IN CONSIDERATION OF MY EMPLOYMENT WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL EMPLOYMENT-RELATED DISPUTES, AND MY RECEIPT OF THE COMPENSATION, PAY RAISES, AND OTHER BENEFITS PAID TO ME BY THE COMPANY, AT PRESENT AND IN THE FUTURE, I AGREE THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING THE COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER, OR BENEFIT PLAN OF THE COMPANY, IN THEIR CAPACITY AS SUCH OR OTHERWISE), WHETHER BROUGHT ON AN INDIVIDUAL, GROUP, OR CLASS BASIS, ARISING OUT OF, RELATING TO, OR RESULTING FROM MY EMPLOYMENT WITH THE COMPANY OR THE TERMINATION OF MY EMPLOYMENT WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION UNDER THE ARBITRATION RULES SET FORTH IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1280 THROUGH 1294.2, INCLUDING SECTION 1281.8 (THE "**ACT**"), AND PURSUANT TO CALIFORNIA LAW. THE FEDERAL ARBITRATION ACT SHALL CONTINUE TO APPLY WITH FULL FORCE AND EFFECT NOTWITHSTANDING THE APPLICATION OF PROCEDURAL RULES SET FORTH IN THE ACT. DISPUTES THAT I AGREE TO ARBITRATE, AND THEREBY AGREE TO WAIVE ANY RIGHT TO A TRIAL BY JURY, INCLUDE ANY STATUTORY CLAIMS UNDER LOCAL, STATE, OR FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CLAIMS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AMERICANS WITH DISABILITIES ACT OF 1990, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE OLDER WORKERS BENEFIT PROTECTION ACT, THE SARBANES-OXLEY ACT, THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT, THE CALIFORNIA

FAIR EMPLOYMENT AND HOUSING ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE CALIFORNIA FAMILY RIGHTS ACT, THE CALIFORNIA LABOR CODE, CLAIMS OF HARASSMENT, DISCRIMINATION, AND WRONGFUL TERMINATION, AND ANY STATUTORY OR COMMON LAW CLAIMS. I FURTHER UNDERSTAND THAT THIS AGREEMENT TO ARBITRATE ALSO APPLIES TO ANY DISPUTES THAT THE COMPANY MAY HAVE WITH ME.

B. *Procedure*. I AGREE THAT ANY ARBITRATION WILL BE ADMINISTERED BY JUDICIAL ARBITRATION & MEDIATION SERVICES, INC. ("**JAMS**"), PURSUANT TO ITS EMPLOYMENT ARBITRATION RULES & PROCEDURES (THE "**JAMS RULES**"). I AGREE THAT THE ARBITRATOR SHALL HAVE THE POWER TO DECIDE ANY MOTIONS BROUGHT BY ANY PARTY TO THE ARBITRATION, INCLUDING MOTIONS FOR SUMMARY JUDGMENT AND/OR ADJUDICATION, MOTIONS TO DISMISS AND DEMURRERS, AND MOTIONS FOR CLASS CERTIFICATION, PRIOR TO ANY ARBITRATION HEARING. I ALSO AGREE THAT THE ARBITRATOR SHALL HAVE THE POWER TO AWARD ANY REMEDIES AVAILABLE UNDER APPLICABLE LAW, AND THAT THE ARBITRATOR SHALL AWARD ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY, EXCEPT AS PROHIBITED BY LAW. I AGREE THAT THE DECREE OR AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED AS A FINAL AND BINDING JUDGMENT IN ANY COURT HAVING JURISDICTION THEREOF. I UNDERSTAND THAT THE COMPANY WILL PAY FOR ANY ADMINISTRATIVE OR HEARING FEES CHARGED BY THE ARBITRATOR OR JAMS EXCEPT THAT I SHALL PAY ANY FILING FEES ASSOCIATED WITH ANY ARBITRATION THAT I INITIATE, BUT ONLY SO MUCH OF THE FILING FEES AS I WOULD HAVE INSTEAD PAID HAD I FILED A COMPLAINT IN A COURT OF LAW. I AGREE THAT THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH CALIFORNIA LAW, INCLUDING THE CALIFORNIA CODE OF CIVIL PROCEDURE, AND THAT THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL CALIFORNIA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO RULES OF CONFLICT OF LAW. TO THE EXTENT THAT THE JAMS RULES CONFLICT WITH CALIFORNIA LAW, CALIFORNIA LAW SHALL TAKE PRECEDENCE. I AGREE THAT THE DECISION OF THE ARBITRATOR SHALL BE IN WRITING. I AGREE THAT ANY ARBITRATION UNDER THIS AGREEMENT SHALL BE CONDUCTED IN SANTA CLARA COUNTY, CALIFORNIA.

