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

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**FORM 8-K**

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

**Date of Report (Date of earliest event reported): July 31, 2014**

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**Celladon Corporation**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-36183**  
(Commission  
File Number)

**33-0971591**  
(IRS Employer  
Identification No.)

**11988 El Camino Real, Suite 650**  
**San Diego, CA**  
(Address of principal executive offices)

**92130**  
(Zip Code)

**Registrant's telephone number, including area code: (858) 366-4288**

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

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement.**

On July 31, 2014, Celladon Corporation (the “Company”) entered into a Loan and Security Agreement (the “Loan Agreement”) with Hercules Technology III, L.P. and Hercules Technology Growth Capital, Inc. (as agent and as a lender, and together with Hercules Technology III, L.P., the “Lenders”) under which the Company may borrow up to \$25.0 million in two tranches (the “Loan”).

The Company borrowed the first tranche of \$10.0 million on August 1, 2014 and paid a facility charge to the Lenders of \$150,000 in addition to \$37,500 previously paid to the Lenders as a commitment fee. The Company plans to use the proceeds of the Loan to provide additional funding for the development of MYDICAR, for other development programs in its pipeline and for general corporate purposes. The second tranche of up to \$15.0 million can be drawn through May 31, 2015, but only if the Company has provided the Lenders with notice that data from the Company’s Phase 2b clinical trial for MYDICAR supports the continued development of MYDICAR for its Breakthrough Therapy designation to either a Phase 3 clinical trial or for registration for approval, as reasonably determined by the Company’s senior management and board of directors (the “Milestone”). Upon funding of the second tranche of the Loan, the Company will be required to pay a facility charge to the Lenders of \$100,000.

The interest rate for each tranche will be calculated at a rate equal to the greater of either (i) 8.25% plus the prime rate as reported from time to time in The Wall Street Journal minus 5.25%, and (ii) 8.25%. Payments under the Loan Agreement are interest only until August 1, 2015 (which will be extended until February 1, 2016 if the Company achieves the Milestone on or before May 31, 2015) (the “Amortization Date”) followed by equal monthly payments of principal and interest through the scheduled maturity date on February 1, 2018 (the “Loan Maturity Date”). In addition, a final payment equal to \$1,750,000 will be due at such time as the Loan is prepaid or becomes due and payable as specified in the Loan Agreement. The Company’s obligations under the Loan Agreement are secured by a security interest in substantially all of its assets, excluding its intellectual property but including the proceeds from the sale, licensing or disposition of its intellectual property. The Company’s intellectual property is also subject to customary negative covenants.

If the Company prepays the loan prior to maturity, it will pay the Lenders a prepayment charge, based on a percentage of the then outstanding principal balance, equal to 1.5% if the prepayment occurs prior to the Amortization Date.

Subject to certain conditions and limitations set forth in the Loan Agreement, including ownership limitations of the Lenders, the Company has the right to convert up to \$3.0 million of scheduled principal installments of the Loan into shares of the Company’s common stock (“Common Stock”), provided such shares must be freely tradable. The number of shares of Common Stock that would be issued upon conversion would be equal to the number determined by dividing (x) the principal amount to be paid in shares of Common Stock by (y) \$16.33.

The Loan Agreement includes customary representations, warranties and covenants (affirmative and negative) of the Company, including restrictive covenants that limit the Company’s ability to: incur additional indebtedness; encumber the collateral securing the Loan; acquire, own or make investments; repurchase or redeem stock or other equity securities; declare or pay any cash dividend or make a cash distribution on any class of stock or other equity interest; transfer a material portion of the Company’s assets; acquire other businesses; and merge or consolidate with or into any other business organization. The Loan Agreement does not however include any financial maintenance covenants. The Loan Agreement also includes standard events of default, including payment defaults, breaches of covenants following any applicable cure period, a material impairment in the perfection or priority of the Lenders’ security interest or in the value of the collateral, and events relating to bankruptcy or insolvency. Upon the occurrence of an event of default, a default interest rate of an additional 5% may be applied to the outstanding Loan, and the Lenders may declare all outstanding obligations immediately due and payable and take such other actions as are set forth in the Loan Agreement.

The description of the Loan Agreement contained herein does not purport to be complete and is qualified in its entirety by reference to the complete text of the Loan Agreement, a copy of which is attached hereto as Exhibit 99.1.

On August 1, 2014, the Company issued a press release regarding the transactions described above, which is attached hereto as Exhibit 99.2.

As previously reported in the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 3, 2014 (the "Prior 8-K"), the Company entered into a Sublease Agreement dated May 28, 2014 by and between the Company and Brandes Investment Partners, L.P. (the "Lease"). The description of the Lease in the Prior 8-K erroneously referenced an approximate seven year and 10 month term of the Lease. The term of the Lease actually expires in September 2021.

**Item 2.03                      Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information in Item 1.01 above relating to the Loan Agreement and the Loan is incorporated by reference into this Item 2.03.

**Item 9.01                      Financial Statements and Exhibits.**

(d)    Exhibits

<u>Exhibit No.</u>	<u>Description</u>
99.1	Loan and Security Agreement dated as of July 31, 2014 by and between Celladon Corporation, Hercules Technology III, L.P. and Hercules Technology Growth Capital, Inc.
99.2	Press release of Celladon Corporation dated August 1, 2014.

**Forward-Looking Statements**

Statements contained in this report regarding matters that are not historical facts are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements include, but are not limited to, statements related to future events under the Loan Agreement, including the Company's ability to access the second tranche of the Loan under the Loan Agreement, references to the expected timing of results of the Phase 2b clinical trial data, plans for the use of the funds under the Loan Agreement and references to the future of MYDICAR and the Company's other products candidates. Because such statements are subject to risks and uncertainties, actual results may differ materially from those expressed or implied by such forward-looking statements. These forward-looking statements are based upon the Company's current expectations and involve assumptions that may never materialize or may prove to be incorrect. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of various risks and uncertainties, which include, without limitation, risks and uncertainties associated with the process of conducting product development activities and clinical trials and obtaining regulatory approval to commercialize product candidates, the Company's reliance on third parties, the need to raise additional funding when needed in order to conduct the Company's business, and the degree of market acceptance of MYDICAR by physicians, patients, third-party payors and others in the medical community. These and other risks and uncertainties are described more fully in the Company's filings with the Securities and Exchange Commission, including without limitation its Form 10-Q for the quarter ended March 31, 2014. All forward-looking statements contained in this press release speak only as of the date on which they were made. The Company undertakes no obligation to update such statements to reflect events that occur or circumstances that exist after the date on which they were made.

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## SIGNATURES

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

**Celladon Corporation**

Dated: August 5, 2014

By: /s/ Paul Cleveland

Paul Cleveland

President and Chief Financial Officer

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## EXHIBIT INDEX

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99.2	Press release of Celladon Corporation dated August 1, 2014.

## LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT is made and dated as of July 31, 2014 and is entered into by and between Celladon Corporation, a Delaware corporation (hereinafter referred to as the “Borrower”), the several banks and other financial institutions or entities from time to time parties to this Agreement (collectively, referred to as “Lender”) and HERCULES TECHNOLOGY GROWTH CAPITAL, INC., a Maryland corporation, in its capacity as administrative agent for itself and the Lender (in such capacity, the “Agent”).

### RECITALS

A. Borrower has requested Lender to make available to Borrower a loan in an aggregate principal amount of up to Twenty Five Million Dollars (\$25,000,000) (the “Term Loan”), which loan shall be available in two tranches;

B. Lender is willing to make the Term Loan on the terms and conditions set forth in this Agreement.

### AGREEMENT

NOW, THEREFORE, Borrower, Agent and Lender agree as follows:

#### **SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION**

1.1 Unless otherwise defined herein, the following capitalized terms shall have the following meanings:

“Account Control Agreement(s)” means any agreement entered into by and among the Agent, Borrower and a third party Bank or other institution (including a Securities Intermediary) in which Borrower maintains a Deposit Account or an account holding Investment Property and which perfects Agent’s first priority security interest in the subject account or accounts.

“ACH Authorization” means the ACH Debit Authorization Agreement in substantially the form of Exhibit I.

“ACH Failure” means (i) the failure of the Automated Clearing House (ACH) system to effect a transfer of the funds requested by Agent or Lender to be used to satisfy all or part of Borrower’s obligations to pay principal and interest due hereunder other than due to a lack of funds, or (ii) a failure by Agent or Lender to initiate debit entries for the periodic payment of such principal or interest.

“Acquisition” means, with respect to any Person, the acquisition by such Person, in a single transaction or in a series of related transactions, of either (a) all or any substantial portion of the property of, or a line of business, division or operating group of, another Person or (b) at least a majority of the equity interests of another Person entitled to vote for members of the board of directors or equivalent governing body of such Person, in each case whether or not involving a merger or consolidation with such other Person.

“Advance(s)” means a Term Loan Advance.

“Advance Date” means the funding date of any Advance.

“Advance Request” means a request for an Advance submitted by Borrower to Agent in substantially the form of Exhibit A.

“Affiliate” means (a) any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question, (b) any Person directly or indirectly owning, controlling or holding with power to vote ten percent (10%) or more of the outstanding voting securities of another Person, (c) any Person ten percent (10%) or more of whose outstanding voting securities are directly or indirectly owned, controlled or held by another Person with power to vote such securities, or (d) any Person related by blood or marriage to any Person described in subsection (a), (b) or (c) of this paragraph. As used in the definition of “Affiliate,” the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Agent” has the meaning given to it in the preamble to this Agreement.

“Agreement” means this Loan and Security Agreement, as amended from time to time.

“Amortization Date” means August 1, 2015; provided however, if the Funding Milestone occurs, then February 1, 2016.

“Assignee” has the meaning given to it in Section 11.13.

“Borrower Products” means all products, software, service offerings, technical data or technology currently being designed, manufactured or sold by Borrower or which Borrower intends to sell, license, or distribute in the future including any products or service offerings under development, collectively, together with all products, software, service offerings, technical data or technology that have been sold, licensed or distributed by Borrower since its incorporation.

“Business Day” means any day other than Saturday, Sunday and any other day on which banking institutions in the State of California are closed for business.

“Cash” means all cash and liquid funds.

“Change in Control” means any reorganization, recapitalization, consolidation or merger (or similar transaction or series of related transactions) of Borrower, sale or exchange of outstanding shares (or similar transaction or series of related transactions) of Borrower in which the holders of Borrower’s outstanding shares immediately before consummation of such transaction or series of related transactions do not, immediately after consummation of such

transaction or series of related transactions, retain shares representing more than fifty percent (50%) of the voting power of the surviving entity of such transaction or series of related transactions (or the parent of such surviving entity if such surviving entity is wholly owned by such parent), in each case without regard to whether Borrower is the surviving entity.

“Claims” has the meaning given to it in Section 11.10.

“Closing Date” means the date of this Agreement.

“Collateral” means the property described in Section 3.

“Commitment Fee” means \$37,500, which fee is due to Lender on or prior to the Closing Date, and shall be deemed fully earned on such date regardless of the early termination of this Agreement.

“Companion Diagnostic” means the companion diagnostic AAV1 NAb assay for use in combination with MYDICAR in order to qualify subjects for treatment in clinical trials and for commercial use.

“Confidential Information” has the meaning given to it in Section 11.12.

“Contingent Obligation” means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (i) any Indebtedness, lease, dividend, letter of credit or other obligation of another, including any such obligation directly or indirectly guaranteed, endorsed, co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable; (ii) any obligations with respect to undrawn letters of credit, corporate credit cards or merchant services issued for the account of that Person; and (iii) all obligations arising under any interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term “Contingent Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

“Copyright License” means any written agreement granting any right to use any Copyright or Copyright registration, now owned or hereafter acquired by Borrower or in which Borrower now holds or hereafter acquires any interest.

“Copyrights” means all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof, or of any other country.

“Deposit Accounts” means any “deposit accounts,” as such term is defined in the UCC, and includes any checking account, savings account, or certificate of deposit.



“Domestic Subsidiary” means any Subsidiary that is not a Foreign Subsidiary.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“Excluded Account” means any Deposit Account or account holding Investment Property to the extent, and for so long as, such account is pledged to secure performance of obligations arising under the first section of clause (vi) of the defined term “Permitted Liens”, and whether such pledge is by escrow or otherwise.

“Event of Default” has the meaning given to it in Section 9.

“Facility Charge” means \$250,000.

“Financial Statements” has the meaning given to it in Section 7.1.

“First Tranche Advance” means the first Ten Million Dollars (\$10,000,000) Advance made under the Term Loan.

“Fixed Conversion Price” means \$16.33, provided, however, that upon the occurrence of any stock split, stock dividend, combination of shares or reverse stock split pertaining to the Common Stock, the Fixed Conversion Price shall be proportionately increased or decreased as necessary to reflect the proportionate change in the shares of Common Stock issued and outstanding as a result of such stock split, stock dividend, combination of shares or reverse stock split.

“Foreign Subsidiary” means any Subsidiary other than a Subsidiary organized under the laws of any state within the United States.

“Funding Milestone” means the delivery of a written notice from the Borrower to Agent that states that the Phase2b data supports the continued development of MYDICAR for reducing hospitalization for heart failure in Nab-negative NYHA class III or class IV heart failure patients who are not in immediate need of a left ventricular assist device or heart transplant, with the next clinical step for such indication (other than the two previously planned studies as disclosed to Agent) being a phase III study or for registration for approval, all as reasonably determined by Borrower’s senior management and board of directors not later than May 31, 2015. For the avoidance of doubt, any determination by the Borrower’s senior management and board of directors that the Phase2b data supports the development of MYDICAR for other indications or supports the conduct of one or more different studies at any phase level will not prevent the occurrence of a Funding Milestone that would otherwise be deemed to have occurred upon satisfying the conditions in the previous sentence.

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

“Indebtedness” means indebtedness of any kind, including (a) all indebtedness for borrowed money or the deferred purchase price of property or services (excluding trade credit entered into in the ordinary course of business due within sixty (60) days), including reimbursement and other obligations with respect to surety bonds and letters of credit, (b) all obligations evidenced by notes, bonds, debentures or similar instruments, (c) all capital lease obligations, and (d) all Contingent Obligations.

“Insolvency Proceeding” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

“Intellectual Property” means all of Borrower’s Copyrights; Trademarks; Patents; Licenses; trade secrets and inventions; mask works; Borrower’s applications therefor and reissues, extensions, or renewals thereof; and Borrower’s goodwill associated with any of the foregoing, together with Borrower’s rights to sue for past, present and future infringement of Intellectual Property and the goodwill associated therewith.

“Investment” means any beneficial ownership (including stock, partnership or limited liability company interests) of or in any Person, or any loan, advance or capital contribution to any Person or the acquisition of all, or substantially all, of the assets of another Person.

“Joinder Agreements” means for each Subsidiary other than a Foreign Subsidiary, a completed and executed Joinder Agreement in substantially the form attached hereto as Exhibit G.

“Lender” has the meaning given to it in the preamble to this Agreement.

“License” means any Copyright License, Patent License, Trademark License or other license of rights or interests.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, against any property, any conditional sale or other title retention agreement, and any lease in the nature of a security interest.

“Loan” means the Advances made under this Agreement.

“Loan Documents” means this Agreement, the Notes (if any), the ACH Authorization, the Account Control Agreements, the Joinder Agreements, all UCC Financing Statements and any other documents executed in connection with the Secured Obligations or the transactions contemplated hereby, as the same may from time to time be amended, modified, supplemented or restated.

“Material Adverse Effect” means a material adverse effect upon: (i) the business, operations, properties, assets or condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole; or (ii) the ability of Borrower to perform the Secured Obligations

in accordance with the terms of the Loan Documents, or the ability of Agent or Lender to enforce any of its rights or remedies with respect to the Secured Obligations; or (iii) the Collateral or Agent's Liens on the Collateral or the priority of such Liens.

"Maximum Term Loan Amount" means Twenty Five Million and No/100 Dollars (\$25,000,000).

"Maximum Rate" shall have the meaning assigned to such term in Section 2.2.

"Note(s)" means a Term Note.

"Patent License" means any written agreement granting any right with respect to any invention on which a Patent is in existence or a Patent application is pending, in which agreement Borrower now holds or hereafter acquires any interest.

"Patents" means all letters patent of, or rights corresponding thereto, in the United States or in any other country, all registrations and recordings thereof, and all applications for letters patent of, or rights corresponding thereto, in the United States or any other country.

