

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

**FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2015

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 001-34375

**CYTORI THERAPEUTICS, INC.**

(Exact name of Registrant as Specified in Its Charter)

**DELAWARE**

(State or other jurisdiction of incorporation or organization)

**33-0827593**

(I.R.S. Employer Identification No.)

**3020 CALLAN ROAD, SAN DIEGO, CALIFORNIA**

(Address of principal executive offices)

**92121**

(Zip Code)

Registrant's telephone number, including area code: **(858) 458-0900**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

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

Large Accelerated Filer

Accelerated Filer

Non-Accelerated Filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

As of July 31, 2015, there were 150,958,152 shares of the registrant's common stock outstanding.

CYTORI THERAPEUTICS, INC.

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**PART I. FINANCIAL INFORMATION****Item 1. Financial Statements**

**CYTORI THERAPEUTICS, INC.**  
**CONSOLIDATED CONDENSED BALANCE SHEETS**  
**(UNAUDITED)**

	<u>As of June 30, 2015</u>	<u>As of December 31, 2014</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 23,842,000	\$ 14,622,000
Accounts receivable, net of reserves of \$900,000 and of \$1,523,000 in 2015 and 2014, respectively	750,000	1,243,000
Inventories, net	4,079,000	4,829,000
Other current assets	986,000	992,000
<b>Total current assets</b>	<b>29,657,000</b>	<b>21,686,000</b>
Property and equipment, net	1,860,000	1,583,000
Restricted cash and cash equivalents	350,000	350,000
Other assets	1,480,000	1,763,000
Intangibles, net	9,255,000	9,415,000
Goodwill	3,922,000	3,922,000
<b>Total assets</b>	<b>\$ 46,524,000</b>	<b>\$ 38,719,000</b>
<b>Liabilities and Stockholders' Equity (Deficit)</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 7,003,000	\$ 5,546,000
Current portion of long-term obligations, net of discount	26,000	7,363,000
Joint venture purchase obligation	2,192,000	3,008,000
<b>Total current liabilities</b>	<b>9,221,000</b>	<b>15,917,000</b>
Deferred revenues	253,000	112,000
Warrant liabilities, long-term	18,187,000	9,793,000
Long-term deferred rent and other	419,000	558,000
Long-term obligations, net of discount, less current portion	16,184,000	18,041,000
<b>Total liabilities</b>	<b>44,264,000</b>	<b>44,421,000</b>
Commitments and contingencies		
Stockholders' equity (deficit):		
Series A 3.6% convertible preferred stock, \$0.001 par value; 5,000,000 shares authorized; 13,500 shares issued; 0 and 5,311 outstanding in 2015 and 2014, respectively	—	—
Common stock, \$0.001 par value; 290,000,000 shares authorized; 150,958,152 and 99,348,377 shares issued and outstanding in 2015 and 2014, respectively	151,000	99,000
Additional paid-in capital	356,940,000	331,772,000
Accumulated other comprehensive income	951,000	700,000
Accumulated deficit	(355,782,000)	(338,273,000)
<b>Total stockholders' equity (deficit)</b>	<b>2,260,000</b>	<b>(5,702,000)</b>
<b>Total liabilities and stockholders' equity (deficit)</b>	<b>\$ 46,524,000</b>	<b>\$ 38,719,000</b>