C. *Remedy*. EXCEPT AS PROVIDED BY THE ACT AND THIS AGREEMENT, ARBITRATION SHALL BE THE SOLE, EXCLUSIVE, AND FINAL REMEDY FOR ANY DISPUTE BETWEEN ME AND THE COMPANY. ACCORDINGLY, EXCEPT AS PROVIDED FOR BY THE ACT AND THIS AGREEMENT, NEITHER I NOR THE COMPANY WILL BE PERMITTED TO PURSUE COURT ACTION REGARDING CLAIMS THAT ARE SUBJECT TO ARBITRATION.

D. *Administrative Relief*. I UNDERSTAND THAT THIS AGREEMENT DOES NOT PROHIBIT ME FROM PURSUING AN ADMINISTRATIVE CLAIM WITH A LOCAL, STATE, OR FEDERAL ADMINISTRATIVE BODY OR GOVERNMENT AGENCY THAT IS AUTHORIZED TO ENFORCE OR ADMINISTER LAWS RELATED TO EMPLOYMENT, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE NATIONAL LABOR RELATIONS BOARD, OR THE WORKERS' COMPENSATION

BOARD. THIS AGREEMENT DOES, HOWEVER, PRECLUDE ME FROM PURSUING COURT ACTION REGARDING ANY SUCH CLAIM, EXCEPT AS PERMITTED BY LAW.

E. *Voluntary Nature of Agreement*. I ACKNOWLEDGE AND AGREE THAT I AM EXECUTING THIS AGREEMENT VOLUNTARILY AND WITHOUT ANY DURESS OR UNDUE INFLUENCE BY THE COMPANY OR ANYONE ELSE. I FURTHER ACKNOWLEDGE AND AGREE THAT I HAVE CAREFULLY READ THIS AGREEMENT AND THAT I HAVE ASKED ANY QUESTIONS NEEDED FOR ME TO UNDERSTAND THE TERMS, CONSEQUENCES, AND BINDING EFFECT OF THIS AGREEMENT AND FULLY UNDERSTAND IT, INCLUDING THAT ***I AM WAIVING MY RIGHT TO A JURY TRIAL***. FINALLY, I AGREE THAT I HAVE BEEN PROVIDED AN OPPORTUNITY TO SEEK THE ADVICE OF AN ATTORNEY OF MY CHOICE BEFORE SIGNING THIS AGREEMENT.

13. *General Provisions*.

A. *Governing Law; Consent to Personal Jurisdiction*. This Agreement will be governed by the laws of the State of California without giving effect to any choice-of-law rules or principles that may result in the application of the laws of any jurisdiction other than California. To the extent that any lawsuit is permitted under this Agreement, I hereby expressly consent to the personal and exclusive jurisdiction and venue of the state and federal courts located in California for any lawsuit filed against me by the Company.

B. *Entire Agreement*. This Agreement, together with the Exhibits herein and any executed written offer letter between me and the Company, to the extent such materials are not in conflict with this Agreement, sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and supersedes all prior discussions or representations between us, including, but not limited to, any representations made during my interview(s) or relocation negotiations, whether written or oral. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the President or CEO of the Company and me. Any subsequent change or changes in my duties, salary, or compensation will not affect the validity or scope of this Agreement.

C. *Severability*. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

D. *Successors and Assigns*. This Agreement will be binding upon my heirs, executors, assigns, administrators, and other legal representatives, and will be for the benefit of the Company, its successors, and its assigns. There are no intended third-party beneficiaries to this Agreement, except as expressly stated. Notwithstanding anything to the contrary herein, Company may assign this Agreement and its rights and obligations under this Agreement to any successor to all or substantially all of Company's relevant assets, whether by merger, consolidation, sale of assets or stock, or otherwise.

E. *Waiver.* Waiver by the Company of a breach of any provision of this Agreement will not operate as a waiver of any other or subsequent breach.

F. *Survivorship.* The rights and obligations of the parties to this Agreement will survive termination of my employment with the Company.

G. *Signatures.* This Agreement may be signed in two counterparts, each of which shall be deemed an original, with the same force and effectiveness as though executed in a single document.

Date: 11/11/13

/s/ Doug Murphy-Chutorian
Signature

Doug Murphy-Chutorian
Name of Employee (typed or printed)

Witness:

Signature

Daniel E. Conger
Name (typed or printed)

**Exhibit A**

**LIST OF PRIOR INVENTIONS**
**AND ORIGINAL WORKS OF AUTHORSHIP**

| Title | Date | Identifying Number or Brief Description |
|---|---|---|

___ No inventions or improvements

___ Additional Sheets Attached

Signature of Employee: _____

Print Name of Employee: Doug Murphy-Chutorian

Date: _____

**Exhibit B**

**CALIFORNIA LABOR CODE SECTION 2870**
**INVENTION ON OWN TIME-EXEMPTION FROM AGREEMENT**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

**Exhibit C**

**SEMLER SCIENTIFIC, INC.**

**TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, any other documents or property, or reproductions of any and all aforementioned items belonging to Semler Scientific, Inc., its subsidiaries, affiliates, successors or assigns (together, the "**Company**").