"Permitted Acquisition" means an Investment consisting of an Acquisition by the Borrower or any Subsidiary, provided that (a) no Event of Default has occurred and is continuing or would immediately result from such Acquisition, (b) in the case of an Acquisition of the equity interests of another Person, the board of directors (or other comparable governing body) of such other Person shall have duly approved such Acquisition, (c) no Liens shall remain on the Person being acquired in the Acquisition after the Acquisition except for Liens which would constitute a Permitted Lien and otherwise be compliant with Section 7.3, (d) and any Indebtedness of the Person being acquired in the Acquisition which is assumed (either directly or indirectly) by Borrower or any Subsidiary shall be Subordinated Indebtedness, and (e) the aggregate cash consideration with respect to such Permitted Acquisition, taken together with all other Permitted Acquisitions during the term of this Agreement shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000).

"Permitted Indebtedness" means: (i) Indebtedness of Borrower in favor of Lender or Agent arising under this Agreement or any other Loan Document; (ii) Indebtedness existing on the Closing Date which is disclosed in Schedule 1A; (iii) Indebtedness of up to \$500,000 outstanding at any time secured by a Lien described in clause (vii) of the defined term "Permitted Liens," provided such Indebtedness does not exceed the lesser of the cost or fair market value of the Equipment financed with such Indebtedness; (iv) Indebtedness to trade creditors incurred in the ordinary course of business, including Indebtedness incurred in the ordinary course of business with corporate credit cards; (v) Indebtedness that also constitutes a Permitted Investment; (vi) Subordinated Indebtedness; (vii) reimbursement obligations in connection with letters of credit and cash management services (including credit cards, debit cards and other similar instruments) that are secured by cash or cash equivalents and issued on behalf of the Borrower or a Subsidiary thereof in an amount not to exceed \$200,000 at any time outstanding, (viii) Indebtedness secured by a Lien described in clause (xi) of the defined term "Permitted Liens;" (ix) other Indebtedness in an amount not to exceed \$100,000 at any time outstanding; (x) Indebtedness assumed as part of a Permitted Acquisition, and (xi) extensions, refinancings and

renewals of any items of Permitted Indebtedness, provided that the principal amount is not increased or the terms modified to impose materially more burdensome terms upon Borrower or its Subsidiary, as the case may be.

“Permitted Investment” means: (i) Investments existing on the Closing Date which are disclosed in Schedule 1B; (ii) (a) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one year from the date of acquisition thereof, (b) commercial paper maturing no more than one year from the date of acquisition thereof and currently having a rating of at least A-2 or P-2 from either Standard & Poor’s Corporation or Moody’s Investors Service, (c) certificates of deposit issued by any bank with assets of at least \$500,000,000 maturing no more than one year from the date of investment therein, and (d) money market accounts; (iii) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; (iv) repurchases of stock from former employees, directors, or consultants of Borrower under the terms of applicable repurchase agreements at the original issuance price of such securities in an aggregate amount not to exceed \$500,000 in any fiscal year, provided that no Event of Default has occurred, is continuing or would exist after giving effect to the repurchases; (v) Investments accepted in connection with Permitted Transfers; (vi) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of Borrower’s business; (vii) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business, provided that this subparagraph (vi) shall not apply to Investments of Borrower in any Subsidiary; (viii) Investments consisting of loans not involving the net transfer on a substantially contemporaneous basis of cash proceeds to employees, officers or directors relating to the purchase of capital stock of Borrower pursuant to employee stock purchase plans or other similar agreements approved by Borrower’s Board of Directors; (ix) Investments consisting of travel advances, relocation loans and other loans and advances (or guarantees thereof) to employees, officers and directors in the ordinary course of business and otherwise in compliance with the Sarbanes-Oxley Act of 2002, as amended; (x) Investments in Domestic Subsidiaries, provided that each such Domestic Subsidiary has entered into a Joinder Agreement prior to such Investment and executes such other documents as shall be reasonably requested by Agent; (xi) Investments by any Subsidiary into Borrower or any Domestic Subsidiary that has entered into a Joinder Agreement prior to such Investment and executes such other documents as shall be reasonably requested by Agent; (xii) Investments in Foreign Subsidiaries not to exceed \$500,000 unless approved in advance in writing by Agent; (xiii) joint ventures or strategic alliances in the ordinary course of Borrower’s business consisting of the nonexclusive licensing of technology, the development of technology or the providing of technical support, provided that any cash Investments by Borrower do not exceed \$500,000 in the aggregate in any fiscal year; (xiv) Investments permitted by Borrower’s board of directors approved investment policy as attached hereto as Schedule 1D; (xv) Investments constituting Permitted Acquisitions; and (xvi) additional Investments that do not exceed \$250,000 in the aggregate.

“Permitted Liens” means any and all of the following: (i) Liens in favor of Agent or Lender; (ii) Liens existing on the Closing Date which are disclosed in Schedule 1C; (iii) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being

contested in good faith by appropriate proceedings; provided, that Borrower maintains adequate reserves therefor in accordance with GAAP; (iv) Liens securing claims or demands of materialmen, artisans, mechanics, carriers, warehousemen, landlords and other like Persons arising in the ordinary course of Borrower's business and imposed without action of such parties; provided, that the payment thereof is not yet required; (v) Liens arising from judgments, decrees or attachments in circumstances which do not constitute an Event of Default hereunder; (vi) deposits to secure the performance of obligations under commercial supply and/or manufacturing agreements approved in advance by Agent in its sole discretion, and the following deposits to the extent made in the ordinary course of business: deposits under worker's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations (other than Liens arising under ERISA or environmental Liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds; (vii) Liens on Equipment or software or other intellectual property constituting purchase money Liens and Liens in connection with capital leases securing Indebtedness permitted in clause (iii) of "Permitted Indebtedness"; (viii) Liens incurred in connection with Subordinated Indebtedness; (ix) leasehold interests in leases or subleases and licenses granted in the ordinary course of business and not interfering in any material respect with the business of the licensor and, without limiting the foregoing, non-exclusive licenses of Intellectual Property granted to third parties in the ordinary course of business, and licenses of Intellectual Property that could not result in a legal transfer of title of the licensed property and that may be exclusive as to territory only as to a single geographical area outside of the United States; (x) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties that are promptly paid on or before the date they become due; (xi) Liens on insurance proceeds securing the payment of financed insurance premiums that are promptly paid on or before the date they become due (provided that such Liens extend only to such insurance proceeds and not to any other property or assets); (xii) statutory and common law rights of set-off and other similar rights as to deposits of cash and securities in favor of banks, other depository institutions and brokerage firms; (xiii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business so long as they do not materially impair the value or marketability of the related property; (xiv) Liens on cash or cash equivalents securing obligations permitted under clause (vii) of the definition of Permitted Indebtedness; (xv) sales, transfers, licenses, leases or other dispositions of assets permitted by Section 7.8 and in connection therewith, customary rights and restrictions contained in agreements relating to such sales, transfers, licenses, leases or other dispositions pending the completion thereof, or in the case of a license, during the term thereof and any option or other agreement to sell, transfer, license, lease or dispose of any asset permitted by Section 7.8; and (xvi) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clauses (i) through (xi) above; provided, that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced (as may have been reduced by any payment thereon) does not increase.

"Permitted Transfers" means (i) sales, leases, transfers or other dispositions of Inventory in the ordinary course of business, (ii) non-exclusive licenses and similar arrangements

for the use of Intellectual Property in the ordinary course of business and licenses that could not result in a legal transfer of title of the licensed property but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to a single geographical area outside of the United States in the ordinary course of business, (iii) cash payments made to vendors and other third parties in the ordinary course of business, (iv) dispositions expressly permitted under Section 7.6, 7.7 or 7.9 hereof, (v) dispositions of worn-out, obsolete or surplus Equipment at fair market value in the ordinary course of business, (vi) a license (exclusive or otherwise) of the assets, technology and intellectual property underlying the Companion Diagnostic to enable the development, regulatory approval and/or commercialization of the Companion Diagnostic, (vii) an exclusive, royalty-bearing license of one or more of the small molecule compounds that modulate the SERCA2b enzyme and any related products in the field of type II diabetes and other metabolic diseases to Les Laboratories Servier (“Servier”) to commercialize one or more of these compounds outside of the United States, which license shall be made available upon Servier’s exercise of its option to obtain such license under Borrower’s license and research collaboration agreement with Servier, and (viii) other Transfers of assets having a fair market value of not more than \$500,000 in the aggregate in any fiscal year.

“Person” means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, other entity or government.

“Preferred Stock” means at any given time any equity security issued by Borrower that has any rights, preferences or privileges senior to Borrower’s common stock.

“Prepayment Charge” shall have the meaning assigned to such term in Section 2.4.

“Prime Rate” shall mean the “prime rate” as reported in The Wall Street Journal.

“Receivables” means (i) all of Borrower’s Accounts, Instruments, Documents, Chattel Paper, Supporting Obligations, letters of credit, proceeds of any letter of credit, and Letter of Credit Rights, and (ii) all customer lists, software, and business records related thereto.

“Required Lenders” means at any time, the holders of more than 50% of the aggregate unpaid principal amount of the Term Loan Advances then outstanding.

“SBA” shall have the meaning assigned to such term in Section 7.15.

“SBIC” shall have the meaning assigned to such term in Section 7.15.

“SBIC Act” shall have the meaning assigned to such term in Section 7.15.

“Second Tranche Advance” means one or more Advances of up to \$15,000,000 made under the Term Loan after the First Tranche.

“Secured Obligations” means Borrower’s obligations under this Agreement and any Loan Document, including any obligation to pay any amount now owing or later arising.

“Subordinated Indebtedness” means Indebtedness subordinated to the Secured Obligations in amounts and on terms and conditions satisfactory to Agent in its sole discretion.

“Subsidiary” means an entity, whether corporate, partnership, limited liability company, joint venture or otherwise, in which Borrower owns or controls 50% or more of the outstanding voting securities, including each entity listed on Schedule 1 hereto.

“Term Commitment” means as to any Lender, the obligation of such Lender, if any, to make a Term Loan Advance to the Borrower in a principal amount not to exceed the amount set forth under the heading “Term Commitment” opposite such Lender’s name on Schedule 1.1.

“Term Loan Advance” means any Term Loan funds advanced under this Agreement.

“Term Loan Interest Rate” means for any day a per annum rate of interest equal to the greater of either (i) 8.25 % plus Prime Rate minus 5.25%, and (ii) 8.25%.

“Term Loan Maturity Date” means February 1, 2018.

“Term Note” means a Promissory Note in substantially the form of Exhibit B.

“Trademark License” means any written agreement granting any right to use any Trademark or Trademark registration, now owned or hereafter acquired by Borrower or in which Borrower now holds or hereafter acquires any interest.

“Trademarks” means all trademarks (registered, common law or otherwise) and any applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof.

“UCC” means the Uniform Commercial Code as the same is, from time to time, in effect in the State of California; provided, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, Agent’s Lien on any Collateral is governed by the Uniform Commercial Code as the same is, from time to time, in effect in a jurisdiction other than the State of California, then the term “UCC” shall mean the Uniform Commercial Code as in effect, from time to time, in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

Unless otherwise specified, all references in this Agreement or any Annex or Schedule hereto to a “Section,” “subsection,” “Exhibit,” “Annex,” or “Schedule” shall refer to the corresponding Section, subsection, Exhibit, Annex, or Schedule in or to this Agreement. Unless otherwise specifically provided herein, any accounting term used in this Agreement or the other Loan Documents shall have the meaning customarily given such term in accordance with GAAP, and all financial computations hereunder shall be computed in accordance with GAAP, consistently applied. Unless otherwise defined herein or in the other Loan Documents, terms that are used herein or in the other Loan Documents and defined in the UCC shall have the meanings given to them in the UCC.

## SECTION 2. THE LOAN

### 2.1 Term Loan.

#### (a) Advances.

(i) Subject to the terms and conditions of this Agreement, Lender will severally (and not jointly) make in an amount not to exceed its respective Term Commitment, and Borrower agrees to draw, the First Tranche Advance on the Closing Date.

(ii) Subject to the terms and conditions of this Agreement, beginning on the date that the Funding Milestone has been achieved and continuing through May 31, 2015, Lender will severally (and not jointly) make in an amount not to exceed its respective Term Commitment, the Second Tranche Advance.

(iii) The aggregate outstanding Term Loan Advances may be up to the Maximum Term Loan Amount.

(b) Advance Request. To obtain a Term Loan Advance, Borrower shall complete, sign and deliver an Advance Request (at least five (5) Business Days before the Advance Date or such shorter period as permitted by Agent in its sole discretion) to Agent. Lender shall fund the Term Loan Advance in the manner requested by the Advance Request provided that each of the conditions precedent to such Term Loan Advance is satisfied as of the requested Advance Date.

(c) Interest. The principal balance of each Term Loan Advance shall bear interest thereon from such Advance Date at the Term Loan Interest Rate based on a year consisting of 360 days, with interest computed daily based on the actual number of days elapsed. The Term Loan Interest Rate will float and change on the day the Prime Rate changes from time to time.

(d) Payment. Borrower will pay interest on each Term Loan Advance on the first day of each month, beginning the month after the Advance Date. In addition Borrower shall repay the aggregate Term Loan principal balance that is outstanding on the day immediately preceding the Amortization Date, in equal monthly installments of principal and interest (mortgage style) based on a 30 month amortization period, with such payments beginning on the Amortization Date and continuing on the first Business Day of each month thereafter until the Term Loan Maturity Date. On the Term Loan Maturity Date, the entire remaining balance of all Advances made under the Term Loan, all accrued but unpaid interest thereunder and all other Obligations shall be due and payable. Borrower shall make all payments under this Agreement without setoff, recoupment or deduction and regardless of any counterclaim or defense. Lender will initiate debit entries to the Borrower's account as authorized on the ACH Authorization on each payment date of all periodic obligations payable to Lender under each Term Advance.



(e) Optional Payment in Common Stock.

(i) Borrower Election for Payment in Common Stock. Subject to satisfaction of the Conversion Conditions and compliance with the other terms and conditions of this Section 2.1(e), Borrower may elect to pay, in whole or in part, any regularly scheduled installment of principal (a "Principal Installment Payment") up to an aggregate maximum amount of \$3,000,000 by converting a portion of the principal of the Term Loan into shares of Common Stock that are free of any transfer restrictions in lieu of payment in cash (such option, the "Conversion Option"). In order to validly exercise a Conversion Option, (A) Borrower must deliver written notice thereof, in the form attached hereto as Exhibit I, to Lender (a "Borrower Conversion Election Notice") ten (10) days prior to the applicable due date of the Principal Installment Payment (the "Principal Installment Due Date"), (B) Borrower shall transfer (or cause to be transferred) to the applicable Lender the shares of Common Stock to be issued as provided in the Borrower Conversion Election Notice via the Fast Automated Securities Transfer Program of the Depository Trust Company no later than the first trading day following the applicable Principal Installment Due Date (such date, the "Delivery Date"), and (C) all Conversion Conditions must be satisfied in respect of such payment. A Borrower Conversion Election Notice, once delivered by Borrower, shall be irrevocable unless otherwise agreed, in writing, by Agent, or unless it is determined that the issuance of shares of Common Stock pursuant to a Borrower Conversion Election Notice would result in a violation of the 20% Issuance Cap or the Change of Control Cap, as those terms are defined in Subsection 2.1(e)(iii) below. The number of such shares of Common Stock to be issued in respect of such Borrower Conversion Election Notice shall be equal to the number determined by dividing (x) the principal amount to be paid in shares of Common Stock by (y) the Fixed Conversion Price. Any shares of Common Stock issued pursuant to a Borrower Conversion Election Notice shall be deemed to be issued upon conversion of the Note should a Note have been issued by Borrower.