SEE NOTES TO UNAUDITED CONSOLIDATED CONDENSED FINANCIAL STATEMENTS

**CYTORI THERAPEUTICS, INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)**  
**(UNAUDITED)**

	<b>For the Three Months</b>		<b>For the Six Months</b>	
	<b>Ended June 30,</b>		<b>Ended June 30,</b>	
	<b>2015</b>	<b>2014</b>	<b>2015</b>	<b>2014</b>
Product revenues	\$ 1,614,000	\$ 935,000	\$ 2,516,000	\$ 1,965,000
Cost of product revenues	1,296,000	766,000	1,894,000	1,187,000
Gross profit	318,000	169,000	622,000	778,000
Development revenues:				
Government contracts and other	1,847,000	356,000	3,291,000	759,000
	1,847,000	356,000	3,291,000	759,000
Operating expenses:				
Research and development	6,048,000	4,674,000	10,012,000	8,966,000
Sales and marketing	654,000	1,934,000	1,493,000	3,861,000
General and administrative	2,793,000	4,602,000	5,292,000	8,942,000
Change in fair value of warrant liabilities	(13,122,000)	—	2,322,000	—
Total operating expenses	(3,627,000)	11,210,000	19,119,000	21,769,000
Operating income (loss)	5,792,000	(10,685,000)	(15,206,000)	(20,232,000)
Other income (expense):				
Income (loss) on asset disposal	(1,000)	(1,000)	8,000	(1,000)
Loss on debt extinguishment	(260,000)	—	(260,000)	—
Interest income	3,000	1,000	3,000	3,000
Interest expense	(936,000)	(1,085,000)	(2,007,000)	(2,026,000)
Other income (expense), net	(148,000)	(58,000)	(47,000)	28,000
Total other expense	(1,342,000)	(1,143,000)	(2,303,000)	(1,996,000)
Net income (loss)	\$ 4,450,000	\$ (11,828,000)	\$ (17,509,000)	\$ (22,228,000)
Beneficial conversion feature for convertible preferred stock	—	—	(661,000)	—
Net income (loss) allocable to common stockholders	\$ 4,450,000	\$ (11,828,000)	\$ (18,170,000)	\$ (22,228,000)
Net income (loss) per share allocable to common stockholders				
Basic	\$ 0.03	\$ (0.15)	\$ (0.15)	\$ (0.29)
Diluted	\$ 0.03	\$ (0.15)	\$ (0.15)	\$ (0.29)
Weighted average shares used in calculating net income (loss) per share allocable to common stockholders				
Basic	138,992,108	76,682,643	122,691,044	75,399,647
Diluted	147,368,073	76,682,643	122,691,044	75,399,647
Comprehensive income (loss):				
Net income (loss)	\$ 4,450,000	\$ (11,828,000)	\$ (17,509,000)	\$ (22,228,000)
Other comprehensive income (loss) – foreign currency translation adjustments	215,000	193,000	251,000	143,000
Comprehensive income (loss)	\$ 4,665,000	\$ (11,635,000)	\$ (17,258,000)	\$ (22,085,000)

SEE NOTES TO UNAUDITED CONSOLIDATED CONDENSED FINANCIAL STATEMENTS

**CYTORI THERAPEUTICS, INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS**  
**(UNAUDITED)**

	<b>For the Six Months Ended June 30,</b>	
	<b>2015</b>	<b>2014</b>
<b>Cash flows from operating activities:</b>		
Net loss	\$ (17,509,000)	\$ (22,228,000)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	510,000	344,000
Amortization of deferred financing costs and debt discount	500,000	562,000
Joint Venture acquisition obligation accretion	307,000	145,000
Provision for doubtful accounts	—	836,000
Provision for expired enzyme	—	209,000
Change in fair value of warrants	2,322,000	—
Stock-based compensation expense	1,146,000	1,448,000
Loss on debt extinguishment	260,000	—
Increases (decreases) in cash caused by changes in operating assets and liabilities:		
Accounts receivable	544,000	1,386,000
Inventories	730,000	(526,000)
Other current assets	(106,000)	(59,000)
Other assets	407,000	(281,000)
Accounts payable and accrued expenses	1,089,000	124,000
Deferred revenues	151,000	—
Long-term deferred rent	(139,000)	(97,000)
Net cash used in operating activities	<u>(9,788,000)</u>	<u>(18,137,000)</u>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(497,000)	(467,000)
Expenditures for intellectual property	(13,000)	(255,000)
License agreement termination fee	—	(400,000)
Net cash used in investing activities	<u>(510,000)</u>	<u>(1,122,000)</u>
<b>Cash flows from financing activities:</b>		
Principal payments on long-term obligations	(25,032,000)	—
Proceeds from long-term obligations	17,700,000	—
Debt issuance costs and loan fees	(1,854,000)	—
Joint Venture purchase payments	(1,123,000)	(2,189,000)
Proceeds from exercise of employee stock options and warrants	4,986,000	33,000
Proceeds from sale of common stock, net	24,930,000	18,665,000
Dividends paid on preferred stock	(75,000)	—
Net cash provided by financing activities	<u>19,532,000</u>	<u>16,509,000</u>
Effect of exchange rate changes on cash and cash equivalents	(14,000)	4,000
Net increase (decrease) in cash and cash equivalents	9,220,000	(2,746,000)
Cash and cash equivalents at beginning of period	<u>14,622,000</u>	<u>15,506,000</u>
Cash and cash equivalents at end of period	<u>\$ 23,842,000</u>	<u>\$ 12,760,000</u>
<b>Supplemental disclosure of cash flows information:</b>		
Cash paid during period for:		
Interest	\$ 1,202,000	\$ 1,318,000
<b>Supplemental schedule of non-cash investing and financing activities:</b>		
Conversion of preferred stock into common stock	10,000	—
Declared dividend related to preferred stock	3,000	—