I further certify that I have complied with all the terms of the Company's At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein) conceived or made by me (solely or jointly with others), as covered by that agreement.

I further agree that, in compliance with the At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement, I will preserve as confidential all Company Confidential Information and Associated Third Party Confidential Information, including trade secrets, confidential knowledge, data, or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, databases, other original works of authorship, customer lists, business plans, financial information, or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants, or licensees.

I also agree that for twelve (12) months from this date, I will not either directly or indirectly solicit any of the Company's employees to leave their employment, or to enter into an employment, consulting, contractor, or other relationship with any other person, firm, business entity, or organization (including with myself). I agree that nothing in this paragraph shall affect my continuing obligations under the At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement during and after this twelve (12) month period, including, without limitation, my obligations under Section 2A thereof.

After leaving the Company's employment, I will be employed by _____ in the position of:_____.

_____

*Signature of employee*

_____

*Print name*

_____

*Date*

Address for Notifications: _____

**Exhibit D**

**SEMLER SCIENTIFIC, INC.**

**CONFLICT OF INTEREST GUIDELINES**

It is the policy of Semler Scientific, Inc. to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees, and independent contractors must avoid activities that are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations that must be avoided:

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement elaborates on this principle and is a binding agreement.)

2. Accepting or offering substantial gifts, excessive entertainment, favors, or payments that may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.

3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.

4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.

5. Initiating or approving any form of personal or social harassment of employees.

6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.

7. Borrowing from or lending to employees, customers, or suppliers.

8. Acquiring real estate of interest to the Company.

9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.

10. Unlawfully discussing prices, costs, customers, sales, or markets with competing companies or their employees.

11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions that are the subject of patent claims of any other person or entity.

13. Engaging in any conduct that is not in the best interest of the Company.

Each officer, employee, and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

**SEMLER SCIENTIFIC, INC.**

**CODE OF BUSINESS CONDUCT AND ETHICS**

**Table of Contents**

**SEMLER SCIENTIFIC, INC.**

**CODE OF BUSINESS CONDUCT AND ETHICS**

## I. INTRODUCTION

This Code of Business Conduct and Ethics (the "Code") helps embody the commitment of Semler Scientific, Inc. (the "Company") to conduct our business in accordance with all applicable laws, rules and regulations and the highest ethical standards. All the Company's employees, agents, contractors, consultants, officers and members ("Directors") of our Board of Directors (the "Board") are expected to read and understand the Code, uphold these standards in day-to-day activities, comply with all applicable policies and procedures, and ensure that all employees, agents, contractors, consultants, officers and Directors are aware of, understand and adhere to these standards.

Because the principles described in the Code are general in nature, you should also review all applicable Company policies and procedures for more specific instruction, and contact Management if you have any questions. Unless otherwise indicated, for the purposes of the Code the term "Management" shall be limited to the Company's President and Chief Executive Officer, Chief Operating Officer, and the Company's VP, Finance.

Nothing in the Code, in any company policies and procedures, or in other related communications (verbal or written) creates or implies an employment contract or term of employment.

We are committed to continuously reviewing and updating our policies and procedures. Therefore, the Code is subject to modification. This Code supersedes all other such codes, policies, procedures, instructions, practices, rules or written or verbal representations to the extent they are inconsistent.

Please sign the acknowledgment form at the end of the Code and return the form to the VP, Finance indicating that you have received, read, understand and agree to comply with the Code. The signed acknowledgment form will be located in your personnel file.

## II. GENERAL COMPLIANCE IS THE RESPONSIBILITY OF ALL EMPLOYEES

Ethical business conduct is critical to our business. As an employee, agent, contractor, consultant, officer or Director your responsibility is to respect and adhere to these practices. Many of these practices reflect legal or regulatory requirements. Violations of these laws and regulations can create significant liability for you, the Company, its Directors, officers, and other employees.

In addition, part of your job and ethical responsibility is to help enforce the Code. You should be alert to possible violations of the Code or other Company policies or procedures and the

law in general and report such violations. You must also cooperate in any internal or external investigations of possible violations. Reprisal, threats, retribution or retaliation against any person who has in good faith reported a violation or a suspected violation of law, the Code or other Company policies, or against any person who is assisting in any investigation or process with respect to such a violation, is prohibited. Violations of law, the Code or other Company policies or procedures by Company employees, agents, contractors, consultants, officers and Directors can lead to disciplinary action up to and including termination or removal.

In all cases, if you are unsure about the appropriateness of an event or action, please seek assistance in interpreting the requirements of these practices by contacting Management as you feel appropriate.