(ii) Conversion Conditions. Notwithstanding Section 2.1(e)(i), Borrower's right to deliver, and Lender's obligation to accept, shares of Common Stock in lieu of payment in cash of a Principal Installment Payment is conditioned on the satisfaction of each of the following conditions (collectively, the "Conversion Conditions") as of such Delivery Date: (A) the closing price of the shares of Common Stock as reported by Bloomberg, L.P. on the Nasdaq stock market (the "Nasdaq") or other national securities exchange for each of the seven (7) consecutive trading days immediately preceding the Delivery Date shall be greater than or equal to 115% of the Fixed Conversion Price; (B) the Common Stock issued in connection with any such payment does not exceed 15% of the total trading volume of the Common Stock for the twenty-two (22) consecutive trading days immediately prior to and including such Delivery Date; (C) only one Borrower Conversion Election Notice may be given in any calendar month during the amortization period; (D) the Common Stock is (and was on each of the thirty (30) consecutive trading days immediately preceding such Delivery Date) quoted or listed on the Nasdaq or other national securities exchange and traded

thereon; (E) a registration statement is effective and available for the resale of all of the shares of Common Stock to be delivered on such Delivery Date so that the shares of Common Stock can be sold without restriction by the Delivery Date; (F) after giving effect to the issuance of such shares of Common Stock to Lender, Lender would not (1) beneficially own, together with its Affiliates, Common Stock in excess of the limitations specified in Subsection 2.1(e)(iii) below and (2) have been issued shares of Common Stock pursuant to all Borrower Conversion Election Notices in an aggregate amount in excess of the 20% Issuance Cap, as defined in Subsection 2.1(e)(iii) below; (G) as of such Delivery Date, there is no outstanding Event of Default and there is no breach or default that, if left uncured, would result in an Event of Default; and (H) Borrower shall have sufficient authorized but unissued shares of Common Stock to provide for the issuance of the shares of Common Stock pursuant to the Borrower Conversion Election Notice. If any of the Conversion Conditions are not satisfied as of a Delivery Date, Borrower shall not be permitted to pay, and Lender shall not be obligated to accept, the Principal Installment Payment in shares of Common Stock, and Borrower shall instead pay such principal amount in cash; provided, however, that the Conversion Conditions set forth in clauses (A), (B), (C), (D), (E) and (G) above may be waived by a writing executed by both Borrower and Agent. In the event the Borrower is relying upon an effective registration statement to satisfy clause (E) of the Conversion Conditions, each of the Borrower and Lender shall provide customary indemnification to one another with respect to such registration statement in a form acceptable to the Borrower and Lender.

(iii) Beneficial Ownership Limitation. Notwithstanding any provision herein to the contrary, Lenders, together with their Affiliates, shall not be permitted to beneficially own a number of shares of Common Stock (other than shares that may be deemed beneficially owned except for being subject to a limitation analogous to the limitation contained in this Subsection 2.1(e)(iii)) (i) in excess of 9.99% of the number of shares of Common Stock then issued and outstanding, it being the intent of Borrower and Lenders that Lenders, together with their Affiliates, not be deemed at any time to have the power to vote or dispose of greater than 9.99% of the number of shares of Common Stock issued and outstanding at any time; provided, however, that Agent shall have the right, upon 61 days' prior written notice to Borrower, to waive the 9.99% limitation of this subsection; or (ii) in excess of the Change of Control Cap (as determined in accordance with the rules and guidance of The NASDAQ Global Market). Notwithstanding anything contained herein to the contrary, Borrower shall not be permitted to issue to Lenders, and Lenders shall not be permitted to accept, shares of Common Stock pursuant to a Borrower Conversion Election Notice if and to the extent such issuance, (A) when taken together with all other issuances pursuant to prior such notices, would result in the issuance of more than 19.99% of the Common Stock outstanding as of immediately before the issuance (as calculated in accordance with the rules and guidance of The NASDAQ Global Market) (the "20% Issuance Cap") or (B) would result in Lenders, together with their Affiliates, beneficially owning in excess of 19.99% of the outstanding Common Stock or voting power of Borrower (as determined in accordance with the rules and guidance of The NASDAQ Global Market) (the "Change of Control Cap"). As used herein, unless specifically indicated otherwise, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. For any reason at any time, upon written

or oral request of Agent, Borrower shall within one business day confirm orally and in writing to Agent the number of shares of Common Stock then issued and outstanding as of any given date.

(iv) Stock Reservation. Borrower covenants and agrees to reserve from its duly authorized capital stock not less than the number of shares of Common Stock that may be issuable upon payment of any Principal Installment Payment pursuant to Section 2.1(e) of this Agreement. Borrower further represents, warrants and covenants that, upon issuance of any shares of Common Stock pursuant to Section 2.1(e) of this Agreement, such shares of Common Stock shall be validly issued, fully paid and non-assessable and free from all preemptive or similar rights, taxes, liens and charges with respect to the issue thereof.

(v) Authorization. For so long as a Lender holds any shares of Common Stock issued pursuant to Section 2.1(e) of this Agreement, Borrower shall maintain the Common Stock's authorization for listing on Nasdaq (or on another national securities exchange) and Borrower shall not take any action which would reasonably be expected to result in the delisting or suspension of the Common Stock on Nasdaq (or other national securities exchange on which the Common Stock is listed); provided that the foregoing shall not impair or otherwise interfere with Borrower's ability to enter into one or more transactions that would result in a Change of Control.

(vi) If the shares of Common Stock purportedly issued pursuant to this Section 2.1(e) are not issued timely and/or the Conversion Conditions were not satisfied and Agent did not waive such noncompliance in writing, Agent may, at any time prior to thirty (30) days after the applicable Principal Installment Payment was due, reject the delivery of such shares and require payment in Cash together with any late fees, default interest or other applicable charges. On receipt of such Cash payment, Agent shall cooperate with Borrower to return such shares.

2.2 Maximum Interest. Notwithstanding any provision in this Agreement or any other Loan Document, it is the parties' intent not to contract for, charge or receive interest at a rate that is greater than the maximum rate permissible by law that a court of competent jurisdiction shall deem applicable hereto (which under the laws of the State of California shall be deemed to be the laws relating to permissible rates of interest on commercial loans) (the "Maximum Rate"). If a court of competent jurisdiction shall finally determine that Borrower has actually paid to Lender an amount of interest in excess of the amount that would have been payable if all of the Secured Obligations had at all times borne interest at the Maximum Rate, then such excess interest actually paid by Borrower shall be deemed retroactively applied as of the date of receipt of such payment as follows: first, to the payment of the Secured Obligations consisting of the outstanding principal; second, after all principal is repaid, to the payment of Lender's accrued interest, costs, expenses, professional fees and any other Secured Obligations; and third, after all Secured Obligations are repaid, the excess (if any) shall be refunded to Borrower.

2.3 Default Interest. In the event any payment is not paid on the scheduled payment date other than due to an ACH Failure, an amount equal to five percent (5%) of

the past due amount shall be payable on demand. In addition, upon the occurrence and during the continuation of an Event of Default hereunder, all Secured Obligations, including principal, interest, compounded interest, and professional fees, shall bear interest at a rate per annum equal to the rate set forth in Section 2.1(c), plus five percent (5%) per annum. In the event any interest is not paid when due hereunder other than due to an ACH Failure, delinquent interest shall be added to principal and shall bear interest on interest, compounded at the rate set forth in Section 2.1(c) or Section 2.4, as applicable.

2.4 Prepayment. At its option upon at least seven (7) Business Days prior notice to Agent, Borrower may prepay all, but not less than all, of the outstanding Advances by paying the entire principal balance, all accrued and unpaid interest thereon, together with a prepayment charge equal to the following percentage of the Advance amount being prepaid: if such Advance amounts are prepaid prior to the Amortization Date, 1.5% (the "Prepayment Charge"). Borrower agrees that the Prepayment Charge is a reasonable calculation of Lender's lost profits in view of the difficulties and impracticality of determining actual damages resulting from an early repayment of the Advances. Borrower shall prepay the outstanding amount of all principal and accrued interest through the prepayment date and the Prepayment Charge upon a Change in Control if such Change in Control occurs prior to the Amortization Date.

2.5 End of Term Charge. On the earliest to occur of (i) Term Loan Maturity Date, (ii) the date that Borrower prepays the outstanding Secured Obligations, or (iii) the date that the Secured Obligations become due and payable, Borrower shall pay Lender a charge of \$1,750,000. Notwithstanding the required payment date of such charge, it shall be deemed earned by Lender as of the Closing Date.

2.6 Facility Charge. On the Closing Date, Borrower shall pay \$150,000 of the Facility Charge. On the funding of any part of the Second Tranche Advance, Borrower shall pay the remaining \$100,000 of the Facility Charge.

2.7 Notes. If so requested by Lender by written notice to Borrower, then Borrower shall execute and deliver to Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of Lender pursuant to Section 11.13) (promptly after the Borrower's receipt of such notice) a Note or Notes to evidence Lender's Loans.

2.8 Pro Rata Treatment. Each payment (including prepayment) on account of any fee and any reduction of the Term Loan shall be made pro rata according to the Term Commitments of the relevant Lender.

### **SECTION 3. SECURITY INTEREST**

3.1 As security for the prompt, complete and indefeasible payment when due (whether on the payment dates or otherwise) of all the Secured Obligations, Borrower grants to Agent a security interest in all of Borrower's right, title, and interest in and to the following personal property whether now owned or hereafter acquired (collectively, the "Collateral"): (a) Receivables; (b) Equipment; (c) Fixtures; (d) General Intangibles (other

than Intellectual Property); (e) Inventory; (f) Investment Property (but excluding thirty-five percent (35%) of the capital stock of any Foreign Subsidiary); (g) Deposit Accounts; (h) Cash; (i) Goods; and all other tangible and intangible personal property (other than Intellectual Property) of Borrower whether now or hereafter owned or existing, leased, consigned by or to, or acquired by, Borrower and wherever located, and any of Borrower's property in the possession or under the control of Agent; and, to the extent not otherwise included, all Proceeds of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of each of the foregoing; provided, however, that the Collateral shall include all Accounts and General Intangibles that consist of rights to payment and proceeds from the sale, licensing or disposition of all or any part, or rights in, the Intellectual Property (the "Rights to Payment"). Notwithstanding the foregoing, if a judicial authority (including a U.S. Bankruptcy Court) holds that a security interest in the underlying Intellectual Property is necessary to have a security interest in the Rights to Payment, then the Collateral shall automatically, and effective as of the date of this Agreement, include the Intellectual Property to the extent necessary to permit perfection of Agent's security interest in the Rights to Payment.

3.2 Notwithstanding the broad grant of the security interest set forth in Section 3.1, above, the Collateral shall not include (i) more than 65% of the presently existing and hereafter arising issued and outstanding shares of capital stock owned by Borrower of any Foreign Subsidiary which shares entitle the holder thereof to vote for directors or any other matter; or (ii) nonassignable licenses or contracts, which by their terms require the consent of the licensor thereof or another party (but only to the extent such prohibition on transfer is enforceable under applicable law, including, without limitation, Sections 9406 and 9408 of the UCC or any successor provisions). If this Agreement is terminated, Agent's Lien in the Collateral shall continue until the Secured Obligations (other than inchoate indemnity obligations) are satisfied in full, and at such time, Agent shall, at Borrower's sole cost and expense, terminate its security interest in the Collateral and all rights therein shall automatically revert to Borrower.

#### **SECTION 4. CONDITIONS PRECEDENT TO LOAN**

The obligations of Lender to make the Loan hereunder are subject to the satisfaction by Borrower of the following conditions:

4.1 Initial Advance. On or prior to the Closing Date, Borrower shall have delivered to Agent the following:

(a) executed originals of the Loan Documents, a legal opinion of Borrower's counsel, and all other documents and instruments reasonably required by Agent to effectuate the transactions contemplated hereby or to create and perfect the Liens of Agent with respect to all Collateral, in all cases in form and substance reasonably acceptable to Agent;

(b) certified copy of resolutions of Borrower's board of directors evidencing approval the Loan and other transactions evidenced by the Loan Documents;

(c) certified copies of the Certificate of Incorporation and the Bylaws, as amended through the Closing Date, of Borrower;

(d) a certificate of good standing for Borrower from its state of incorporation and similar certificates from all other jurisdictions in which it does business and where the failure to be qualified would have a Material Adverse Effect;

(e) payment of \$150,000 of the Facility Charge, the Commitment Fee (which has already been paid) and reimbursement of Agent's and Lender's current expenses reimbursable pursuant to this Agreement, which amounts may be deducted from the initial Advance; and

(f) a copy of an Account Control Agreement for all of Borrower's and its Domestic Subsidiary's accounts (other than Excluded Accounts and accounts maintained at Square 1 Bank) and such other documents as Agent may reasonably request.

4.2 All Advances. On each Advance Date:

(a) Agent shall have received (i) an Advance Request for the relevant Advance as required by Section 2.1(b), duly executed by Borrower's Chief Executive Officer or Chief Financial Officer, and (ii) any other documents Agent may reasonably request.

(b) The representations and warranties set forth in this Agreement shall be true and correct in all material respects on and as of the Advance Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date.

(c) Borrower shall be in compliance with all the terms and provisions set forth herein and in each other Loan Document on its part to be observed or performed, and at the time of and immediately after such Advance no Event of Default shall have occurred and be continuing.

(d) Each Advance Request shall be deemed to constitute a representation and warranty by Borrower on the relevant Advance Date as to the matters specified in paragraphs (b) and (c) of this Section 4.2 and as to the matters set forth in the Advance Request.

4.3 No Default. As of the Closing Date and each Advance Date, (i) no fact or condition exists that would (or would, with the passage of time, the giving of notice, or both) constitute an Event of Default and (ii) no event that has had or could reasonably be expected to have a Material Adverse Effect has occurred and is continuing.

## **SECTION 5. REPRESENTATIONS AND WARRANTIES OF BORROWER**

Borrower represents and warrants that:

5.1 Corporate Status. Borrower is a corporation duly organized, legally existing and in good standing under the laws of the State of Delaware, and is duly qualified as a foreign corporation in all jurisdictions in which the nature of its business or location of its properties require such qualifications and where the failure to be qualified could reasonably be expected to have a Material Adverse Effect. Borrower's present name, former names (if any), locations, place of formation, tax identification number, organizational identification number and other information are correctly set forth in Exhibit C, as may be updated by Borrower in a written notice (including any Compliance Certificate) provided to Agent after the Closing Date.

5.2 Collateral. Borrower owns the Collateral and the Intellectual Property, free of all Liens, except for Permitted Liens. Borrower has the power and authority to grant to Agent a Lien in the Collateral as security for the Secured Obligations.

5.3 Consents. Borrower's execution, delivery and performance of this Agreement and all other Loan Documents (i) have been duly authorized by all necessary corporate action of Borrower, (ii) will not result in the creation or imposition of any Lien upon the Collateral, other than Permitted Liens and the Liens created by this Agreement and the other Loan Documents, (iii) do not violate any provisions of Borrower's Certificate of Incorporation, bylaws, or any, law, regulation, order, injunction, judgment, decree or writ to which Borrower is subject and (iv) except as described on Schedule 5.3, do not violate any contract or agreement or require the consent or approval of any other Person which has not already been obtained. The individual or individuals executing the Loan Documents are duly authorized to do so.

5.4 Material Adverse Effect. No event that has had or could reasonably be expected to have a Material Adverse Effect has occurred and is continuing. Borrower is not aware of any event likely to occur that is reasonably expected to result in a Material Adverse Effect.

5.5 Actions Before Governmental Authorities. Except as described on Schedule 5.5, there are no actions, suits or proceedings at law or in equity or by or before any governmental authority now pending or, to the knowledge of Borrower, threatened against or affecting Borrower or its property with an underlying disputed amount in excess of \$200,000.

5.6 Laws. Borrower is not in violation of any material law, rule or regulation, or in default with respect to any judgment, writ, injunction or decree of any governmental authority. Borrower is not in default in any manner under any provision of any agreement or instrument evidencing Indebtedness, or in material breach of any other material agreement to which it is a party or by which it is bound.

5.7 Information Correct and Current. No information, report, Advance Request, financial statement, exhibit or schedule furnished, by or on behalf of Borrower to Agent in connection with any Loan Document or included therein or delivered pursuant thereto contained, contains or will contain any material misstatement of fact or omitted, omits or will omit to state any material fact necessary to make the statements therein, in the light of

the circumstances under which they were, are or will be made, not misleading at the time such statement was made or deemed made. Additionally, any and all financial or business projections provided by Borrower to Agent, whether prior to or after the Closing Date, shall be (i) provided in good faith and based on the most current data and information available to Borrower, and (ii) the most current of such projections provided to Borrower's Board of Directors.

5.8 Tax Matters. Except as described on Schedule 5.8, (a) Borrower has filed all federal, state and material local tax returns that it is required to file, (b) Borrower has duly paid or fully reserved for all taxes (other than de minimis amounts not exceeding \$10,000) or installments thereof (including any interest or penalties) as and when due, which have or may become due pursuant to such returns, and (c) Borrower has paid or fully reserved for any tax assessment received by Borrower for the three (3) years preceding the Closing Date, if any (including any taxes being contested in good faith and by appropriate proceedings).