SEE NOTES TO UNAUDITED CONSOLIDATED CONDENSED FINANCIAL STATEMENTS

**CYTORI THERAPEUTICS, INC.**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS**  
**June 30, 2015**  
**(UNAUDITED)**

**1. Basis of Presentation**

Our accompanying unaudited consolidated condensed financial statements as of June 30, 2015 and for the three and six months ended June 30, 2015 and 2014 have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for annual financial statements. Our consolidated condensed balance sheet at June 30, 2015 has been derived from the audited financial statements at December 31, 2014, but does not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the financial position and results of operations of Cytori Therapeutics, Inc., and our subsidiaries (the Company) have been included. Operating results for the three and six months ended June 30, 2015 are not necessarily indicative of the results that may be expected for the year ending December 31, 2015. These financial statements should be read in conjunction with the consolidated financial statements and notes therein included in our annual report on Form 10-K for the year ended December 31, 2014.

**2. Use of Estimates**

The preparation of Consolidated Condensed Financial Statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions affecting the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Our most significant estimates and critical accounting policies involve recognizing revenue, valuing warrants, determining the assumptions used in measuring share-based compensation expense, measuring accretion expense related to our acquisition of the joint venture, and valuing allowances for doubtful accounts and inventories.

Actual results could differ from these estimates. Management's estimates and assumptions are reviewed regularly, and the effects of revisions are reflected in the Consolidated Condensed Financial Statements in the periods they are determined to be necessary.

**3. Capital Availability**

We have net income of \$4.5 million and net loss of \$17.5 million for the three and six months ended June 30, 2015, respectively and incurred net losses of \$11.8 million and \$22.2 million for the three and six months ended June 30, 2014, respectively. We have an accumulated deficit of \$356 million as of June 30, 2015. Additionally, we have used net cash of \$9.8 million and \$18.1 million to fund our operating activities for the six months ended June 30, 2015 and 2014, respectively. To date, these operating losses have been funded primarily from outside sources of invested capital and gross profits. On May 5, 2015, we entered into a Securities Purchase Agreement with certain institutional investors pursuant to which the Company agreed to sell up to \$25 million of units, with each unit consisting of its common stock and one warrant to purchase one share of its common stock.

Pursuant to the recently announced securities transaction and related equity issuance, as well as anticipated gross profits and potential outside sources of capital, the Company believes it has sufficient cash to fund operations through at least the next 12 months. The Company continues to seek additional capital through product revenues, strategic transactions, including extension opportunities under the awarded U.S. Department of Health and Human Service's Biomedical Advanced Research and Development Authority ("BARDA") contract, and from other financing alternatives.

See Note 12 for further discussion on our May 2015 Securities Purchase Agreement.

**4. Transactions with Olympus Corporation**

On April 30, 2015, the Company entered into Amendment One to Joint Venture Termination Agreement (the "Amendment") with Olympus Corporation ("Olympus") to that certain Joint Venture Termination Agreement, dated May 8, 2013, by and between the Company and Olympus (the "Agreement") in order to extend our payment obligations under the Agreement.

Under the original Agreement, we were required to pay Olympus a total purchase price of \$6 million within two years of the date of the Agreement. The Amendment amends the payment terms of the Agreement to extend the period for payment of the remaining balance of the \$6 million, or \$3.2 million, with the balance of the purchase price bearing an interest rate of 6% per annum. Pursuant to the Amendment, we paid \$1 million on May 8, 2015 and are required to pay \$0.5 million of principal on or prior to September 30, 2015, \$0.5 million of principal on or prior to December 31, 2015, \$0.5 million of principal on or prior to March 31, 2016, and the remaining \$0.7 million of principal and accrued interest on or prior to May 8, 2016. We may prepay the remaining principal and accrued interest at any time without penalty.

In accordance with the terms of the Agreement, if we fail to pay the full balance of any installment payment, we will be required to pay Olympus the extended purchase price of a total of \$16 million on or prior to March 1, 2020, with any principal payments previously paid applied towards the extended purchase price.