## III. INDIVIDUAL RESPONSIBILITY TO THE COMPANY AND ITS STOCKHOLDERS

### A. General Standards of Conduct

The Company expects all employees, agents, contractors, consultants, officers and Directors to exercise good judgment to ensure the safety and welfare of employees, agents, contractors, consultants, officers and Directors and to maintain a cooperative, efficient, positive, harmonious and productive work environment and business organization. These standards apply while working on our premises, at offsite locations where our business is being conducted, at Company-sponsored business and social events, or at any other place where you are a representative of the Company. Employees, agents, contractors, consultants, officers and Directors who engage in misconduct or whose performance is unsatisfactory may be subject to corrective action, up to and including termination or removal.

### B. Applicable Laws

All Company employees, agents, contractors, officers and Directors must comply with all applicable laws, regulations, rules and regulatory orders. Company employees, agents, contractors, consultants, officers and Directors located outside of the United States must comply with laws, regulations, rules and regulatory orders of the United States, including the Foreign Corrupt Practices Act, The Economic Espionage Act, and United States export rules and regulations, in addition to applicable state and local laws. Each employee, agent, contractor, consultant, officer and Director must acquire appropriate knowledge of the requirements relating to his or her duties sufficient to enable him or her to recognize potential dangers and to know when to seek advice from Management on specific Company policies and procedures. Violations of laws, regulations, rules and orders may subject the employee, agent, contractor, consultant, officer or Director to individual criminal or civil liability, as well as to discipline by the Company. Such individual violations may also subject the Company to civil or criminal liability or the loss of business.

### C. Personal Conflicts of Interest

A personal "conflict of interest" occurs when an individual's private interest improperly interferes with the interests of the Company and its stockholders or with such individual's service to the Company. Each of us has a responsibility to the Company, our stockholders and each other to avoid potential personal conflicts of interest and is required to get any known conflict of interest approved by Management. Although this duty does not prevent us from engaging in personal transactions and investments, it does demand that we avoid situations where a conflict of interest might occur or appear to occur. The Company is subject to scrutiny from many different individuals and organizations. We should always strive to avoid even the appearance of impropriety.

Examples of personal conflicts of interest include:

**(i) Employment/Outside Employment.** In consideration of your employment with the Company, you are expected to devote your full attention to the business interests of the Company. You are prohibited from engaging in any activity that interferes with your performance or responsibilities to the Company or is otherwise in conflict with or prejudicial to the Company. Our policies prohibit any employee from accepting simultaneous employment with a Company supplier, customer, developer or competitor, or from taking part in any activity that enhances or supports a competitor's position. Additionally, you must disclose to the Company any interest that you have that may conflict with the business of the Company. If you have any questions on this requirement, you should contact your supervisor or Management.

**(ii) Outside Directorships.** It is a conflict of interest, unless otherwise authorized by the Board, to serve as a Director of any company that competes with the Company. Although you may serve as a Director of a Company supplier, customer, developer, or other business partner, our policy requires that you first obtain approval from Management before accepting a Directorship. Any compensation you receive should be commensurate to your responsibilities. Such approval may be conditioned upon the completion of specified actions.

**(iii) Business Interests.** If you are considering investing in a Company customer, supplier, developer or competitor, you must first take great care to ensure that these investments do not compromise your responsibilities to the Company. Many factors should be considered in determining whether a conflict exists, including the size and nature of the investment; your ability to influence the Company's decisions; your access to confidential information of the Company or of the other company; and the nature of the relationship between the Company and the other company.

**(iv) Related Parties.** Prior to entering into any "related party transactions," as such term is defined under the Company's Related Person Transactions Policy, you must fully disclose the nature of the related party transaction to the Company's Management. Any dealings with a related party must be conducted in such a way that no preferential treatment is given to this business.

**(v) Other Situations.** Because other conflicts of interest may arise, it would be impractical to attempt to list all possible situations. If a proposed transaction or situation raises any questions or doubts in your mind you should consult Management as appropriate.

### D. Corporate Opportunities

Employees, officers and Directors owe a duty to the Company to advance the Company's legitimate business interests when the opportunity to do so arises. Employees, officers and Directors may not exploit for their own personal gain business opportunities that are discovered through the use of corporate property, information or position unless the opportunity is disclosed fully in writing to the Board and the Board declines to pursue such opportunity.

Sometimes the line between personal and Company gain is difficult to draw and sometimes both personal *and* Company gain may be simultaneously derived from certain activities. The only prudent course of conduct for our employees, officers and Directors is to make certain that any use of Company property or services that is not solely for the benefit of the Company is approved by Management and disclosed to the Board.

### E. Protecting the Company's Confidential Information

The Company's confidential information is a valuable asset. The Company's confidential information includes product architectures and plans, intellectual property matters, employee and financial information and generally any nonpublic information concerning the Company. All confidential information must be used for Company business purposes only. Every employee, agent, contractor, consultant, officer and Director must maintain the confidentiality of all information so entrusted to him or her, except when disclosure is authorized or legally mandated. This responsibility includes the safeguarding, securing and proper disposal of confidential information in accordance with the Company's policy on "Maintaining and Managing Records" set forth in Section III. H. of this Code. This obligation extends to any confidential information of third parties, which the Company has rightfully received under non-disclosure agreements. See the Company's policy dealing with "Handling Confidential Information of Others" set forth in Section IV. D of this Code.