5.9 Intellectual Property Claims. Borrower is the sole owner of, or otherwise has the right to use, the Intellectual Property. Except as described on Schedule 5.9, (i) each of the material Copyrights, Trademarks and issued Patents is valid and enforceable, (ii) no material part of the Intellectual Property has been judged invalid or unenforceable, in whole or in part, and (iii) no claim has been made to Borrower that any material part of the Intellectual Property violates the rights of any third party. Exhibit D is a true, correct and complete list of each of Borrower's Patents, registered Trademarks, registered Copyrights, and material agreements under which Borrower licenses Intellectual Property from third parties (other than shrink-wrap software licenses), together with application or registration numbers, as applicable, owned by Borrower or any Subsidiary, in each case as of the Closing Date. Borrower is not in material breach of, nor has Borrower failed to perform any material obligations under, any of the foregoing contracts, licenses or agreements and, to Borrower's knowledge, no third party to any such contract, license or agreement is in material breach thereof or has failed to perform any material obligations thereunder.

5.10 Intellectual Property. Except as described on Schedule 5.10, Borrower has, or in the case of any proposed business, will have, all material rights with respect to Intellectual Property necessary in the operation or conduct of Borrower's business as currently conducted and proposed to be conducted by Borrower. Without limiting the generality of the foregoing, and in the case of Licenses, except as described on Schedule 5.10 and except for restrictions that are unenforceable under Division 9 of the UCC, Borrower has the right, to the extent required to operate Borrower's business, to freely transfer, license or assign Intellectual Property without condition, restriction or payment of any kind (other than license payments in the ordinary course of business) to any third party, and Borrower owns or has the right to use, pursuant to valid licenses, all software development tools, library functions, compilers and all other third-party software and other items that are used in the design, development, promotion, sale, license, manufacture, import, export, use or distribution of Borrower Products.

5.11 Borrower Products. Except as described on Schedule 5.11, no Intellectual Property owned by Borrower or Borrower Product has been or is subject to any actual or, to



the knowledge of Borrower, threatened litigation, proceeding (including any proceeding in the United States Patent and Trademark Office or any corresponding foreign office or agency) or outstanding decree, order, judgment, settlement agreement or stipulation that restricts in any manner Borrower's use, transfer or licensing thereof or that may affect the validity, use or enforceability thereof. There is no decree, order, judgment, agreement, stipulation, arbitral award or other provision entered into in connection with any litigation or proceeding that obligates Borrower to grant licenses or ownership interest in any future Intellectual Property related to the operation or conduct of the business of Borrower or Borrower Products. Borrower has not received any written notice or claim, or, to the knowledge of Borrower, oral notice or claim, challenging or questioning Borrower's ownership in any Intellectual Property (or written notice of any claim challenging or questioning the ownership in any licensed Intellectual Property of the owner thereof) or suggesting that any third party has any claim of legal or beneficial ownership with respect thereto nor, to Borrower's knowledge, is there a reasonable basis for any such claim. To Borrower's knowledge, neither Borrower's use of its Intellectual Property nor the production and sale of Borrower Products infringes the Intellectual Property or other rights of others.

5.12 Financial Accounts. Exhibit E, as may be updated by the Borrower in a written notice provided to Agent after the Closing Date, is a true, correct and complete list of (a) all banks and other financial institutions at which Borrower or any Subsidiary maintains Deposit Accounts and (b) all institutions at which Borrower or any Subsidiary maintains an account holding Investment Property, and such exhibit correctly identifies the name, address and telephone number of each bank or other institution, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

5.13 Employee Loans. Except for Permitted Investments of the type described in clause (viii) or (ix) of the definition thereof, Borrower has no outstanding loans to any employee, officer or director of the Borrower nor has Borrower guaranteed the payment of any loan made to an employee, officer or director of the Borrower by a third party.

5.14 Subsidiaries. Borrower does not own any stock, partnership interest or other securities of any Person, except for Permitted Investments. Attached as Schedule 5.14, as may be updated by Borrower in a written notice provided after the Closing Date, is a true, correct and complete list of each Subsidiary.

## **SECTION 6. INSURANCE; INDEMNIFICATION**

6.1 Coverage. Borrower shall cause to be carried and maintained commercial general liability insurance, on an occurrence form, against risks customarily insured against in Borrower's line of business. Such risks shall include the risks of bodily injury, including death, property damage, personal injury, advertising injury, and contractual liability per the terms of the indemnification agreement found in Section 6.3. Borrower must maintain a minimum of \$2,000,000 of commercial general liability insurance for each occurrence. Borrower has and agrees to maintain a minimum of \$2,000,000 of directors' and officers' insurance for each occurrence and \$5,000,000 in the aggregate. So long as there are any

Secured Obligations (other than inchoate indemnity obligations), outstanding, Borrower shall also cause to be carried and maintained insurance upon the Collateral, insuring against all risks of physical loss or damage howsoever caused, in an amount not less than the full replacement cost of the Collateral, provided that such insurance may be subject to standard exceptions and deductibles.

6.2 Certificates. Borrower shall deliver to Agent certificates of insurance that evidence Borrower's compliance with its insurance obligations in Section 6.1 and the obligations contained in this Section 6.2. Borrower's insurance certificate shall state Agent is an additional insured for commercial general liability, a designated payee for the key man life insurance policy, a loss payee for all risk property damage insurance, and a loss payee for property insurance and additional insured for liability insurance for any future insurance that Borrower may acquire from such insurer. Attached to the certificates of insurance will be additional insured endorsements for liability and lender's loss payable endorsements for all risk property damage insurance. All certificates of insurance will provide for a minimum of thirty (30) days (ten (10) days for nonpayment of premium) advance written notice to Agent of cancellation. Any failure of Agent to scrutinize such insurance certificates for compliance is not a waiver of any of Agent's rights, all of which are reserved.

6.3 Indemnity. Borrower agrees to indemnify and hold Agent, Lender and their officers, directors, employees, agents, in-house attorneys, representatives and shareholders (each, an "Indemnified Person") harmless from and against any and all claims, costs, expenses, damages and liabilities (including such claims, costs, expenses, damages and liabilities based on liability in tort, including strict liability in tort), including reasonable attorneys' fees and disbursements and other costs of investigation or defense (including those incurred upon any appeal) (collectively, "Liabilities"), that may be instituted or asserted against or incurred by such Indemnified Person as the result of credit having been extended, suspended or terminated under this Agreement and the other Loan Documents or the administration of such credit, or in connection with or arising out of the transactions contemplated hereunder and thereunder, or any actions or failures to act in connection therewith, or arising out of the disposition or utilization of the Collateral, excluding in all cases Liabilities to the extent resulting solely from any Indemnified Person's gross negligence or willful misconduct. Borrower agrees to pay, and to save Agent and Lender harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all excise, sales or other similar taxes (excluding taxes imposed on or measured by the net income of Agent or Lender) that may be payable or determined to be payable with respect to any of the Collateral or this Agreement. In no event shall any Indemnified Person or Borrower be liable to one another on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings).

## **SECTION 7. COVENANTS OF BORROWER**

Borrower agrees as follows:

7.1 Financial Reports. Borrower shall furnish to Agent the financial statements and reports listed hereinafter (the “Financial Statements”):

(a) as soon as practicable (and in any event within 30 days) after the end of each month (other than the last month of each fiscal quarter ending March 31, June 30 and September 30), unaudited interim and year-to-date financial statements as of the end of such month (prepared on a consolidated basis), including balance sheet and related statements of income and cash flows accompanied by a report detailing any material contingencies (including the commencement of any material litigation by or against Borrower) or any other occurrence that would reasonably be expected to have a Material Adverse Effect, all certified by Borrower’s Chief Executive Officer or Chief Financial Officer to the effect that they have been prepared in accordance with GAAP, except (i) for the absence of footnotes, (ii) that they are subject to normal year end adjustments, and (iii) they do not contain certain non-cash items that are customarily included in quarterly and annual financial statements;

(b) as soon as practicable (and in any event within 45 days) after the end of the first three fiscal quarters of any fiscal year of Borrower, unaudited interim and year-to-date financial statements as of the end of such calendar quarter (prepared on a consolidated basis), including balance sheet and related statements of income and cash flows accompanied by a report detailing any material contingencies (including the commencement of any material litigation by or against Borrower) or any other occurrence that would reasonably be expected to have a Material Adverse Effect, certified by Borrower’s Chief Executive Officer or Chief Financial Officer to the effect that they have been prepared in accordance with GAAP, except (i) for the absence of footnotes, and (ii) that they are subject to normal year end adjustments;

(c) as soon as practicable (and in any event within ninety (90) days) after the end of each fiscal year, unqualified audited financial statements as of the end of such year (prepared on a consolidated basis), including balance sheet and related statements of income and cash flows, and setting forth in comparative form the corresponding figures for the preceding fiscal year, certified by a firm of independent certified public accountants selected by Borrower and reasonably acceptable to Agent (it being understood that Ernst & Young LLP and any other accountants of recognized national standing are acceptable to Agent), accompanied by any management report from such accountants;

(d) as soon as practicable (and in any event within 30 days) after the end of each month, a Compliance Certificate in the form of Exhibit F;

(e) promptly after the sending or filing thereof, as the case may be, copies of any proxy statements, financial statements or reports that Borrower has made available to holders of its Common Stock or Preferred Stock and copies of any regular, periodic and special reports or registration statements that Borrower files with the Securities and Exchange Commission or any governmental authority that may be substituted therefor, or any national securities exchange;

(f) reserved; and

(g) financial and business projections promptly following their approval by Borrower's Board of Directors, and in any event, within 45 days after the end of Borrower's fiscal year, as well as budgets, operating plans and other financial information reasonably requested by Agent.

Borrower shall notify Agent promptly (within 5 days) of any changes to its accounting policies or reporting policies. Borrower shall not make any change in its fiscal years or fiscal quarters. The fiscal year of Borrower shall end on December 31.

The executed Compliance Certificate may be sent via facsimile to Agent at (650) 473-9194 or via e-mail to pedwards@herculestech.com. All Financial Statements required to be delivered shall be sent via e-mail to financialstatements@herculestech.com with a copy to pedwards@herculestech.com provided, that if e-mail is not available or sending such Financial Statements via e-mail is not possible, they shall be sent via facsimile to Agent at: (866) 468-8916, attention Chief Credit Officer.

Documents required to be delivered pursuant to Section 7.1(a), (b), (c) or (e) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which the Borrower files such documents with the SEC and such documents are publicly available on the Securities and Exchange Commission's EDGAR filing system or any successor thereto; provided that: (i) the Borrower shall deliver paper copies of such documents to the Agent or Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Agent or Lender and (ii) the Borrower shall notify the Agent and Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Agent by electronic mail electronic versions (i.e., soft copies) of such documents (provided that any failure by Borrower to comply with clause (i) or (ii) of this proviso with respect to any document required to be delivered pursuant to Section 7.1(e) shall not give rise to an Event of Default).

**7.2 Management Rights.** Borrower shall permit any representative that Agent or Lender authorizes, including its attorneys and accountants, to inspect the Collateral and examine and make copies and abstracts of the books of account and records of Borrower at reasonable times and upon reasonable notice during normal business hours; provided that, such inspection and examination shall be conducted no more often than twice every twelve (12) months unless an Event of Default has occurred and is continuing. In addition, any such representative shall have the right to meet with management and officers of Borrower to discuss such books of account and records. In addition, Agent or Lender shall be entitled at reasonable times and intervals to consult with and advise the management and officers of Borrower concerning significant business issues affecting Borrower. Such consultations shall not unreasonably interfere with Borrower's business operations. The parties intend that the rights granted Agent and Lender shall constitute "management rights" within the meaning of 29 C.F.R Section 2510.3-101(d)(3)(ii), but that any advice, recommendations or participation by Agent or Lender with respect to any business issues

shall not be deemed to give Agent or Lender, nor be deemed an exercise by Agent or Lender of, control over Borrower's management or policies.

7.3 Further Assurances. Borrower shall from time to time execute, deliver and file, alone or with Agent, any financing statements, security agreements, collateral assignments, notices, control agreements, or other documents to perfect or give the highest priority to Agent's Lien on the Collateral subject to Permitted Liens described in subsections (iii)-(vii) and (x)-(xv) of the definition of Permitted Liens. Borrower shall from time to time procure any instruments or documents as may be reasonably requested by Agent, and take all further action that may be necessary or desirable, or that Agent may reasonably request, to perfect and protect the Liens granted hereby and thereby. In addition, and for such purposes only, Borrower hereby authorizes Agent to execute and deliver on behalf of Borrower and to file such financing statements, collateral assignments, notices, control agreements, security agreements and other documents without the signature of Borrower either in Agent's name or in the name of Agent as agent and attorney-in-fact for Borrower. Borrower shall protect and defend Borrower's title to the Collateral and Agent's Lien thereon against all Persons claiming any interest adverse to Borrower or Agent other than Permitted Liens.

7.4 Indebtedness. Borrower shall not create, incur, assume, guarantee or be or remain liable with respect to any Indebtedness, or permit any Subsidiary so to do, other than Permitted Indebtedness, or prepay any Indebtedness or take any actions which impose on Borrower an obligation to prepay any Indebtedness, except for the conversion of Indebtedness into equity securities and the payment of cash in lieu of fractional shares in connection with such conversion.

7.5 Collateral. Borrower shall at all times keep the Collateral, the Intellectual Property and all other property and assets used in Borrower's business or in which Borrower now or hereafter holds any interest free and clear from any legal process or Liens whatsoever (except for Permitted Liens), and shall give Agent prompt written notice of any legal process affecting the Collateral, the Intellectual Property, such other property and assets, or any Liens thereon, provided however, that the Collateral and such other property and assets may be subject to Permitted Liens except that there shall be no Liens whatsoever on Intellectual Property. Borrower shall cause its Subsidiaries to protect and defend such Subsidiary's title to its assets from and against all Persons claiming any interest adverse to such Subsidiary, and Borrower shall cause its Subsidiaries at all times to keep such Subsidiary's property and assets free and clear from any legal process or Liens whatsoever (except for Permitted Liens, provided however, that there shall be no Liens whatsoever on Intellectual Property), and shall give Agent prompt written notice of any legal process affecting such Subsidiary's assets. Borrower shall not agree with any Person other than Agent or Lender not to encumber its property except as set forth in Subsection (vii) or (viii) of the definition of Permitted Liens.

7.6 Investments. Borrower shall not directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments.

7.7 Distributions. Borrower shall not, and shall not allow any Subsidiary to, (a) repurchase or redeem any class of stock or other equity interest other than pursuant to employee, director or consultant stock purchase or repurchase plans or other similar agreements, provided, however, in each case the repurchase or redemption price does not exceed the original consideration paid for such stock or equity interest, or (b) declare or pay any cash dividend or make a cash distribution on any class of stock or other equity interest, except that a Subsidiary may pay dividends or make distributions to Borrower, or (c) lend money to any employees, officers or directors or guarantee the payment of any such loans granted by a third party in excess of \$100,000 in the aggregate or (d) waive, release or forgive any Indebtedness owed by any employees, officers or directors in excess of \$100,000 in the aggregate.

7.8 Transfers. Except for Permitted Transfers, Permitted Liens or Permitted Investments, Borrower shall not voluntarily or involuntarily transfer, sell, lease, license, lend or in any other manner convey any equitable, beneficial or legal interest in any material portion of its assets.

7.9 Mergers or Acquisitions. Except for Permitted Acquisitions, Borrower shall not merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with or into any other business organization (other than mergers or consolidations of (a) a Subsidiary which is not a Borrower into another Subsidiary or into Borrower or (b) a Borrower into another Borrower), or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person.

7.10 Taxes. Borrower and its Subsidiaries shall pay when due all taxes, fees or other charges of any nature whatsoever (together with any related interest or penalties) now or hereafter imposed or assessed against Borrower, Agent, Lender (to the extent assessed in connection with the making of the Loan hereunder but excluding taxes on Lender's net income) or the Collateral or upon Borrower's ownership, possession, use, operation or disposition thereof or upon Borrower's rents, receipts or earnings arising therefrom. Borrower shall file on or before the due date therefor all personal property tax returns in respect of the Collateral. Notwithstanding the foregoing, Borrower may contest, in good faith and by appropriate proceedings, taxes for which Borrower maintains adequate reserves therefor in accordance with GAAP.