## 5. Long-term Debt

On May 29, 2015 we entered into the Loan and Security Agreement with Oxford Finance LLC (“Oxford” or “Lender”), pursuant to which the Lender funded an aggregate principal amount of \$17.7 million (“Term Loan”), subject to the terms and conditions set forth in the loan agreement. The Term Loan accrues interest at a floating rate of 8.95% per annum, comprised of three-month LIBOR rate with a floor of 1.00% plus 7.95%. Pursuant to the Loan Agreement, we are required to make interest only payments through June 1, 2016 and thereafter we are required to make payments of principal and accrued interest in equal monthly installments sufficient to amortize the Term loan through June 1, 2019, the maturity date. If we receive positive data on our US ACT-OA clinical trial or close a licensing, partnership or similar transaction on terms acceptable to the Lender by May 31, 2016, the interest only payments will be extended to December 1, 2016. All unpaid principal and interest with respect to the Term Loan is due and payable in full on June 1, 2019. At maturity of the Term Loan, or earlier repayment in full following voluntary prepayment or upon acceleration, the Company is required to make a final payment fee in an aggregate amount equal to approximately \$1.1 million. In connection with the Term Loan, on May 29, 2015, we issued to the Lender warrants to purchase an aggregate of 1,416,618 shares of our common stock at an exercise price of \$0.69 per share. These warrants are exercisable on or after November 30, 2015 and will expire on May 29, 2025, and following the authoritative accounting guidance, are equity classified.

In connection with the Loan Agreement, we prepaid all outstanding amounts under our prior loan agreement, at which time the Company’s obligations under the prior loan agreement immediately terminated. The Company paid to the prior agent and the prior lenders (Oxford Finance LLC and Silicon Valley Bank) approximately \$25.4 million, consisting of the then outstanding principal balance due of approximately \$23.4 million, accrued but unpaid interest of approximately \$0.2 million, final payment and other agency fees of approximately \$1.8 million and other customary lender fees and expenses.

For Oxford, we accounted for this Term Loan as a debt modification. The Company retired \$3.1 million of the principal of the previous loan and the corresponding unamortized fees were expensed. The remaining fees of \$0.8 million, were recorded as debt discount, and along with the new loan fees, will be amortized as an adjustment of interest expense using the effective interest method. For Silicon Valley Bank, which did not participate in the Term Loan, the payoff of the loan was accounted for as debt extinguishment. Accordingly, a total loss on debt extinguishment of \$0.3 million was recorded, which includes the unamortized fees and discounts along with final payment fees.

We allocated the aggregate proceeds of the Term Loan between the warrants and the debt obligations based on their relative fair values. The fair value of the warrants issued to the Lender was calculated utilizing the Black-Scholes option pricing model. The Black-Scholes option-pricing model incorporates various and highly sensitive assumptions including expected volatility, expected term and risk-free interest rates. The expected volatility is based on the historical volatility of the Company’s common stock over the most recent period. The risk-free interest rate for period within the contractual life of the warrant is based on the U.S. Treasury yield in effect at the time of grant. We will amortize the relative fair value of the warrants as a discount of \$0.8 million over the term of the loan using the effective interest method, with an effective interest rate of 14.95%. The Term Loan is collateralized by a security interest in substantially all of the Company’s existing and after-acquired assets, subject to certain exceptions set forth in the Loan Agreement and excluding its intellectual property assets, which are subject to a negative pledge.

## 6. Revenue Recognition

### *Concentration of Significant Customers*

Two distributors and three direct customers comprised 68% of our revenue recognized for the six months ended June 30, 2015. Two direct customers accounted for 73% of total outstanding accounts receivable as of June 30, 2015.

Five distributors comprised 71% of our revenue recognized for the six months ended June 30, 2014. Three distributors accounted for 78% of total outstanding accounts receivable as of June 30, 2014.

Product revenues, classified by geographic location, are as follows:

	Three months ended				Six months ended			
	June 30, 2015		June 30, 2014		June 30, 2015		June 30, 2014	
	Product Revenues	% of Total	Product Revenues	% of Total	Product Revenues	% of Total	Product Revenues	% of Total
Americas	\$ 272,000	17%	\$ 227,000	24%	\$ 477,000	19%	\$ 264,000	14%
Japan	352,000	22%	618,000	66%	957,000	38%	1,263,000	64%
Europe	328,000	20%	90,000	10%	416,000	17%	438,000	22%
Asia Pacific	662,000	41%	—	—	666,000	26%	—	—
Total product revenues	<u>\$ 1,614,000</u>	<u>100%</u>	<u>\$ 935,000</u>	<u>100%</u>	<u>\$ 2,516,000</u>	<u>100%</u>	<u>\$ 1,965,000</u>	<u>100%</u>

*Research and Development*

We earn revenue for performing tasks under research and development agreements with governmental agencies like the BARDA. Revenues derived from reimbursement of direct out-of-pocket expenses for research costs associated with government contracts are recorded as government contract and other within development revenues. Government contract revenue is recorded at the gross amount of the reimbursement. The costs associated with these reimbursements are reflected as a component of research and development expense in our statements of operations. We recognized \$1.8 million and \$3.3 million in BARDA revenue for the three and six months ended June 30, 2015, respectively as compared to \$0.4 million and \$0.8 million for the three and six months ended June 30, 2014, respectively.