**(i) Confidential Information and Invention Agreement.** When you joined the Company, you signed an agreement to protect and hold confidential the Company's proprietary information. This agreement remains in effect for as long as you work for the Company and after you leave the Company. Under this agreement, you may not disclose the Company's confidential information to anyone or use it to benefit anyone other than the Company without the prior written consent of an authorized Company officer.

**(ii) Disclosure of Company Confidential Information.** To further the Company's business, from time to time our confidential information may be disclosed to potential business partners. However, such disclosure should never be done without carefully considering its potential benefits and risks. If you should determine in consultation with your manager and other

appropriate Company Management that disclosure of confidential information is necessary, you should strongly consider consulting legal counsel to determine the appropriateness of executing a written nondisclosure agreement. The Company has standard nondisclosure agreements suitable for most disclosures. You must not sign a third party's nondisclosure agreement or accept changes to the Company's standard nondisclosure agreements without review and approval by legal counsel, as appropriate. In addition, all Company materials that contain Company confidential information, including presentations, must be reviewed and approved by Management prior to publication or use. Furthermore, any employee publication or publicly made statement that might be perceived or construed as attributable to the Company, made outside the scope of his or her employment with the Company must be reviewed and approved in writing in advance by Management and must include the Company's standard disclaimer that the publication or statement represents the views of the specific author and not of the Company.

**(iii) Requests by Regulatory Authorities.** The Company and its employees, agents, contractors, consultants, officers and Directors must cooperate with appropriate government inquiries and investigations. In this context, however, it is important to protect the legal rights of the Company with respect to its confidential information. All government requests for information, documents or investigative interviews must be referred to the Company's Management or outside legal counsel, as appropriate. No financial information may be disclosed without the prior approval of the VP, Finance of the Company.

**(iv) Company Spokespeople.** All inquiries or calls from the press or financial analysts related to financial matters and all other inquiries or calls from the press and analysts should be referred to our Chief Executive Officer, including inquiries relating to marketing, technical and other such information. The designees who are the only people who may communicate with the press on behalf of the Company are the Company's President and Chief Executive Officer or persons expressly authorized by them.

**F. Obligations Under Securities Laws**

**(i) "Insider" Trading**

In the normal course of business, employees, agents, contractors, consultants, officers and Directors of the Company may come into possession of material nonpublic information. You may not profit from it by buying or selling securities yourself, or passing on the information to others to enable them to profit or for them to profit on your behalf. For more details, and to determine if you are restricted from trading, you should review the Company's Policy on Insider Trading and Tipping (the "Insider Policy"). You can request a copy of this Insider Policy from the Company's Insider Trading Compliance Officer, who is currently the VP, Finance.

**(ii) Disclosure in Public Filings**

Management is responsible for ensuring that the disclosure in the Company's periodic reports is full, fair, accurate, timely and understandable. In doing so, Management shall take such action as is

reasonably appropriate to: establish and comply with disclosure controls and procedures and accounting and financial controls that are designed to ensure that material information relating to the Company is made known to them; confirm that the Company's periodic reports comply with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and ensure that information contained in the Company's periodic reports fairly presents in all material respects the financial condition and results of operations of the Company.

Management shall not knowingly: make, or permit or direct another to make, materially false or misleading entries in the Company's, or any of its subsidiary's, financial statements or records; fail to correct materially false and misleading financial statements or records; sign, or permit another to sign, a document containing materially false and misleading information; or falsely respond, or fail to respond, to specific inquiries of the Company's independent auditor or outside legal counsel.

**G. Use of Company's Assets**

**(i) General.** Protecting the Company's assets is a key fiduciary responsibility of every employee, agent, contractor, consultant, officer and Director. Care should be taken to ensure that assets are not misappropriated, loaned to others, or sold or donated, without appropriate authorization. All Company employees, agents, contractors, consultants, officers and Directors are responsible for the proper use of Company assets, and must safeguard such assets against loss, damage, misuse or theft. Employees, agents or contractors, consultants, officers and Directors who violate any aspect of this policy or who demonstrate poor judgment in the manner in which they use any Company asset may be subject to disciplinary action, up to and including termination of employment or business relationship at the Company's sole discretion. Company equipment and assets are to be used for Company business purposes only. Employees, agents, contractors, consultants, officers and Directors may not use Company assets for personal use, nor may they allow any other person to use Company assets. If you have any questions regarding this policy you should bring them to the attention of the Company's Management.