7.11 Corporate Changes. Neither Borrower nor any Subsidiary shall change its corporate name, legal form or jurisdiction of formation without twenty (20) days' prior written notice to Agent. Neither Borrower nor any Subsidiary shall suffer a Change in Control. Neither Borrower nor any Subsidiary shall relocate its chief executive office or its principal place of business unless: (i) it has provided prior written notice to Agent; and (ii) such relocation shall be within the continental United States. Neither Borrower nor any Subsidiary shall relocate any item of Collateral (other than (w) Equipment located at clinical sites if such relocation of Equipment is either (I) within the United States or to the United States, or (II) for Equipment located outside the United States, (x) sales of Inventory in the ordinary course of business, (y) relocations of Equipment having an aggregate value of up to \$150,000 in any fiscal year, and (z) relocations of Collateral from a location described on Exhibit C to another location described on Exhibit C) unless (i) it

has provided prompt written notice to Agent, (ii) such relocation is within the continental United States and, (iii) if such relocation is to a third party bailee, it has delivered a bailee agreement in form and substance reasonably acceptable to Agent.

7.12 Deposit Accounts. Other than Excluded Accounts and subject to the grace period afforded by Section 7.16 with respect Deposit Accounts maintained at Square 1 Bank, neither Borrower nor any Domestic Subsidiary shall maintain any Deposit Accounts or accounts holding Investment Property except with respect to which Agent has an Account Control Agreement. Once the conditions no longer exist for a Deposit Account or account holding Investment Property to qualify as an Excluded Account, the contents in such Excluded Account shall immediately (within one (1) Business Day) be transferred into an account covered by an Account Control Agreement in favor of and satisfactory to Agent.

7.13 Subsidiary Formation. Borrower shall notify Agent of each Subsidiary formed subsequent to the Closing Date and, within 15 days of formation, shall cause any such Domestic Subsidiary to execute and deliver to Agent a Joinder Agreement.

7.14 Notification of Event of Default. Borrower shall notify Agent immediately upon obtaining knowledge of the occurrence of any Event of Default, such notice to be sent via facsimile to Agent.

7.15 SBA Provisions. Agent and Lender have received a license from the U.S. Small Business Administration ("SBA") to extend loans as a small business investment company ("SBIC") pursuant to the Small Business Investment Act of 1958, as amended, and the associated regulations (collectively, the "SBIC Act"). Portions of the loan to Borrower will be made under the SBA license and the SBIC Act. Addendum 1 to this Agreement outlines various responsibilities of Agent, Lender and Borrower associated with an SBA loan, and such Addendum 1 is hereby incorporated in this Agreement.

7.16 Control Agreements. Within 15 days following the Closing Date (or such later date as the Agent may agree in writing in its sole discretion), Borrower shall cause to be delivered to Agent a Control Agreement with respect to all of Borrower's accounts maintained at Square 1 Bank.

## **SECTION 8. RESERVED**

## **SECTION 9. EVENTS OF DEFAULT**

The occurrence of any one or more of the following events shall be an Event of Default:

9.1 Payments. Borrower fails to pay any amount due under this Agreement or any of the other Loan Documents on the due date, provided, however, that an Event of Default shall not occur on account of a failure to pay due solely to an administrative or operational error of Agent or any Lender or an ACH Failure if Borrower had the funds to make the payment when due and makes the payment within two Business Days following Borrower's knowledge of such failure to pay; or

9.2 Covenants. Borrower breaches or defaults in the performance of any covenant or Secured Obligation under this Agreement, or any of the other Loan Documents or any other agreement among Borrower, Agent and Lender, and (a) with respect to a default under any covenant under this Agreement (other than under Sections 6, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9 and 7.15), any other Loan Document or any other agreement among Borrower, Agent and Lender, such default continues for more than ten (10) days after the earlier of the date on which (i) Agent or Lender has given notice of such default to Borrower and (ii) Borrower has actual knowledge of such default or (b) with respect to a default under any of Sections 6, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9 and 7.15 the occurrence of such default; or

9.3 Material Adverse Effect. A circumstance has occurred that would reasonably be expected to have a Material Adverse Effect; provided that solely for purposes of this Section 9.3, the occurrence of any of the following, in and of itself, shall not constitute a Material Adverse Effect: (a) adverse results or delays in any nonclinical or clinical trial, including without limitation, the failure to demonstrate the desired safety or efficacy or any companion diagnostic or drug; (b) the denial, delay or limitation of approval of, or taking of any other regulatory action by, the United States Food and Drug Administration or any other governmental entity with respect to any companion diagnostic or drug; or (c) a change in or discontinuation of a strategic partnership or other collaboration or license arrangement); or

9.4 Representations. Any representation or warranty made by Borrower in any Loan Document shall have been false or misleading in any material respect when made or deemed made; or

9.5 Insolvency. (A) Borrower (i) shall make an assignment for the benefit of creditors; or (ii) shall be unable to pay its debts as they become due, or be unable to pay or perform under the Loan Documents, or shall become insolvent; or (iii) shall file a voluntary petition in bankruptcy; or (iv) shall file any petition, answer, or document seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation pertinent to such circumstances; or (v) shall seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of Borrower or of all or any substantial part (i.e., 33-1/3% or more) of the assets or property of Borrower; or (vi) shall cease operations of its business as its business has normally been conducted, or terminate substantially all of its employees; or (vii) Borrower or its directors or majority shareholders shall take any action initiating any of the foregoing actions described in clauses (i) through (vi); or (B) either (i) forty-five (45) days shall have expired after the commencement of an involuntary action against Borrower seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, without such action being dismissed or all orders or proceedings thereunder affecting the operations or the business of Borrower being stayed; or (ii) a stay of any such order or proceedings shall thereafter be set aside and the action setting it aside shall not be timely appealed; or (iii) Borrower shall file any answer admitting or not contesting the material allegations of a petition filed against Borrower in any such proceedings; or (iv) the court in which such proceedings are pending shall enter a decree or order granting the relief sought in any such



proceedings; or (v) forty-five (45) days shall have expired after the appointment, without the consent or acquiescence of Borrower, of any trustee, receiver or liquidator of Borrower or of all or any substantial part of the properties of Borrower without such appointment being vacated; or

9.6 Attachments; Judgments. Any portion of Borrower's assets is attached or seized, or a levy is filed against any such assets, or a judgment or judgments is/are entered for the payment of money, individually or in the aggregate, of at least \$100,000 (not covered by independent third party insurance as to which liability has been accepted by such insurance carrier as of the date of such attachment, seizure, levy or entry of judgment and such judgment remains unsatisfied, unvacated or unstayed for a period of ten (10) days after the entry thereof), or Borrower is enjoined or in any way prevented by court order from conducting any part of its business; or

9.7 Other Obligations. The occurrence of any default (after giving effect to any applicable grace or cure period) under any agreement or obligation of Borrower involving any Indebtedness in excess of \$750,000.

9.8 Stop Trade. At any time after Lender has received shares of Common Stock pursuant to the terms set forth in Section 2.1(d)(iv), a stop trade order issued by the Securities Exchange Commission or NASDAQ market trading suspension of the Common Stock shall be in effect for five (5) consecutive days or five (5) days during a period of ten (10) consecutive days, excluding in all cases a suspension of all trading on a public market, provided that Borrower shall not have been able to cure such trading suspension within thirty (30) days of the notice thereof or list the Common Stock on another public market within sixty (60) days of such notice.

## **SECTION 10. REMEDIES**

10.1 General. Upon and during the continuance of any one or more Events of Default, (i) Agent may, at its option, accelerate and demand payment of all or any part of the Secured Obligations together with a Prepayment Charge and declare them to be immediately due and payable (provided, that upon the occurrence of an Event of Default of the type described in Section 9.5, all of the Secured Obligations shall automatically be accelerated and made due and payable, in each case without any further notice or act), (ii) Agent may, at its option, sign and file in Borrower's name any and all collateral assignments, notices, control agreements, security agreements and other documents it deems necessary or appropriate to perfect or protect the repayment of the Secured Obligations, and in furtherance thereof, Borrower hereby grants Agent an irrevocable power of attorney coupled with an interest, and (iii) Agent may notify any of Borrower's account debtors to make payment directly to Agent, compromise the amount of any such account on Borrower's behalf and endorse Agent's name without recourse on any such payment for deposit directly to Agent's account. Agent may exercise all rights and remedies with respect to the Collateral under the Loan Documents or otherwise available to it under the UCC and other applicable law, including the right to release, hold, sell, lease, liquidate, collect, realize upon, or otherwise dispose of all or any part of the Collateral and

the right to occupy, utilize, process and commingle the Collateral. All Agent's rights and remedies shall be cumulative and not exclusive.

10.2 Collection; Foreclosure. Upon the occurrence and during the continuance of any Event of Default, Agent may, at any time or from time to time, apply, collect, liquidate, sell in one or more sales, lease or otherwise dispose of, any or all of the Collateral, in its then condition or following any commercially reasonable preparation or processing, in such order as Agent may elect. Any such sale may be made either at public or private sale at its place of business or elsewhere. Borrower agrees that any such public or private sale may occur upon ten (10) calendar days' prior written notice to Borrower. Agent may require Borrower to assemble the Collateral and make it available to Agent at a place designated by Agent that is reasonably convenient to Agent and Borrower. The proceeds of any sale, disposition or other realization upon all or any part of the Collateral shall be applied by Agent in the following order of priorities:

First, to Agent and Lender in an amount sufficient to pay in full Agent's and Lender's costs and professionals' and advisors' fees and expenses as described in Section 11.11;

Second, to Lender in an amount equal to the then unpaid amount of the Secured Obligations (including principal, interest, and the Default Rate interest), in such order and priority as Agent may choose in its sole discretion; and

Finally, after the full, final, and indefeasible payment in Cash of all of the Secured Obligations, to any creditor holding a junior Lien on the Collateral, or to Borrower or its representatives or as a court of competent jurisdiction may direct.

Agent shall be deemed to have acted reasonably in the custody, preservation and disposition of any of the Collateral if it complies with the obligations of a secured party under the UCC.

10.3 No Waiver. Agent shall be under no obligation to marshal any of the Collateral for the benefit of Borrower or any other Person, and Borrower expressly waives all rights, if any, to require Agent to marshal any Collateral.

10.4 Cumulative Remedies. The rights, powers and remedies of Agent hereunder shall be in addition to all rights, powers and remedies given by statute or rule of law and are cumulative. The exercise of any one or more of the rights, powers and remedies provided herein shall not be construed as a waiver of or election of remedies with respect to any other rights, powers and remedies of Agent.

## **SECTION 11. MISCELLANEOUS**

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

11.2 Notice. Except as otherwise provided herein, any notice, demand, request, consent, approval, declaration, service of process or other communication that is required, contemplated, or permitted under the Loan Documents or with respect to the subject matter hereof shall be in writing, and shall be deemed to have been validly served, given, delivered, and received upon the earlier of: (i) the day of transmission by facsimile or hand delivery or delivery by an overnight express service or overnight mail delivery service; or (ii) the third calendar day after deposit in the United States mails, with proper first class postage prepaid, in each case addressed to the party to be notified as follows:

- (a) If to Agent:  
HERCULES TECHNOLOGY GROWTH CAPITAL, INC.  
Legal Department  
Attention: Chief Legal Officer and Paul Edwards  
400 Hamilton Avenue, Suite 310  
Palo Alto, CA 94301  
Facsimile: 650-473-9194  
Telephone: 650-289-3060
- (b) If to Lender:  
HERCULES TECHNOLOGY GROWTH CAPITAL, INC.  
and HERCULES TECHNOLOGY III, L.P.  
Legal Department  
Attention: Chief Legal Officer and Paul Edwards  
400 Hamilton Avenue, Suite 310  
Palo Alto, CA 94301  
Facsimile: 650-473-9194  
Telephone: 650-289-3060
- (c) If to Borrower:  
Celladon Corporation  
11988 El Camino Real, Suite 650  
San Diego, CA 92130-3579  
Attention: Rebecque Laba  
Facsimile: 858-964-0974  
Telephone: 858-366-4081

or to such other address as each party may designate for itself by like notice.

### 11.3 Entire Agreement; Amendments.

(a) This Agreement and the other Loan Documents constitute the entire agreement and understanding of the parties hereto in respect of the subject matter hereof and thereof, and supersede and replace in their entirety any prior proposals, term sheets, non-disclosure or confidentiality agreements, letters, negotiations or other documents or

agreements, whether written or oral, with respect to the subject matter hereof or thereof (including Agent's revised proposal letter dated June 19, 2014).

(b) Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 11.3(b). The Required Lenders and Borrower party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Agent and the Borrower party to the relevant Loan Document may, from time to time, (i) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Borrower hereunder or thereunder or (ii) waive, on such terms and conditions as the Required Lenders or the Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (A) forgive the principal amount or extend the final scheduled date of maturity of any Loan, extend the scheduled date of any amortization payment in respect of any Term Loan, reduce the stated rate of any interest or fee payable hereunder or extend the scheduled date of any payment thereof, in each case without the written consent of each Lender directly affected thereby; (B) eliminate or reduce the voting rights of any Lender under this Section 11.3(b) without the written consent of such Lender; (C) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release a Borrower from its obligations under the Loan Documents, in each case without the written consent of all Lenders; or (D) amend, modify or waive any provision of Section 11.17 without the written consent of the Agent. Any such waiver and any such amendment, supplement or modification shall apply equally to each Lender and shall be binding upon Borrower, the Lender, the Agent and all future holders of the Loans.

11.4 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

11.5 No Waiver. The powers conferred upon Agent and Lender by this Agreement are solely to protect its rights hereunder and under the other Loan Documents and its interest in the Collateral and shall not impose any duty upon Agent or Lender to exercise any such powers. No omission or delay by Agent or Lender at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms, covenants or provisions hereof by Borrower at any time designated, shall be a waiver of any such right or remedy to which Agent or Lender is entitled, nor shall it in any way affect the right of Agent or Lender to enforce such provisions thereafter.

11.6 Survival. All agreements, representations and warranties contained in this Agreement and the other Loan Documents or in any document delivered pursuant hereto or thereto shall be for the benefit of Agent and Lender and shall survive the execution and delivery of this Agreement and the expiration or other termination of this Agreement.

11.7 Successors and Assigns. The provisions of this Agreement and the other Loan Documents shall inure to the benefit of and be binding on Borrower and its permitted assigns (if any). Borrower shall not assign its obligations under this Agreement or any of the other Loan Documents without Agent's express prior written consent, and any such attempted assignment shall be void and of no effect. Agent and Lender may assign, transfer, or endorse its rights hereunder and under the other Loan Documents without prior notice to Borrower, and all of such rights shall inure to the benefit of Agent's and Lender's successors and assigns.

11.8 Governing Law. This Agreement and the other Loan Documents have been negotiated and delivered to Agent and Lender in the State of California, and shall have been accepted by Agent and Lender in the State of California. Payment to Agent and Lender by Borrower of the Secured Obligations is due in the State of California. This Agreement and the other Loan Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

11.9 Consent to Jurisdiction and Venue. All judicial proceedings (to the extent that the reference requirement of Section 11.10 is not applicable) arising in or under or related to this Agreement or any of the other Loan Documents may be brought in any state or federal court located in the State of California. By execution and delivery of this Agreement, each party hereto generally and unconditionally: (a) consents to nonexclusive personal jurisdiction in Santa Clara County, State of California; (b) waives any objection as to jurisdiction or venue in Santa Clara County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement or the other Loan Documents. Service of process on any party hereto in any action arising out of or relating to this Agreement shall be effective if given in accordance with the requirements for notice set forth in Section 11.2, and shall be deemed effective and received as set forth in Section 11.2. Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of either party to bring proceedings in the courts of any other jurisdiction.

11.10 Mutual Waiver of Jury Trial / Judicial Reference.

(a) Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert Person and the parties wish applicable state and federal laws to apply (rather than arbitration rules), the parties desire that their disputes be resolved by a judge applying such applicable laws. EACH OF BORROWER, AGENT AND LENDER SPECIFICALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY

OTHER CLAIM (COLLECTIVELY, "CLAIMS") ASSERTED BY BORROWER AGAINST AGENT, LENDER OR THEIR RESPECTIVE ASSIGNEE OR BY AGENT, LENDER OR THEIR RESPECTIVE ASSIGNEE AGAINST BORROWER. This waiver extends to all such Claims, including Claims that involve Persons other than Agent, Borrower and Lender; Claims that arise out of or are in any way connected to the relationship among Borrower, Agent and Lender; and any Claims for damages, breach of contract, tort, specific performance, or any equitable or legal relief of any kind, arising out of this Agreement, any other Loan Document.