**7. Inventories**

Inventories are carried at the lower of cost or market, determined on the first-in, first-out (FIFO) method.

Inventories consisted of the following:

	June 30, 2015	December 31, 2014
Raw materials	\$ 1,556,000	\$ 1,715,000
Work in process	829,000	1,301,000
Finished goods	1,694,000	1,813,000
	<u>\$ 4,079,000</u>	<u>\$ 4,829,000</u>

**8. Income (Loss) per Share**

Basic per share data is computed by dividing net income or loss applicable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted per share data is computed by dividing net income or loss applicable to common stockholders by the weighted average number of common shares outstanding during the period increased to include, if dilutive, the number of additional common shares that would have been outstanding as calculated using the treasury stock method. Potential common shares were related entirely to outstanding but unexercised options and warrants for all periods presented.

We have included 8.4 million dilutive securities for the purposes of calculating earnings per share for the three months ended June 30, 2015. We have excluded all potentially dilutive securities, including unvested performance-based restricted stock, from the calculation of diluted loss per share attributable to common stockholders for the six month period ended June 30, 2015 and three and six month periods ended June 30, 2014, as their inclusion would be antidilutive. Potentially dilutive common shares excluded from the calculations of diluted loss per share were 55.1 million for the six month periods ended June 30, 2015 and 22.5 million for the three and six month periods ended June 30, 2014, respectively.

## 9. Commitments and Contingencies

We have entered into agreements with various research organizations for pre-clinical and clinical development studies, which have provisions for cancellation. Under the terms of these agreements, the vendors provide a variety of services including conducting research, recruiting and enrolling patients, monitoring studies and data analysis. Payments under these agreements typically include fees for services and reimbursement of expenses. The timing of payments due under these agreements is estimated based on current study progress. As of June 30, 2015, we have clinical research study obligations of \$9.2 million (\$5.2 million of which are expected to be complete within a year). Should the timing of the clinical trials change, the timing of the payment of these obligations would also change.

We have entered into several lease agreements for our headquarters office location as well as international office locations. As of June 30, 2015, we have remaining lease obligations of \$ 5.2 million (\$ 2.2 million of which are expected to be completed within a year).

We have amended a supply agreement that contains a minimum purchase requirement. Pursuant to the amendment, as of June 30, 2015, we have a minimum purchase obligation of \$1 million, all of which is expected to be completed within a year.

We are subject to various claims and contingencies related to legal proceedings. Due to their nature, such legal proceedings involve inherent uncertainties including, but not limited to, court rulings, negotiations between affected parties and governmental actions. Management assesses the probability of loss for such contingencies and accrues a liability and/or discloses the relevant circumstances, as appropriate. Management believes that any liability to us that may arise as a result of currently pending legal proceedings will not have a material adverse effect on our financial condition, liquidity, or results of operations as a whole.

See Note 4 for a discussion of our commitments and contingencies related to our transactions with Olympus.

## 10. Fair Value Measurements

Fair value measurements are market-based measurements, not entity-specific measurements. Therefore, fair value measurements are determined based on the assumptions that market participants would use in pricing the asset or liability. We follow a three-level hierarchy to prioritize the inputs used in the valuation techniques to derive fair values. The basis for fair value measurements for each level within the hierarchy is described below:

Level 1: Quoted prices in active markets for identical assets or liabilities.

Level 2: Quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations in which all significant inputs are observable in active markets.

Level 3: Valuations derived from valuation techniques in which one or more significant inputs are unobservable in active markets.

The following table provides a summary of the recognized assets and liabilities that we measure at fair value on a recurring basis:

	Balance as of June 30, 2015	Basis of Fair Value Measurements		
		Level 1	Level 2	Level 3
<b>Assets:</b>				
Cash equivalents	\$ 5,644,000	\$ 5,644,000	\$ —	\$ —
<b>Liabilities:</b>				
Warrant liability	\$ 18,187,000	\$ —	\$ —	\$ 18,187,000
	Balance as of December 31, 2014	Basis of Fair Value Measurements		
		Level 1	Level 2	Level 3
<b>Assets:</b>				
Cash equivalents	\$ 8,144,000	\$ 8,144,000	\$ —	\$ —
<b>Liabilities:</b>				
Warrant liability	\$ 9,793,000	\$ —	\$ —	\$ 9,793,000

We use quoted market prices to determine the fair value of our cash equivalents, which consist of money market funds that are classified in Level 1 of the fair value hierarchy.

Warrants with exercise price reset features (down-round protection) are accounted for as liabilities, with changes in the fair value included in net income (loss) for the respective periods. Because some of the inputs to our valuation model are either not observable or are not derived principally from or corroborated by observable market data by correlation or other means, the warrant liability is classified as Level 3 in the fair value hierarchy.