**(ii) Physical Access Control.** The Company has and will continue to develop procedures covering physical access control to ensure privacy of communications, maintenance of the security of the Company communication equipment, and safeguard Company assets from theft, misuse and destruction. You are personally responsible for complying with the level of access control that has been implemented in the facility where you work on a permanent or temporary basis. You must not defeat or cause to be defeated the purpose for which the access control was implemented.

**(iii) Company Funds.** Every Company employee, agent, contractor, consultant, officer and Director is personally responsible for all Company funds over which he or she exercises control. Company employees, agents, contractors, consultants, officers and Directors not specifically authorized by the Board should not be allowed to exercise control over Company funds. Company funds must be used only for Company business purposes and employees preauthorized by the Board must make certain that they stay within preauthorized spending

amounts approved by the Board. Every Company employee, agent, contractor, consultant, officer and Director must take reasonable steps to ensure that the Company receives good value for Company funds spent and must maintain accurate and timely records for each expenditure. Expense reports must be accurate and submitted in a timely manner. Company employees, agents, contractors, consultants, officers and Directors must not use Company funds for any personal purpose.

**(iv) Computers and Other Equipment.** The Company strives to furnish employees with the equipment necessary to efficiently and effectively do their jobs. You must care for that equipment and use it responsibly only for Company business purposes. If you use Company equipment at your home or off site, take precautions to protect it from theft or damage, just as if it were your own. If the Company no longer employs you, you must immediately return all Company equipment. While computers and other electronic devices are made accessible to employees to assist them to perform their jobs and to promote Company interests, all such computers and electronic devices, whether used entirely or partially on the Company's premises or with the aid of the Company's equipment or resources, must remain fully accessible to the Company and, to the maximum extent permitted by law, will remain the sole and exclusive property of the Company.

Employees, agents, contractors, consultants, officers and Directors should not maintain any expectation of privacy with respect to information transmitted over, received by, or stored in any electronic communications device owned, leased, or operated in whole or in part by or on behalf of the Company. To the extent permitted by applicable law, the Company retains the right to gain access to any information received by, transmitted by, or stored in any such electronic communications device, by and through its employees, agents, contractors, consultants, officers or Directors, at any time, either with or without such Company representative's or third party's knowledge, consent or approval.

**(v) Software.** All software used by any employee, agent, contractor, consultant, officer or Director to conduct Company business must be appropriately licensed. Never make or use illegal or unauthorized copies of any software, whether in the office, at home, or on the road, since doing so may constitute copyright infringement and may expose you and the Company to potential civil and criminal liability. In addition, use of illegal or unauthorized copies of software may subject the employee, agent, contractor, consultant, officer or Director to disciplinary action, up to and including termination or removal.

**(vi) Electronic Usage.** The purpose of this clause is to make certain that each employee, agent, contractor, consultant, officer and Director utilize electronic communication devices in a legal, ethical, and appropriate manner. This policy addresses the Company's responsibilities and concerns regarding the fair and proper use of all electronic communications devices within the organization, including computers, e-mail, connections to the internet, intranet and any other public or private networks, voice mail, video conferencing, facsimiles, and telephones. Posting or discussing information concerning the Company's products, services or

business on the Internet without the prior written consent of the Company's Management is prohibited. Personal messages via email and voicemail may be sent, but should be minimized and brief. You may not, however, send or solicit messages that may be perceived as obscene, harassing or threatening. In addition, you may not access obscene or inappropriate internet websites, or participate in any other communication, exchange or activity, involving the Company's electronic devices that may be perceived as obscene or harassing. Any other form of electronic communication used by employees, agents, contractors, consultants, officers or Directors currently or in the future is also intended to be encompassed under this clause.

**H. Maintaining and Managing Records**

The purpose of this section is to set forth and convey the Company's business and legal requirements in managing records, including all recorded information regardless of medium or characteristics. Records include paper documents, CDs, computer hard disks, email, floppy disks, microfiche, microfilm or all other media. The Company is required by local, state, federal, foreign and other applicable laws, rules and regulations to retain certain records and to follow specific guidelines in managing its records. Civil and criminal penalties for failure to comply with such guidelines can be severe for employees, agents, contractors, consultants, officers, Directors and the Company, and failure to comply with such guidelines may subject each employee, agent, contractor, consultant, officer or Director to disciplinary action, up to and including termination of employment or business relationship at the Company's sole discretion.

**I. Records on Legal Hold.**

A legal hold suspends all document destruction procedures in order to preserve appropriate records under special circumstances, such as litigation or government investigations. The Company's Management, in concert with appropriate legal counsel, determines and identifies what types of Company records or documents are required to be placed under a legal hold. Every Company employee, agent, contractor, consultant, officer and Director must comply with this section. Failure to comply with this section may subject the employee, agent, contractor, consultant, officer or Director to disciplinary action, up to and including termination of employment or business relationship at the Company's sole discretion.