(b) If the waiver of jury trial set forth in Section 11.10(a) is ineffective or unenforceable, the parties agree that all Claims shall be resolved by reference to a private judge sitting without a jury, pursuant to Code of Civil Procedure Section 638, before a mutually acceptable referee or, if the parties cannot agree, a referee selected by the Presiding Judge of Santa Clara County, California. Such proceeding shall be conducted in Santa Clara County, California, with California rules of evidence and discovery applicable to such proceeding.

(c) In the event Claims are to be resolved by judicial reference, either party may seek from a court identified in Section 11.9, any prejudgment order, writ or other relief and have such prejudgment order, writ or other relief enforced to the fullest extent permitted by law notwithstanding that all Claims are otherwise subject to resolution by judicial reference.

11.11 Professional Fees. Borrower promises to pay Agent's and Lender's fees and expenses necessary to finalize the loan documentation, including but not limited to reasonable attorneys fees, UCC searches, filing costs, and other miscellaneous expenses, which amounts are not to be satisfied from the Commitment Fee, but rather, will be deducted from the initial Advance under Section 2.1(a). Agent acknowledges receipt of the Commitment Fee from Borrower; on the Closing Date, Lender shall apply the Commitment Fee towards Lender's transaction costs and due diligence expenses. In addition, Borrower promises to pay any and all reasonable attorneys' and other professionals' fees and expenses (including fees and expenses of in-house counsel) incurred by Agent and Lender after the Closing Date in connection with or related to: (a) the Loan; (b) the administration, collection, or enforcement of the Loan; (c) the amendment or modification of the Loan Documents; (d) any waiver, consent, release, or termination under the Loan Documents; (e) the protection, preservation, audit, field exam, sale, lease, liquidation, or disposition of Collateral or the exercise of remedies with respect to the Collateral; (f) any legal, litigation, administrative, arbitration, or out of court proceeding in connection with or related to Borrower or the Collateral, and any appeal or review thereof; and (g) any bankruptcy, restructuring, reorganization, assignment for the benefit of creditors, workout, foreclosure, or other action related to Borrower, the Collateral, the Loan Documents, including representing Agent or Lender in any adversary proceeding or contested matter commenced or continued by or on behalf of Borrower's estate, and any appeal or review thereof.

11.12 Confidentiality. Agent and Lender acknowledge that certain items of Collateral and information provided to Agent and Lender by Borrower are confidential and proprietary information of Borrower, if and to the extent such information either (x) is

marked as confidential by Borrower at the time of disclosure, or (y) should reasonably be understood to be confidential (the "Confidential Information"). Accordingly, Agent and Lender agree that any Confidential Information it may obtain in the course of acquiring, administering, or perfecting Agent's security interest in the Collateral shall not be disclosed to any other Person or entity in any manner whatsoever, in whole or in part, without the prior written consent of Borrower, except that Agent and Lender may disclose any such information: (a) to its own directors, officers, employees, accountants, counsel and other professional advisors and to its Affiliates if Agent or Lender in their sole discretion determines that any such party should have access to such information in connection with such party's responsibilities in connection with the Loan or this Agreement and, provided that such recipient of such Confidential Information either (i) agrees to be bound by the confidentiality provisions of this paragraph or (ii) is otherwise subject to confidentiality restrictions that reasonably protect against the disclosure of Confidential Information; (b) if such information is generally available to the public without any fault of Agent or Lender; (c) if required or appropriate in any report, statement or testimony submitted to any governmental authority having or claiming to have jurisdiction over Agent or Lender; (d) if required or appropriate in response to any summons or subpoena or in connection with any litigation, to the extent permitted or deemed advisable by Agent's or Lender's counsel; (e) to comply with any legal requirement or law applicable to Agent or Lender; (f) to the extent reasonably necessary in connection with the exercise of any right or remedy under any Loan Document, including Agent's sale, lease, or other disposition of Collateral after default; (g) to any participant or assignee of Agent or Lender or any prospective participant or assignee; provided, that such participant or assignee or prospective participant or assignee agrees in writing to be bound by this Section prior to disclosure; or (h) otherwise with the prior consent of Borrower; provided, that any disclosure made in violation of this Agreement shall not affect the obligations of Borrower or any of its Affiliates or any guarantor under this Agreement or the other Loan Documents.

11.13 Assignment of Rights. Borrower acknowledges and understands that Agent or Lender may sell and assign all or part of its interest hereunder and under the Loan Documents to any Person or entity (an "Assignee"). After such assignment the term "Agent" or "Lender" as used in the Loan Documents shall mean and include such Assignee, and such Assignee shall be vested with all rights, powers and remedies of Agent and Lender hereunder with respect to the interest so assigned; but with respect to any such interest not so transferred, Agent and Lender shall retain all rights, powers and remedies hereby given. No such assignment by Agent or Lender shall relieve Borrower of any of its obligations hereunder. Lender agrees that in the event of any transfer by it of the Note(s)(if any), it will endorse thereon a notation as to the portion of the principal of the Note(s), which shall have been paid at the time of such transfer and as to the date to which interest shall have been last paid thereon.

11.14 Revival of Secured Obligations. This Agreement and the Loan Documents shall remain in full force and effect and continue to be effective if any petition is filed by or against Borrower for liquidation or reorganization, if Borrower becomes insolvent or makes an assignment for the benefit of creditors, if a receiver or trustee is appointed for all or any significant part of Borrower's assets, or if any payment or transfer of Collateral is

recovered from Agent or Lender. The Loan Documents and the Secured Obligations and Collateral security shall continue to be effective, or shall be revived or reinstated, as the case may be, if at any time payment and performance of the Secured Obligations or any transfer of Collateral to Agent, or any part thereof is rescinded, avoided or avoidable, reduced in amount, or must otherwise be restored or returned by, or is recovered from, Agent, Lender or by any obligee of the Secured Obligations, whether as a “voidable preference,” “fraudulent conveyance,” or otherwise, all as though such payment, performance, or transfer of Collateral had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, avoided, avoidable, restored, returned, or recovered, the Loan Documents and the Secured Obligations shall be deemed, without any further action or documentation, to have been revived and reinstated except to the extent of the full, final, and indefeasible payment to Agent or Lender in Cash.

11.15 Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so delivered shall be deemed an original, but all of which counterparts shall constitute but one and the same instrument.

11.16 No Third Party Beneficiaries. No provisions of the Loan Documents are intended, nor will be interpreted, to provide or create any third-party beneficiary rights or any other rights of any kind in any Person other than Agent, Lender and Borrower unless specifically provided otherwise herein, and, except as otherwise so provided, all provisions of the Loan Documents will be personal and solely among Agent, the Lender and the Borrower.

11.17 Agency.

(a) Lender hereby irrevocably appoints Hercules Technology Growth Capital, Inc. to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto.

(b) Lender agrees to indemnify the Agent in its capacity as such (to the extent not reimbursed by Borrower and without limiting the obligation of Borrower to do so), according to its respective Term Commitment percentages (based upon the total outstanding Term Loan Commitments) in effect on the date on which indemnification is sought under this Section 11.17, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time be imposed on, incurred by or asserted against the Agent in any way relating to or arising out of, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Agent under or in connection with any of the foregoing; The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder.



(c) Agent in Its Individual Capacity. The Person serving as the Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Agent and the term “Lender” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each such Person serving as Agent hereunder in its individual capacity.

(d) Exculpatory Provisions. The Agent shall have no duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent shall not:

- (i) be subject to any fiduciary or other implied duties, regardless of whether any default or any Event of Default has occurred and is continuing;
- (ii) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Lender, provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law; and
- (iii) except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and the Agent shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as the Agent or any of its Affiliates in any capacity.

(e) The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Lender or as the Agent shall believe in good faith shall be necessary, under the circumstances or (ii) in the absence of its own gross negligence or willful misconduct.

(f) The Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Section 4 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

(g) Reliance by Agent. Agent may rely, and shall be fully protected in acting, or refraining to act, upon, any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order, bond or other paper or document that it has no

reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of cables, telecopies and telexes, to have been sent by the proper party or parties. In the absence of its gross negligence or willful misconduct, Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to Agent and conforming to the requirements of the Loan Agreement or any of the other Loan Documents. Agent may consult with counsel, and any opinion or legal advice of such counsel shall be full and complete authorization and protection in respect of any action taken, not taken or suffered by Agent hereunder or under any Loan Documents in accordance therewith. Agent shall have the right at any time to seek instructions concerning the administration of the Collateral from any court of competent jurisdiction. Agent shall not be under any obligation to exercise any of the rights or powers granted to Agent by this Agreement, the Loan Agreement and the other Loan Documents at the request or direction of Lenders unless Agent shall have been provided by Lender with adequate security and indemnity against the costs, expenses and liabilities that may be incurred by it in compliance with such request or direction.

#### 11.18 Publicity.

(a) Borrower consents to the publication and use by Agent or Lender and any of its member businesses and Affiliates of (i) Borrower's name (including a brief description of the relationship among Borrower, Agent and Lender) and logo and a hyperlink to Borrower's web site, separately or together, in written and oral presentations, advertising, promotional and marketing materials, client lists, public relations materials or on its web site (together, the "Lender Publicity Materials"); (ii) the names of officers of Borrower in the Lender Publicity Materials; and (iii) Borrower's name, trademarks or servicemarks in any news release concerning Agent or Lender.

(b) Neither Borrower nor any of its member businesses and Affiliates shall, without Agent's and Lender's consent, publicize or use (i) Agent's or Lender's name (including a brief description of the relationship among Borrower, Agent and Lender), logo or hyperlink to Agent's or Lender's web site, separately or together, in written and oral presentations, advertising, promotional and marketing materials, client lists, public relations materials or on its web site (together, the "Borrower Publicity Materials"); (ii) the names of officers of Agent or Lender in the Borrower Publicity Materials; and (iii) Agent's or Lender's name, trademarks, servicemarks in any news release concerning Borrower; provided that Agent and Lender consent to the public filing of this Agreement any amendment hereto, as well as descriptions of the terms of the same (including Agent's and Lender's name), in public filings made with the Securities and Exchange Commission provided that any such descriptions and references to Agent or Lender are provided to Agent by email to pedwards@herculestech.com (or such other addresses as Agent may designate) at least 2 days prior to filing so that Agent can review them for accuracy, it being understood that Agent shall have no obligation to respond to Borrower in the event that such description contains an error.

(SIGNATURES TO FOLLOW)

IN WITNESS WHEREOF, Borrower, Agent and Lender have duly executed and delivered this Loan and Security Agreement as of the day and year first above written.

BORROWER:

Celladon Corporation

Signature: /s/ Paul Cleveland

Print Name: Paul Cleveland

Title: President and CFO

Accepted in Palo Alto, California:

AGENT:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

Signature: /s/ Ben Bang

Name: Ben Bang

Title: Senior Counsel

LENDER:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

Signature: /s/ Ben Bang

Name: Ben Bang

Title: Senior Counsel

HERCULES TECHNOLOGY III, L.P.,  
a Delaware limited partnership

By: Hercules Technology SBIC Management, LLC, its  
General Partner

By: Hercules Technology Growth Capital, Inc., its  
Manager

By: /s/ Ben Bang

Name: Ben Bang

Its: Senior Counsel

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Addendum 1:	SBA Provisions
Exhibit A:	Advance Request Attachment to Advance Request
Exhibit B:	Term Note
Exhibit C:	Name, Locations, and Other Information for Borrower
Exhibit D:	Borrower’s Patents, Trademarks, Copyrights and Licenses
Exhibit E:	Borrower’s Deposit Accounts and Investment Accounts
Exhibit F:	Compliance Certificate
Exhibit G:	Joinder Agreement
Exhibit H:	ACH Debit Authorization Agreement
Exhibit I:	Conversion Election Notice

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## ADDENDUM 1 to LOAN AND SECURITY AGREEMENT

(a) *Borrower's Business.* For purposes of this Addendum 1, Borrower shall be deemed to include its "affiliates" as defined in Title 13 Code of Federal Regulations Section 121.103. Borrower represents and warrants to Agent and Lender as of the Closing Date and covenants to Agent and Lender for a period of one year after the Closing Date with respect to subsections 2, 3, 4, 5, 6 and 7 below, as follows:

1. **Size Status.** As of December 31, 2013, Borrower had less than 500 hundred employees and did not have average net income after Federal income taxes (excluding any carry-over losses) for the preceding two completed fiscal years then ended in excess of \$6 million. Borrower's SIC code is 2836, which results in a NAIC code of 325414;
2. **No Relender.** Borrower's primary business activity does not involve, directly or indirectly, providing funds to others, purchasing debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair;
3. **No Passive Business.** Borrower is engaged in a regular and continuous business operation (excluding the mere receipt of payments such as dividends, rents, lease payments, or royalties). Borrower's employees are carrying on the majority of day to day operations. Borrower will not pass through substantially all of the proceeds of the Loan to another entity;
4. **No Real Estate Business.** Borrower is not classified under Major Group 65 (Real Estate) or Industry No. 1531 (Operative Builders) of the SIC Manual. The proceeds of the Loan will not be used to acquire or refinance real property unless Borrower (x) is acquiring an existing property and will use at least 51 percent of the usable square footage for its business purposes; (y) is building or renovating a building and will use at least 67 percent of the usable square footage for its business purposes; or (z) occupies the subject property and uses at least 67 percent of the usable square footage for its business purposes.
5. **No Project Finance.** Borrower's assets are not intended to be reduced or consumed, generally without replacement, as the life of its business progresses, and the nature of Borrower's business does not require that a stream of cash payments be made to the business's financing sources, on a basis associated with the continuing sale of assets (e.g., real estate development projects and oil and gas wells). The primary purpose of the Loan is not to fund

production of a single item or defined limited number of items, generally over a defined production period, where such production will constitute the majority of the activities of Borrower (e.g., motion pictures and electric generating plants).

6. No Farm Land Purchases. Borrower will not use the proceeds of the Loan to acquire farm land which is or is intended to be used for agricultural or forestry purposes, such as the production of food, fiber, or wood, or is so taxed or zoned.
7. No Foreign Investment. The proceeds of the Loan will not be used substantially for a foreign operation. At the time of the Loan, Borrower will not have more than 49 percent of its employees or tangible assets located outside the United States. The representation in this subsection (7) is made only as of the date hereof and shall not continue for one year as contemplated in the first sentence of this Section 1.

(b) *Small Business Administration Documentation.* Agent and Lender acknowledge that Borrower completed, executed and delivered to Agent SBA Forms 480, 652 and 1031 (Parts A and B) together with a business plan showing Borrower's financial projections (including balance sheets and income and cash flows statements) for the period described therein and a written statement (whether included in the purchase agreement or pursuant to a separate statement) from Agent regarding its intended use of proceeds from the sale of securities to Lender (the "Use of Proceeds Statement"). Borrower represents and warrants to Agent and Lender that the information regarding Borrower and its affiliates set forth in the SBA Form 480, Form 652 and Form 1031 and the Use of Proceeds Statement delivered as of the Closing Date is accurate and complete.

(c) *Inspection.* The following covenants contained in this Section (c) are intended to supplement and not to restrict the related provisions of the Loan Documents. Subject to the preceding sentence, Borrower will permit, for so long as Lender holds any debt or equity securities of Borrower, Agent, Lender or their representative, at Agent's or Lender's expense, and examiners of the SBA to visit and inspect the properties and assets of Borrower, to examine its books of account and records, and to discuss Borrower's affairs, finances and accounts with Borrower's officers, senior management and accountants, all at such reasonable times as may be requested by Agent or Lender or the SBA.