Our stock price can be volatile and there could be material fluctuations in the value of warrants in future periods.

**warrant Liability**

In connection with the October 2014 Securities Purchase Agreement the Company issued common stock purchase warrants to certain institutional investors. Each warrant has an exercise price of \$0.5771 per share, is exercisable six months after the date of issuance and expires five years from the date on which it is initially exercisable. The initial fair value of the liability associated with these warrants was \$10.0 million. The fair value of the October warrants was \$7.5 million as of June 30, 2015 and \$9.8 million as of December 31, 2014.

In May 2015, the Company entered into a Securities Purchase Agreement with certain institutional investors pursuant to which the Company agreed to sell up to \$25 million of units, with each unit consisting of one share of its common stock and one warrant to purchase one share of its common stock, in a registered direct offering. The Securities Purchase Agreement contemplates two closings, the first of which occurred on May 8, 2015, the second of which will occur upon satisfaction of certain conditions precedent, including, but not limited to, receipt of required stockholder approval. Each warrant issued at the initial closing has an initial exercise price of \$1.02 per share, will be exercisable six months and one day after the date of issuance and expires five years from the date it becomes exercisable. The initial fair value of the liability associated with these warrants was \$14.3 million, and the fair value decreased to \$10.7 million as of June 30, 2015.

All future changes in the fair value of the warrants will be recognized in our consolidated statements of operations until they are either exercised or expire in 2020. The warrants are not traded in an active securities market, and as such the estimated fair value as of June 30, 2015 and December 31, 2014 was determined by using an option pricing model (Monte Carlo) with the following assumptions:

	<u>As of</u> <u>June 30, 2015</u>	<u>As of</u> <u>December 31, 2014</u>
<b><i>October 2014 Warrants</i></b>		
Expected term	4.8 years	5.3 years
Common stock market price	\$ 0.56	\$ 0.49
Risk-free interest rate	1.63%	1.65%
Expected volatility	90-120%	90.00%
Resulting fair value (per warrant)	\$ 0.43	\$ 0.38
	<u>As of</u> <u>June 30, 2015</u>	<u>As of</u> <u>December 31, 2014</u>
<b><i>May 2015 Warrants</i></b>		
Expected term	5.4 years	—
Common stock market price	\$ 0.56	—
Risk-free interest rate	1.63%	—
Expected volatility	90-120%	—
Resulting fair value (per warrant)	\$ 0.42	—

Expected volatility is based on both historical and implied volatility. Historical volatility was computed using daily pricing observations for recent periods that correspond to the expected term of the warrants while implied volatility was computed using publicly traded options of Cytori as well as Cytori's peer companies. We believe this method produces an estimate that is representative of our expectations of future volatility over the expected term of these warrants. We currently have no reason to believe future volatility over the expected remaining life of these warrants is likely to differ materially from historical volatility. The expected life is based on the remaining contractual term of the warrants. The risk-free interest rate is the U.S. Treasury bond rate as of the valuation date. The fair value of these warrants also incorporates our assumptions about future equity issuances and their impact to the down-round protection feature.

Fluctuations in the fair value of the warrants are impacted by unobservable inputs, most significantly the assumption with regards to future equity issuances and its impact to the down-round protection feature. Significant increases (decreases) in this input in isolation would result in a significantly higher (lower) fair value measurement.

The following table summarizes the change in our Level 3 warrant liability value:

<b>warrant liability</b>	<b>Six months ended June 30, 2015</b>
Beginning balance	\$ 9,793,000
Issuance of warrants	14,329,000
Exercised warrants	(8,257,000)
Change in fair value	2,322,000
Ending balance	\$ 18,187,000

The main drivers for the change in the fair value of warrants at June 30, 2015, were issuance of new warrants, exercise of issued warrants and changes in our stock price, as compared to the stock price at December 31, 2014.

## 11. Fair Value

### Financial Instruments

We disclose fair value information about all financial instruments, whether or not recognized in the balance sheet, for which it is practicable to estimate fair value. The disclosures of estimated fair value of financial instruments at June 30, 2015 and December 31, 2014, were determined using available market information and appropriate valuation methods. Considerable judgment is necessary to interpret market data and develop estimated fair value. The use of different market assumptions or estimation methods may have a material effect on the estimated fair value amounts.

The carrying amounts for cash and cash equivalents, accounts receivable, inventories, other current assets, accounts payable, accrued expenses and other liabilities approximate fair value due to the short-term nature of these instruments.