The Company's Management will notify you if a legal hold is placed on records for which you are responsible. You then must preserve and protect the necessary records in accordance with instructions from the Company's Management. **RECORDS OR SUPPORTING DOCUMENTS THAT HAVE BEEN PLACED UNDER A LEGAL HOLD MUST NOT BE DESTROYED, ALTERED OR MODIFIED UNDER ANY CIRCUMSTANCES**. A legal hold remains effective until it is officially released in writing by the Company's Management. If you are unsure whether a document has been placed under a legal hold, you should preserve and protect that document while you check with the Company's Management.

If you have any questions about this policy you should contact your supervisor or Management.

**J. Payment Practices**

**(i) Accounting Practices.** The Company's responsibilities to its stockholders require that all transactions be fully and accurately recorded in the Company's books and records in compliance with all applicable laws. False or misleading entries, unrecorded funds or assets, or payments without appropriate supporting documentation and approval are strictly prohibited and violate Company policy and the law. Additionally, all documentation supporting a transaction should fully and accurately describe the nature of the transaction and be processed in a timely fashion.

**(ii) Prohibition of Inducements.** Under no circumstances may any employee, agent, contractor, consultant, officer or Director offer to pay, make payment, promise to pay, or issue authorization to pay any money, gift, or anything of value to customers, vendors, consultants, etc. that is perceived as intended, directly or indirectly, to improperly influence any business decision, any act or failure to act, any commitment of fraud, or opportunity for the commission of any fraud. Inexpensive gifts, infrequent business meals, celebratory events and entertainment, provided that they are not excessive or create an appearance of impropriety, do not violate this policy. Questions regarding whether a particular payment or gift violates this policy should be directed to the Company's VP, Finance.

**K. Foreign Corrupt Practices Act.**

The Company requires full compliance with the Foreign Corrupt Practices Act (the "FCPA") by each employee, agent, contractor, consultant, officer and Director.

The anti-bribery and corrupt payment provisions of the FCPA make illegal any corrupt offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any foreign official, or any foreign political party, candidate or official, for the purpose of: influencing any act or failure to act, in the official capacity of that foreign official or party; or inducing the foreign official or party to use influence to affect a decision of a foreign government or agency, in order to obtain or retain business for anyone, or direct business to anyone.

All Company employees, agents, contractors, consultants, officers and Directors whether located in the United States or abroad, are responsible for FCPA compliance and the procedures to ensure FCPA compliance. All managers and supervisory personnel are expected to monitor continued compliance with the FCPA to ensure compliance with the highest moral, ethical and professional standards of the Company. FCPA compliance includes the Company's policy on "Maintaining and Managing Records" in Section III. H above.

Laws in most countries outside of the United States also prohibit or restrict government officials or employees of government agencies from receiving payments, entertainment, or gifts for the purpose of winning or keeping business. No contract or agreement may be made with any business in which a government official or employee holds a significant interest, without the prior approval of the Company's Management.

## IV. RESPONSIBILITIES TO OUR CUSTOMERS AND OUR SUPPLIERS

### A. Customer Relationships

If your job puts you in contact with any Company customers or potential customers, it is critical for you to remember that you represent the Company to the people with whom you are dealing. Act in a manner that creates value for our customers and helps to build a relationship based upon trust.

### B. Payments or Gifts from Others

Under no circumstances may employees, agents, contractors, consultants, officers or Directors accept any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value from current or potential customers, vendors, consultants, etc. that is perceived as intended, directly or indirectly, to influence any business decision, any act or failure to act, any commitment of fraud, or opportunity for the commission of any fraud. Inexpensive gifts, infrequent business meals, celebratory events and entertainment, provided that they are not excessive or create an appearance of impropriety, do not violate this policy. Questions regarding whether a particular payment or gift violates this policy are to be directed to the Company's Management or Board, as appropriate.

Gifts given by the Company to potential or current suppliers or customers or received from potential or current suppliers or customers should always be appropriate to the circumstances and should never be of a kind that could create an appearance of impropriety. The nature and cost must always be accurately recorded in the Company's books and records.

### C. Handling the Confidential Information of Others

The Company has, and will continue to have in the future, business relationships that involve a certain amount of confidentiality. Sometimes, certain companies will volunteer confidential information about their products or business plans to induce the Company to enter into a business relationship. At other times, we may request that a third party provide confidential information to permit the Company to evaluate a potential business relationship with that party. Whatever the situation, we must take special care to handle the confidential information of others responsibly. We handle such confidential information in accordance with our agreements with such third parties. See also the Company's policy on "Maintaining and Managing Records" in Section III. H above.

**(i) Appropriate Nondisclosure Agreements.** Confidential information may take many forms. An oral presentation about a company's product development plans may contain protected trade secrets. A customer list or employee list may be a protected trade secret. A list of a company's patents may contain information protected by intellectual property laws.