(d) *Annual Assessment.* Promptly after the end of each calendar year (but in any event prior to February 28 of each year) and at such other times as may be reasonably requested by Agent or Lender, Borrower will deliver to Agent a written assessment of the economic impact of Lender's investment in Borrower, specifying the full-time equivalent jobs created or retained in connection with the investment, the impact of the investment on the businesses of Borrower in terms of expanded revenue and taxes, other economic benefits resulting from the investment (such as technology development or commercialization, minority business development, or expansion of exports) and such

other information as may be required regarding Borrower in connection with the filing of Lender's SBA Form 468. Lender will assist Borrower with preparing such assessment. In addition to any other rights granted hereunder, Borrower will grant Agent and Lender and the SBA access to Borrower's books and records for the purpose of verifying the use of such proceeds. Borrower also will furnish or cause to be furnished to Agent and Lender such other information regarding the business, affairs and condition of Borrower as Agent or Lender may from time to time reasonably request.

(e) *Use of Proceeds.* Borrower will use the proceeds from the Loan only for purposes set forth in Section 7.15. Borrower will deliver to Agent from time to time promptly following Agent's request, a written report, certified as correct by Borrower's Chief Financial Officer, verifying the purposes and amounts for which proceeds from the Loan have been disbursed. Borrower will supply to Agent such additional information and documents as Agent reasonably requests with respect to its use of proceeds and will permit Agent and Lender and the SBA to have access to any and all Borrower records and information and personnel as Agent deems necessary to verify how such proceeds have been or are being used, and to assure that the proceeds have been used for the purposes specified in Section 7.15.

(f) *Activities and Proceeds.* Neither Borrower nor any of its affiliates (if any) will engage in any activities or use directly or indirectly the proceeds from the Loan for any purpose for which a small business investment company is prohibited from providing funds by the SBIC Act, including 13 C.F.R. §107.720. Without obtaining the prior written approval of Agent, Borrower will not change within 1 year of the date hereof, Borrower's current business activity to a business activity which a licensee under the SBIC Act is prohibited from providing funds by the SBIC Act.

(g) *Reserved.*

(h) *Compliance and Resolution.* Borrower agrees that a failure to comply with Borrower's obligations under this Addendum, or any other set of facts or circumstances where it has been asserted by any governmental regulatory agency (or Agent or Lender believes that there is a substantial risk of such assertion) that Agent, Lender and their affiliates are not entitled to hold, or exercise any significant right with respect to, any securities issued to Lender by Borrower, will constitute a breach of the obligations of Borrower under the financing agreements among Borrower, Agent and Lender. In the event of (i) a failure to comply with Borrower's obligations under this Addendum; or (ii) an assertion by any governmental regulatory agency (or Agent or Lender believes that there is a substantial risk of such assertion) of a failure to comply with Borrower's obligations under this Addendum, then (i) Agent, Lender and Borrower will meet and resolve any such issue in good faith to the satisfaction of Borrower, Agent, Lender, and any governmental regulatory agency, and (ii) upon request of Lender or Agent, Borrower will cooperate and assist with any assignment of the financing agreements among Hercules Technology II, L.P., Hercules Technology III, L.P. and Hercules Technology Growth Capital, Inc.

EXHIBIT A

ADVANCE REQUEST

To: Agent: \_\_\_\_\_ Date: \_\_\_\_\_, 2014

Hercules Technology Growth Capital, Inc. (the "Agent")  
400 Hamilton Avenue, Suite 310  
Palo Alto, CA 94301  
Facsimile: 650-473-9194  
Attn:

Celladon Corporation ("Borrower") hereby requests from Hercules Technology Growth Capital, Inc. or Hercules Technology III, L.P., as applicable ("Lender") an Advance in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) on \_\_\_\_\_, \_\_\_\_\_ (the "Advance Date") as a [CHECK APPROPRIATE BOX]:

- ☐ First Tranche Advance  
☐ Second Tranche Advance

under the Loan and Security Agreement among Borrower, Agent and Lender dated July 31, 2014 (the "Agreement"). Capitalized words and other terms used but not otherwise defined herein are used with the same meanings as defined in the Agreement.

Please:

(a) Issue a check payable to Borrower \_\_\_\_\_

or

(b) Wire Funds to Borrower's account \_\_\_\_\_

Bank: \_\_\_\_\_

Address: \_\_\_\_\_

ABA Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

Account Name: \_\_\_\_\_

Borrower represents that the conditions precedent to the Advance set forth in the Agreement are satisfied and shall be satisfied upon the making of such Advance, including but not limited to: (i) that no event that has had or could reasonably be expected to have a Material Adverse Effect has occurred and is continuing; (ii) that the representations and warranties set forth in the Agreement are and shall be true and correct in all material respects on and as of the Advance Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date; (iii) that Borrower is in compliance with all the terms and provisions set forth in each Loan Document on its part to be observed or performed; and (iv) that as of the Advance Date, no fact or condition exists that



would (or would, with the passage of time, the giving of notice, or both) constitute an Event of Default under the Loan Documents. Borrower understands and acknowledges that Agent has the right to review the financial information supporting this representation and, based upon such review in its sole discretion, Lender may decline to fund the requested Advance.

Borrower hereby represents that Borrower’s corporate status and locations have not changed since the date of the Agreement or, if the Attachment to this Advance Request is completed, are as set forth in the Attachment to this Advance Request.

Borrower agrees to notify Agent promptly before the funding of the Loan if any of the matters which have been represented above shall not be true and correct on the Borrowing Date and if Agent has received no such notice before the Advance Date then the statements set forth above shall be deemed to have been made and shall be deemed to be true and correct as of the Advance Date.

Executed as of [            ], 2014.

BORROWER: Celladon Corporation

SIGNATURE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
PRINT NAME: \_\_\_\_\_

---

**ATTACHMENT TO ADVANCE REQUEST**

Dated: \_\_\_\_\_

Borrower hereby represents and warrants to Agent that Borrower's current name and organizational status is as follows:

Name: Celladon Corporation

Type of organization: Corporation

State of organization: Delaware

Organization file number:

Borrower hereby represents and warrants to Agent that the street addresses, cities, states and postal codes of its current locations are as follows:

**EXHIBIT B**

**SECURED TERM PROMISSORY NOTE**

\$[    ],000,000

Advance Date: \_\_\_\_\_, 20[    ]

Maturity Date: \_\_\_\_\_, 20[    ]

FOR VALUE RECEIVED, Celladon Corporation, a Delaware corporation, for itself and each of its Subsidiaries (the “Borrower”) hereby promises to pay to the order of [Hercules Technology Growth Capital, Inc., a Maryland corporation / Hercules Technology III, L.P., a Delaware limited partnership] or the holder of this Note (the “Lender”) at 400 Hamilton Avenue, Suite 310, Palo Alto, CA 94301 or such other place of payment as the holder of this Secured Term Promissory Note (this “Promissory Note”) may specify from time to time in writing, in lawful money of the United States of America, the principal amount of [    ] Million Dollars (\$[    ],000,000) or such other principal amount as Lender has advanced to Borrower, together with interest at the Term Loan Interest Rate based upon a year consisting of 360 days, with interest computed daily based on the actual number of days in each month.

This Promissory Note is the Note referred to in, and is executed and delivered in connection with, that certain Loan and Security Agreement dated July 31, 2014, by and among Borrower, Hercules Technology Growth Capital, Inc., a Maryland corporation (the “Agent”) and the several banks and other financial institutions or entities from time to time party thereto as lender (as the same may from time to time be amended, modified or supplemented in accordance with its terms, the “Loan Agreement”), and is entitled to the benefit and security of the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement), to which reference is made for a statement of all of the terms and conditions thereof. All payments shall be made in accordance with the Loan Agreement. All terms defined in the Loan Agreement shall have the same definitions when used herein, unless otherwise defined herein. An Event of Default under the Loan Agreement shall constitute a default under this Promissory Note.

Borrower waives presentment and demand for payment, notice of dishonor, protest and notice of protest under the UCC or any applicable law. Borrower agrees to make all payments under this Promissory Note without setoff, recoupment or deduction and regardless of any counterclaim or defense. This Promissory Note has been negotiated and delivered to Lender and is payable in the State of California. This Promissory Note shall be governed by and construed and enforced in accordance with, the laws of the State of California, excluding any conflicts of law rules or principles that would cause the application of the laws of any other jurisdiction.

BORROWER FOR ITSELF AND  
ON BEHALF OF ITS SUBSIDIARIES:

Celladon Corporation

\_\_\_\_\_  
By:  
Title:

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**EXHIBIT C**

**NAME, LOCATIONS, AND OTHER INFORMATION FOR BORROWER**

1. Borrower represents and warrants to Agent that Borrower's current name and organizational status as of the Closing Date is as follows:

Name: Celladon Corporation

Type of organization: Corporation

State of organization: Delaware

Organization file number: 5104516

2. Borrower represents and warrants to Agent that for five (5) years prior to the Closing Date, Borrower did not do business under any other name or organization or form except the following:

Name:

Used during dates of:

Type of Organization:

State of organization:

Organization file Number:

Borrower's fiscal year ends on \_\_\_\_\_

Borrower's federal employer tax identification number is: \_\_\_\_\_

3. Borrower represents and warrants to Agent that its chief executive office is located at 11988 El Camino Real, Suite 650, San Diego, CA 92130-3579.

**EXHIBIT D**

**BORROWER'S PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES**

**PATENTS:**

Title	Country	Status	Application No.	Filing Date	Patent No	Date Issued	Publication Number
EXTENDED ANTEGRADE EPICARDIAL CORONARY INFUSION OF ADENO-ASSOCIATED VIRAL VECTORS FOR GENE THERAPY	US	Pending	11/778900	07/17/07			2008/0076730
	AU	Abandoned	2007277392	07/16/07			
	CA	Abandoned	2658628	07/16/07			
	CN	Abandoned	200780028361.5	07/16/07			101495627A
	EP	Issued	07810511.1	07/16/07	2044199	11/14/12	2044199
	EP	Pending	12151812.0	07/16/07			2460879
	GB	Abandoned	0716413.0	07/16/07			2437893
	HK	Abandoned	09108938.9	07/16/07			1130838A
	IL	Issued	196541	07/16/07	196541	04/01/13	
	IN	Pending	1082/DELNP/2009	07/16/07			
	JP	Pending	2009-521759	07/16/07			
	KR	Abandoned	10-2009-7003514	07/16/07			
METHOD FOR ENHANCED UPTAKE OF VIRAL VECTORS IN THE MYOCARDIUM	US	Issued	12/260953	10/29/08	8221738	07/17/12	2009/0209631
	US	Issued	13/540395	07/02/12	8636998	01/28/14	2013/0109736
	US	Pending	14/134248	12/19/13			2014/0107191
	HK	Pending	11104331.7	10/29/08			1150231A
	AU	Pending	2008350903	10/29/08			
	CA	Pending	2715765	10/29/08			
	CN	Abandoned	200880128178.7	10/29/08			101977632A
	EP	Pending	08872657.5	10/29/08			2244740
	IL	Abandoned	207632	10/29/08			
	IN	Abandoned	5943/DELNP/2010	10/29/08			
	JP	Abandoned	2010-547611	10/29/08			
	KR	Abandoned	10-2010-7020528	10/29/08			

Reference #	Title	CNTRY	Serial #	Filed Date	Patent #	Issue Date	Status	Assignee/Applicant
CELLA1100/CA/1	Serca2 Therapeutic Compositions and Methods of Use	CA	2,692,052	6/3/2008			ABANDONED	Celladon Corporation
CELLA1100/EP/1	Serca2 Therapeutic Compositions and Methods of Use	EP	08756669.1	6/3/2008			ABANDONED	Celladon Corporation
CELLA1100/HK/1	Serca2 Therapeutic Compositions and Methods of Use	HK	10108721.7	6/3/2008			ABANDONED	Celladon Corporation
CELLA1100/US	Serca2 Therapeutic Compositions and Methods of Use	US	60/936,289	6/18/2007			EXPIRED	Celladon Corporation
CELLA1100/US/1	Serca2 Therapeutic Compositions and Methods of Use	US	12/132,533	6/3/2008			ABANDONED	Celladon Corporation
CELLA1100/WO/1	Serca2 Therapeutic Compositions and Methods of Use	WO	PCT/ US2008/065687	6/3/2008			EXPIRED	Celladon Corporation
CELLA1150/EP/1	SERCA2 Therapeutic Compositions And Methods Of Use	EP	11769611.2	4/14/2011			PUBLISHED	Celladon Corporation and Icahn School Of Medicine At Mount Sinai
CELLA1150/US	SERCA2 Therapeutic Compositions And Methods Of Use	US	61/324,670	4/15/2010			EXPIRED	Celladon Corporation and Icahn School Of Medicine At Mount Sinai
CELLA1150/US/1	SERCA2 Therapeutic Compositions And Methods Of Use	US	13/086,829	4/14/2011			PUBLISHED	Celladon Corporation and Icahn School Of Medicine At Mount Sinai
CELLA1150/US/2	SERCA2 Therapeutic Compositions And Methods Of Use	US	13/929,509	6/27/2013			PUBLISHED	Celladon Corporation and Icahn School Of Medicine At Mount Sinai
CELLA1150/WO/1	SERCA2 Therapeutic Compositions And Methods Of Use	WO	PCT/ US2011/032551	4/14/2011			EXPIRED	Celladon Corporation and Icahn School Of Medicine At Mount Sinai
CELLA1160/US	Methods For Increasing Expression Of SERCA2A In Cardiac Muscle	US	61/292,437	1/5/2010			EXPIRED	Celladon Corporation
CELLA1160/US/1	Methods For Increasing Expression Of SERCA2A In Cardiac Muscle	US	12/984,552	1/4/2011			PUBLISHED	Celladon Corporation
CELLA1160/WO/1	Methods For Increasing Expression Of SERCA2A In Cardiac Muscle	WO	PCT/ US2011/020145	1/4/2011			EXPIRED	Celladon Corporation

Docket No.	CAM No.	Country	Title	Application No.	Application Date	Publication No.	Publication Date	Registration No.	Registration Date	Case Status
012558-0002-888	245277-888002	United States of America	METHODS OF TREATING DISEASES ASSOCIATED WITH THE MODULATION OF SERCA	61/148,893	Jan-30-2009					Expired
012558-0003-888	245277-888003	United States of America	FLUORESCENCE RESONANCE ENERGY TRANSFER ASSAYS FOR SARCO/ENDOPLASMIC RETICULUM CALCIUM ATPASE AND PHOSPHOLAMBAN	61/146,608	Jan-22-2009					Expired; co-owned with Regents of U. Minnesota
012558-0004-228	245277-228004	Patent Cooperation Treaty	FLUORESCENCE RESONANCE ENERGY TRANSFER ASSAYS FOR SARCO/ENDOPLASMIC RETICULUM CALCIUM ATPASE AND PHOSPHOLAMBAN	PCT/US2010/021564	Jan-21-2010	WO 2010/085514	Jul-29-2010			Completed
012558-0004-888	245277-888004	United States of America	FLUORESCENCE RESONANCE ENERGY TRANSFER ASSAYS FOR SARCO/ENDOPLASMIC RETICULUM CALCIUM ATPASE AND PHOSPHOLAMBAN	61/229,245	Jul-28-2009					Expired; co-owned with Regents of U. Minnesota
012558-0004-999	245277-999004	United States of America	FLUORESCENCE RESONANCE ENERGY TRANSFER ASSAYS FOR SARCO/ENDOPLASMIC RETICULUM CALCIUM ATPASE AND PHOSPHOLAMBAN	13/145,787	Jan-21-2010	US-2012-0021926-A1	Jan-26-2012	8,431,356	Apr-30-2013	Registered; co-owned with Regents of U. Minnesota
012558-0005-888	245277-888005	United States of America	X							Unfiled
012558-0006-888	245277-888006	United States of America	METHODS FOR TREATING DISEASES ASSOCIATED WITH THE MODULATION OF SERCA	61/225,897	Jul-15-2009					Expired
012558-0007-888	245277-888007	United States of America	X							Unfiled

Docket No.	CAM No.	Country	Title	Application No.	Application Date	Publication No.	Publication Date	Registration No.	Registration Date	Case Status
012558-0008-228	245277-228008	Patent Cooperation Treaty	ARYLAMIDE DERIVATIVES USEFUL IN THE TREATMENT OF DISEASES ASSOCIATED WITH SERCA ACTIVITY	PCT/US2010/022486	Jan-29-2010	WO 2010/088450	Aug-05-2010			Abandoned
012558-0008-888	245277-888008	United States of America	METHODS FOR TREATING DISEASES ASSOCIATED WITH THE MODULATION OF SERCA	61/259,587	Nov-09-2009					Expired
012558-0011-888	245277-888011	United States of America	QUINOLINES AND THEIR USE FOR TREATING ENDOPLASMIC RETICULUM STRESS-CAUSED DISEASES	61/747,160	Dec-28-2012					Expired
012558-0012-888	245277-888012	United States of America	QUINOLINES AND THEIR USE FOR TREATING ENDOPLASMIC RETICULUM STRESS-CAUSED DISEASES	61/832,687	Jun-07-2013					Expired
012558-0013-888	245277-888013	United States of America	QUINOLINES AND THEIR USE FOR TREATING ENDOPLASMIC RETICULUM STRESS-CAUSED DISEASES	61/943,840	Feb-24-2014					Pending



Application No.	Country	Filing Date	Title	Status	Patent No.	Issue Date	Expiration
2006315601	AU	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Abandoned			
2,629,775	CA	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Abandoned			
200680045846.0	CN	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Abandoned			
06827745.8	EP	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Pending			
09100868.0	HK	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Pending			
2008-540240	JP	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Abandoned			
60/737,058	US	11/14/2005	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Expired			
12/084,673	US	7/28/2009	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	Granted	8,404,653	3/26/2013	4/10/2029
PCT/US2006/043937	WO	11/13/2006	STEM CELL FACTOR THERAPY FOR TISSUE INJURY	National Stage			

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**TRADEMARKS:**

Mydicar™ Trademark Registration No. 3370955

**MATERIAL LICENSE AGREEMENTS:**

1. License Agreement by and between the Borrower and the Regents of the University of California, dated February 10, 2001, as amended.
2. Exclusive License Agreement by and between the Borrower and Martin J. Kaplitt, M.D., dated June 7, 2006.
3. Non-Exclusive License Agreement by and between the Borrower and AskBio, LLC, dated January 15, 2008.
4. License Agreement by and between the Borrower and AdVec Inc., dated February 24, 2009.
5. Exclusive Patent License Agreement by and between the Borrower and the Regents of the University of Minnesota, dated May 11, 2009.
6. Non-Exclusive License Agreement by and between the Borrower and Virovek Incorporation, dated November 4, 2010.
7. Amended and Restated License Agreement by and between the Borrower and AmpliPhi Biosciences Corporation, dated June 27, 2012.
8. Sublicense Agreement by and between the Borrower and AmpliPhi Biosciences Corporation, dated June 27, 2012.
9. Assignment and License Agreement by and between the Borrower and Enterprise Management Partners, LLC dated July 18, 2014.