We utilize quoted market prices to estimate the fair value of our fixed rate debt, when available. If quoted market prices are not available, we calculate the fair value of our fixed rate debt based on a currently available market rate assuming the loans are outstanding through maturity and considering the collateral. In determining the current market rate for fixed rate debt, a market spread is added to the quoted yields on federal government treasury securities with similar terms to the debt.

At June 30, 2015 and December 31, 2014, the aggregate fair value and the carrying value of the Company's long-term debt were as follows:

	June 30, 2015		December 31, 2014	
	Fair Value	Carrying Value	Fair Value	Carrying Value
Long-term debt	\$ 16,219,000	\$ 16,184,000	\$ 25,206,000	\$ 25,373,000

Carrying value is net of debt discount of \$2.7 million and \$1.5 million as of June 30, 2014 and December 31, 2014, respectively.

The fair value of debt is classified as Level 3 in the fair value hierarchy as some of the inputs to our valuation model are either not observable quoted prices or are not derived principally from or corroborated by observable market data by correlation or other means.

## 12. Stockholders' Equity

### Preferred Stock

We have authorized 5 million shares of \$0.001 par value preferred stock. Our Board of Directors is authorized to designate the terms and conditions of any preferred stock we issue without further action by the common stockholders. There were 13,500 shares of Series A 3.6% Convertible Preferred Stock issued at June 30, 2015 and December 31, 2014 and 0 and 5,311 shares outstanding as of June 30, 2015 and December 31, 2014, respectively.

In October 2014, we entered into a Securities Purchase Agreement with certain institutional investors pursuant to which the Company sold a total of 13,500 units for a purchase price of \$1,000 per unit, with each unit consisting of one share of the Company's Series A 3.6% Convertible Preferred Stock, which are convertible into shares of the Company's common stock with a conversion price of \$0.52, and warrants to purchase up to a number of shares of common stock equal to 100% of the conversion shares under the shares of preferred stock, in a registered direct offering. The preferred stock and the warrants were immediately separable and were issued separately. As of June 30, 2015, all remaining outstanding Series A 3.6% Convertible Preferred Stock were converted into shares of common stock.

We recorded a dividend of \$1.2 million for the year ended December 31, 2014, related to a beneficial conversion feature included in the issuance of our Series A 3.6% Convertible Preferred Stock. The fair value of the common stock into which the Series A 3.6% Convertible Preferred Stock was convertible on the date of issuance exceeded the proceeds allocated to the preferred stock, resulting in the beneficial conversion feature that we recognized as a dividend to the preferred shareholders and, accordingly, an adjustment to net loss to arrive at net loss allocable to common shareholders. Certain shares of Series A 3.6% Convertible Preferred Stock were not convertible until shareholder approval, which occurred in January 2015. As a result, additional dividends for the beneficial conversion feature of \$0.7 million were recorded during the quarter ended March 31, 2015.



In connection with the 3.6% Convertible Preferred Stock outstanding at December 31, 2014, we declared a cash dividend of \$0.07 million. The cash dividend was paid in January 2015.

### **Common Stock**

In May 2014, the Company entered into a sales agreement with Cowen and Company, LLC, relating to shares of our common stock, \$0.001 par value per share. Pursuant to this agreement, through April 30, 2015, Cowen sold a total of 5.8 million shares of our common stock, raising approximately \$7.2 million in net proceeds (after deductions for sales agent commissions and discounts and other offering costs), through an “at the market offering.”

In September 2014, the Company and 13 holders of warrants dated June 4, 2014 to purchase a total of 4 million shares of the Company’s common stock agreed to amend the warrants in order to reduce the exercise price from \$3.00 per share to \$1.00 per share and change the expiration date from June 4, 2019 to September 10, 2014. The Company received proceeds of approximately \$4 million from the exercise of the warrants. In addition, pursuant to the terms of the amendment, upon each holder’s exercise of all shares for cash prior to the amended expiration date, the Company issued additional warrants for the same number of common shares to the holders. The additional warrants have an exercise price of \$2.00 per share, and are exercisable on the date that is six months and one day from the date of issuance and expire five years from the date of issuance. For those investors participating in the October 2014 issuance of Series A 3.6% Convertible Preferred Stock, we agreed to reduce the exercise price of 3.4 million warrants from \$2.00 per share to \$0.5771 per share, conditioned upon shareholder approval which was obtained in January 2015. As of June 30, 2015, all 3.4 million warrants had been exercised, some via cash and others on a cashless basis resulting in the issuance of an aggregate of 1.8 million shares of Common Stock, and receipt by the Company of \$0.1 million in net proceeds.