You should never accept information offered by a third party that is represented as confidential, or which appears from the context or circumstances to be confidential, unless an appropriate nondisclosure agreement has been signed with the party offering the information. **MANAGEMENT CAN ARRANGE FOR NONDISCLOSURE AGREEMENTS TO FIT ANY PARTICULAR SITUATION, AND WILL COORDINATE APPROPRIATE EXECUTION OF SUCH AGREEMENTS ON BEHALF OF THE COMPANY**. Even after a nondisclosure agreement is in place, you should accept only the information necessary to accomplish the purpose of receiving it, such as a decision on whether to proceed to negotiate a deal. If more detailed or extensive confidential information is offered and it is not necessary, for your immediate purposes, it should be refused.

**(ii) Competitive Information.** You should never attempt to obtain a competitor's confidential information by improper means, and you should especially never contact a competitor regarding their confidential information. While the Company may, and does, employ former employees of competitors, we recognize and respect the obligations of those employees not to use or disclose the confidential information of their former employers.

### D. Government Relations

It is the Company's policy to comply fully with all applicable laws and regulations governing contact and dealings with government employees and public officials, and to adhere to high moral, ethical and legal standards of business conduct. This policy includes strict compliance with all local, state, federal, foreign and other applicable laws, rules and regulations. If you have any questions concerning government relations you should contact the Company's Management.

### E. Industrial Espionage

It is the Company's policy to lawfully compete in the marketplace. This commitment to fairness includes respecting the rights of our competitors and abiding by all applicable laws in the course of competing. The purpose of this policy is to maintain the Company's reputation as a lawful competitor and to help ensure the integrity of the competitive marketplace. The Company expects its competitors to respect our rights to compete lawfully in the marketplace, and we must respect their rights equally. Company employees, agents, contractors, consultants, officers and Directors may not steal or unlawfully use the information, material, products, intellectual property, or proprietary or confidential information of anyone including suppliers, customers, business partners or competitors.

## V. WAIVERS

Any waiver of any provision of the Code for a Director or an officer must be approved in writing by the Board, must be truly necessary and warranted and must be promptly disclosed. Any such waiver for a Director or an officer shall be disclosed within four business days by filing a current report on Form 8-K with the Securities & Exchange Commission. Any waiver of any provision of the Code with respect to any other employee, agent, contractor or consultant must be approved in writing by the Company's Management.

## VI. DISCIPLINARY ACTIONS

The matters covered in the Code are of the utmost importance to the Company, its stockholders and its business partners, and are essential to the Company's ability to conduct its business in accordance with its stated values. We expect all of our employees, agents, contractors, consultants, officers and Directors to adhere to these rules in carrying out their duties for the Company.

The Company will take appropriate action against any employee, agent, contractor, consultant, officer or Director whose actions are found to violate these policies or any other policies of the Company. Disciplinary actions may include immediate termination of employment or business relationship at the Company's sole discretion. Where the Company has suffered a loss, it may pursue its remedies against the individuals or entities responsible. Where laws have been violated, the Company will cooperate fully with the appropriate authorities. You should review the Company's policies and procedures, which may be obtained from your supervisor or Management, for more detailed information.

The Company, the Management or any other employees, agents, officers or Directors are prohibited from taking any adverse employment action against any employee, agent, contractor, consultant, officer or Director or his or her affiliated persons for any reports of potential or actual violations of the Code, or any other protected code under applicable laws, that are lawful and made in good faith. Adverse employment actions include discharging, demoting, suspending, threatening, harassing or in any other manner discriminating against any employee due to any report of potential or actual violations of the Code or related to providing information or assisting in investigations regarding any conduct that such employee, agent, contractor, consultant, officer or Director believes violates federal statutes or rules.

*Adopted [_____]*

## VII. ACKNOWLEDGMENT OF RECEIPT OF CODE OF BUSINESS CONDUCT AND ETHICS

I have received and read the Company's Code of Business Conduct and Ethics. I understand the standards and policies contained in the Company Code of Business Conduct and Ethics and understand that there may be additional policies or laws specific to my job. I further agree to comply with the Company Code of Business Conduct and Ethics.

If I have questions concerning the meaning or application of the Company Code of Business Conduct and Ethics, any Company policies, or the legal and regulatory requirements applicable to my job, I know I can consult my direct supervisor or the Company's Management knowing that my questions or reports to these sources will be maintained in confidence.

_____

Employee Name

_____

Signature

_____

Date

Please sign and return this form to the VP, Finance.

**Exhibit 23.1**

Consent of Independent Registered Public Accounting Firm

Semler Scientific, Inc.
Portland, Oregon

We hereby consent to the use in the Prospectus constituting a part of this Registration Statement of our report dated October 9, 2013, relating to the financial statements of Semler Scientific, Inc., which is contained in that Prospectus.

We also consent to the reference to us under the caption “Experts” in the Prospectus.

/s/ BDO USA, LLP
New York, New York

November 14, 2013