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**EXHIBIT E**

**BORROWER'S DEPOSIT ACCOUNTS AND INVESTMENT ACCOUNTS**

**EXHIBIT F**

**COMPLIANCE CERTIFICATE**

Hercules Technology Growth Capital, Inc. (as “Agent”)  
400 Hamilton Avenue, Suite 310  
Palo Alto, CA 94301

Reference is made to that certain Loan and Security Agreement dated July 31, 2014, and all ancillary documents entered into in connection with such Loan and Security Agreement all as may be amended from time to time, (hereinafter referred to collectively as the “Loan Agreement”) by and among Hercules Technology Growth Capital, Inc. (the “Agent”), the several banks and other financial institutions or entities from time to time party thereto (collectively, the “Lender”) and Hercules Technology Growth Capital, Inc., as agent for the Lender (the “Agent”) and Celladon Corporation (the “Company”) as Borrower. All capitalized terms not defined herein shall have the same meaning as defined in the Loan Agreement.

The undersigned is an Officer of the Company, knowledgeable of all Company financial matters, and is authorized to provide certification of information regarding the Company. Except as set forth below, the undersigned hereby certifies that in accordance with the terms and conditions of the Loan Agreement, the Company is in compliance for the period ending \_\_\_\_\_ of all covenants, conditions and terms and hereby reaffirms that all representations and warranties contained therein are true and correct on and as of the date of this Compliance Certificate with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, after giving effect in all cases to any standard(s) of materiality contained in the Loan Agreement as to such representations and warranties.

List Exceptions to Compliance\* (if any):

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\*Listing an exception does not excuse, or constitute a waiver of, Borrower’s compliance obligations.

Attached are the required documents supporting the above certification. The undersigned further certifies that these are prepared in accordance with GAAP (except for the absence of footnotes with respect to unaudited financial statement and subject to normal year end adjustments) and are consistent from one period to the next except as explained below.

REPORTING REQUIREMENT	REQUIRED	CHECK IF ATTACHED
Interim Financial Statements	Monthly within 30 days	
Interim Financial Statements	Quarterly within 45 days	
Audited Financial Statements	FYE within 90 days	
Compliance Certificate	Monthly within 30 days	

Very Truly Yours,

Celladon Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT G**

**FORM OF JOINDER AGREEMENT**

This Joinder Agreement (the “Joinder Agreement”) is made and dated as of [            ], 20[    ], and is entered into by and between \_\_\_\_\_, a \_\_\_\_\_ corporation (“Subsidiary”), and HERCULES TECHNOLOGY GROWTH CAPITAL, INC., a Maryland corporation (as “Agent”).

**RECITALS**

A. Subsidiary’s Affiliate, Celladon Corporation, (“Company”) [has entered/desires to enter] into that certain Loan and Security Agreement dated July 31, 2014, as may be amended from time to time with the several banks and other financial institutions or entities from time to time party thereto as lender (collectively, the “Lender”) and the Agent, as such agreement may be amended (the “Loan Agreement”), together with the other agreements executed and delivered in connection therewith;

B. Subsidiary acknowledges and agrees that it will benefit both directly and indirectly from Company’s execution of the Loan Agreement and the other agreements executed and delivered in connection therewith;

**AGREEMENT**

NOW THEREFORE, Subsidiary and Agent agree as follows:

1. The recitals set forth above are incorporated into and made part of this Joinder Agreement. Capitalized terms not defined herein shall have the meaning provided in the Loan Agreement.
2. By signing this Joinder Agreement, Subsidiary shall be bound by the terms and conditions of the Loan Agreement the same as if it were the Borrower (as defined in the Loan Agreement) under the Loan Agreement, mutatis mutandis, provided however, that (a) with respect to (i) Section 5.1 of the Loan Agreement, Subsidiary represents that it is an entity duly organized, legally existing and in good standing under the laws of [    ], (b) neither Agent nor Lender shall have any duties, responsibilities or obligations to Subsidiary arising under or related to the Loan Agreement or the other agreements executed and delivered in connection therewith, (c) that if Subsidiary is covered by Company’s insurance, Subsidiary shall not be required to maintain separate insurance or comply with the provisions of Sections 6.1 and 6.2 of the Loan Agreement, and (d) that as long as Company satisfies the requirements of Section 7.1 of the Loan Agreement, Subsidiary shall not have to provide Agent separate Financial Statements. To the extent that Agent or Lender has any duties, responsibilities or obligations arising under or related to the Loan Agreement or the other agreements executed and delivered in connection therewith, those duties, responsibilities or obligations shall flow only to Company and not to Subsidiary or any other Person or entity. By way of example (and not an exclusive list): (i) Agent’s providing notice to Company in accordance with the Loan Agreement or as otherwise agreed among Company, Agent and Lender shall be deemed provided to Subsidiary; (ii) a Lender’s providing an Advance to Company shall be deemed an Advance to Subsidiary; and (iii) Subsidiary shall have no right to request an Advance or make any other demand on Lender.
3. Subsidiary agrees not to certificate its equity securities without Agent’s prior written consent, which consent may be conditioned on (a) the delivery of such equity securities to Agent, and

(b) Subsidiary's agreement to follow Agent's directions regarding such securities after the occurrence and during the continuation of any Event of Default.

4. Subsidiary acknowledges that it benefits, both directly and indirectly, from the Loan Agreement, and hereby waives, for itself and on behalf on any and all successors in interest (including without limitation any assignee for the benefit of creditors, receiver, bankruptcy trustee or itself as debtor-in-possession under any bankruptcy proceeding) to the fullest extent provided by law, any and all claims, rights or defenses to the enforcement of this Joinder Agreement on the basis that (a) it failed to receive adequate consideration for the execution and delivery of this Joinder Agreement or (b) its obligations under this Joinder Agreement are avoidable as a fraudulent conveyance.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SUBSIDIARY:

\_\_\_\_\_.

By:  
Name:  
Title:

Address:

Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

AGENT:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
400 Hamilton Ave., Suite 310  
Palo Alto, CA 94301  
Facsimile: 650-473-9194  
Telephone: 650-289-3060



**EXHIBIT H**

**ACH DEBIT AUTHORIZATION AGREEMENT**

Hercules Technology Growth Capital, Inc. and  
Hercules Technology III, L.P.  
400 Hamilton Avenue, Suite 310  
Palo Alto, CA 94301

Re: Loan and Security Agreement dated July 31, 2014 between Celladon Corporation (“Borrower”) and Hercules Technology Growth Capital, Inc., as agent and the lenders thereto (collectively, “Company”), as may be amended (the “Agreement”)

In connection with the above referenced Agreement, the Borrower hereby authorizes the Company to initiate debit entries for the periodic payments due under the Agreement to the Borrower’s account indicated below. The Borrower authorizes the depository institution named below to debit to such account.

Depository Name	Branch
City	State and Zip Code
Transit/ABA Number	Account Number

This authority will remain in full force and effect so long as any amounts are due under the Agreement.

Celladon Corporation  
(Borrower)

By: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT I**

**CONVERSION ELECTION NOTICE**

[INSERT DATE]

Hercules Technology Growth Capital, Inc.  
400 Hamilton Avenue, Suite 310  
Palo Alto, CA 94301

Reference is made to that certain Loan and Security Agreement dated July 30, 2014 and all ancillary documents entered into in connection with such Loan and Security Agreement all as may be amended from time to time, (hereinafter referred to collectively as the “Loan Agreement”) between Hercules Technology Growth Capital, Inc., as administrative and collateral agent for Lenders and Celladon Corporation (the “Company”) as Borrower. All capitalized terms not defined herein shall have the same meaning as defined in the Loan Agreement.

Borrower hereby irrevocably elects, subject to the terms of the Loan Agreement, to make the Principal Installment Payment in the amount of \$\_\_\_\_\_ due on [\_\_\_\_\_] (the “Delivery Date”) in shares of Common Stock in accordance with Section 2.1(e)(i) of the Loan Agreement.<sup>1</sup> The number of shares of Common Stock to be delivered to Lender, on or prior to the Delivery Date, is [\_\_\_\_\_] , which amount was determined in accordance with Section 2.1(e) of the Loan Agreement. The stock certificates shall be delivered electronically free and clear of any restrictive legends.

Borrower hereby represents, warrants and certifies to Lender that, as of the date hereof, all of the Conversion Conditions have been satisfied. Borrower acknowledges and agrees that its right to pay the Principal Installment Payment in Common Stock in accordance with this Borrower Conversion Election Notice is subject to the satisfaction of all of the Conversion Conditions on the Delivery Date and, to the extent any of the Conversion Conditions are not satisfied on the Delivery Date, Borrower shall pay the Principal Installment Payment in cash rather than in Common Stock.

Sincerely,

Celladon Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

<sup>1</sup> In accordance with Section 2.1(e)(i) of the Loan Agreement, the Delivery Date must be at least 10 days following the date of delivery of this Borrower Conversion Election Notice.

## **Celladon Corporation Secures \$25 Million Credit Facility From Hercules Growth Capital**

SAN DIEGO, Aug. 1, 2014 — Celladon Corporation (Nasdaq:CLDN), a clinical-stage biotechnology company applying its leadership position in the field of gene therapy and calcium dysregulation, today announced that it has entered into a credit facility with Hercules Technology Growth Capital, Inc. (NYSE:HTGC) and its affiliate lenders. The credit facility provides for up to \$25 million of loans.

Celladon drew a first tranche of \$10 million at the closing of the new credit facility. A second tranche of up to \$15 million can be drawn, at Celladon's option, prior to May 31, 2015. This option may be exercised if data from the ongoing Phase 2b trial of MYDICAR supports the continued development of MYDICAR for its Breakthrough Therapy indication to either a Phase III study or registration for approval, as reasonably determined by Celladon's senior management and board of directors. MYDICAR has received Breakthrough Therapy designation from the FDA for reducing hospitalization for heart failure in Nab-negative NYHA class III or class IV heart failure patients who are not in immediate need of a left ventricular assist device or heart transplant. Celladon expects to report results from the Phase 2b trial in April 2015.

Celladon plans to use the proceeds from the credit facility to provide additional funding for the development of MYDICAR, for other development programs in its pipeline, and for general corporate purposes. Further information with respect to the loan arrangement with Hercules will be contained in a Current Report on Form 8-K to be filed by August 6, 2014 by Celladon with the Securities and Exchange Commission.

"This credit facility with Hercules will provide additional funding in support of our rapidly advancing pipeline," commented Paul Cleveland, President and Chief Financial Officer of Celladon. "It demonstrates our conviction that MYDICAR could represent a breakthrough in the treatment of advanced heart failure, and it also represents a vote of confidence in our company by Hercules."

### **About Celladon**

Celladon is a clinical-stage biotechnology company applying its leadership position in the field of gene therapy and calcium dysregulation to develop novel therapies for diseases with tremendous unmet medical needs. MYDICAR, the Company's most advanced product candidate, uses gene therapy to target SERCA2a, which is an enzyme that becomes deficient in patients with heart failure. Celladon recently completed enrollment of a 250 patient Phase 2b trial evaluating the efficacy of MYDICAR in reducing the frequency of, or delaying heart failure-related hospitalizations. This randomized, double-blind, placebo-controlled, multinational trial is evaluating a single intracoronary infusion of MYDICAR versus placebo added to a maximal, optimized heart failure regimen in patients with New York Heart Association class III or IV symptoms of chronic heart failure due to systolic dysfunction. The Company has received Breakthrough Therapy designation from the FDA for this MYDICAR program and expects to report results from the Phase 2b trial in April 2015. In addition, Celladon has identified a number of potential first-in-class compounds addressing novel targets in diabetes and neurodegenerative diseases with its small molecule platform of SERCA2b modulators. For more information, please visit [www.celladon.com](http://www.celladon.com).

### **About Hercules Technology Growth Capital, Inc.**

Hercules Technology Growth Capital, Inc. (NYSE:HTGC) is the leading specialty finance company focused on providing senior secured loans to venture capital-backed companies in technology-related markets, including technology, biotechnology, life science, and energy & renewable technology industries, at all stages of development. Since inception (December 2003), Hercules has committed more than \$4.2 billion to over 270 companies and is a lender of choice for entrepreneurs and venture capital firms seeking growth capital financing.

The Company's common stock trades on the New York Stock Exchange under the ticker symbol "HTGC."

In addition, Hercules has three outstanding bond issuances of 7.00% Senior Notes due April 2019, 7.00% Senior Notes due September 2019, and 6.25% Senior Notes due July 2024, which trade on the NYSE under the symbols “HTGZ”, “HTGY,” and “HTGX,” respectively.

Companies interested in learning more about financing opportunities should contact [info@htgc.com](mailto:info@htgc.com), or call 650.289.3060.

### **Forward-Looking Statements**

Statements contained in this press release regarding matters that are not historical facts are “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements include, but are not limited to, statements related to future events under the credit facility with Hercules, including Celladon’s ability to access the second tranche of funds under the facility, references to the expected timing of results of the Phase 2b data, plans for the use of the funds under the credit facility and references to the future of MYDICAR and Celladon’s other pipeline products. Because such statements are subject to risks and uncertainties, actual results may differ materially from those expressed or implied by such forward-looking statements. These forward-looking statements are based upon Celladon’s current expectations and involve assumptions that may never materialize or may prove to be incorrect. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of various risks and uncertainties, which include, without limitation, risks and uncertainties associated with the process of conducting product development activities and clinical trials and obtaining regulatory approval to commercialize product candidates, our reliance on third parties, the need to raise additional funding when needed in order to conduct our business, and the degree of market acceptance of MYDICAR by physicians, patients, third-party payors and others in the medical community. These and other risks and uncertainties are described more fully in Celladon’s filings with the Securities and Exchange Commission, including without limitation its Form 10-Q for the quarter ended March 31, 2014. All forward-looking statements contained in this press release speak only as of the date on which they were made. Celladon undertakes no obligation to update such statements to reflect events that occur or circumstances that exist after the date on which they were made.

CONTACT: For further information, please contact:

Fredrik Wiklund

Vice President, Corporate Development and Investor Relations

+1-858-432-7215

[fwiklund@celladon.com](mailto:fwiklund@celladon.com)