In October 2014 the Company entered into a Securities Purchase Agreement with certain institutional investors pursuant to which it issued common stock purchase warrants to the institutional investors. Each warrant has an exercise price of \$0.5771 per share, is exercisable six months after the date of issuance and expires five years from the date on which it is initially exercisable. As of June 30, 2015, 8.5 million of the October 2014 warrants have been exercised for cash at \$0.5771 per share for net proceeds of \$4.9 million and 17.5 million October 2014 warrants remain outstanding.

In May 2015, the Company entered into a Securities Purchase Agreement with certain institutional investors pursuant to which the Company agreed to sell up to \$25 million of units, with each unit consisting of one share of its common stock and one warrant to purchase one share of its common stock, in a registered direct offering. The purchase and sale of the units is expected to take place in two separate closings. At the initial closing, which took place on May 8, 2015, the Company received approximately \$17.7 million in net proceeds from the sale of units. The purchase price for each unit sold at the initial closing was \$0.77. Each warrant issued as part of the units at the initial closing has an initial exercise price of \$1.02 per share, will be exercisable six months and one day after the date of issuance and expires five years from the date it becomes exercisable. The second closing of the purchase and sale of the units is subject to certain conditions, including, without limitation, shareholder vote, which is anticipated to take place at the Company’s annual stockholder meeting in August 2015. If the Company satisfies these conditions, the second closing will occur within ten days after satisfaction (or waiver) of these conditions.

## Item 2 . Management’s Discussion and Analysis of Financial Condition and Results of Operations

Our Management’s Discussion and Analysis of Financial Condition and Results of Operations (MD&A) includes the following sections:

- Overview that discusses our operating results and some of the trends that affect our business.
- Results of Operations that includes a more detailed discussion of our revenue and expenses.
- Liquidity and Capital Resources which discusses key aspects of our statements of cash flows, changes in our financial position and our financial commitments.
- Significant changes since our most recent Annual Report on Form 10-K in the Critical Accounting Policies and Significant Estimates that we believe are important to understanding the assumptions and judgments underlying our financial statements.

You should read this MD&A in conjunction with the financial statements and related notes in Item 1 and our Annual Report on Form 10-K for the fiscal year ended December 31, 2014.

### **CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

*This report contains certain statements that may be deemed “forward-looking statements” within the meaning of U.S. securities laws. All statements, other than statements of historical fact, that address activities, events or developments that we intend, expect, project, believe or anticipate and similar expressions or future conditional verbs such as will, should, would, could or may occur in the future are forward-looking statements. Such statements are based upon certain assumptions and assessments made by our management in light of their experience and their perception of historical trends, current conditions, expected future developments and other factors they believe to be appropriate.*

*These statements include, without limitation, statements about our anticipated expenditures, including those related to clinical research studies and general and administrative expenses; the potential size of the market for our products, future development and/or expansion of our products and therapies in our markets, our ability to generate product revenues or effectively manage our gross profit margins; our ability to obtain regulatory clearance; expectations as to our future performance; the “Liquidity and Capital Resources” section of this report, including our potential need for additional financing and the availability thereof; our ability to continue as a going concern; our ability to repay or refinance some or all of our outstanding indebtedness and our ability to raise capital in the future; and the potential enhancement of our cash position through development, marketing, and licensing arrangements. Our actual results will likely differ, perhaps materially, from those anticipated in these forward-looking statements as a result of various factors, including: our need and ability to raise additional cash, our joint ventures, risks associated with laws or regulatory requirements applicable to us, market conditions, product performance, potential litigation, and competition within the regenerative medicine field, to name a few. The forward-looking statements included in this report are subject to a number of additional material risks and uncertainties, including but not limited to the risks described under the “Risk Factors” in Item 1A of Part I below, which we encourage you to read carefully.*

*We encourage you to read the risks described under “Risk Factors” carefully. We caution you not to place undue reliance on the forward-looking statements contained in this report. These statements, like all statements in this report, speak only as of the date of this report (unless an earlier date is indicated) and we undertake no obligation to update or revise the statements except as required by law. Such forward-looking statements are not guarantees of future performance and actual results will likely differ, perhaps materially, from those suggested by such forward-looking statements.*

*This Quarterly report on Form 10-Q refers to trademarks such as Cytori Cell Therapy, Celution and StemSource. Solely for convenience, our trademarks and tradenames referred to in this Form 10-Q may appear without the ® or ™ symbols, but such references are not intended to indicate in any way that we will not assert, to the fullest extent under applicable law, our rights to these trademarks and tradenames.*

### **Overview**

We develop cellular therapeutics uniquely formulated and optimized for specific diseases and medical conditions. Our lead therapeutics are currently targeted for impaired hand function in scleroderma, osteoarthritis of the knee, stress urinary incontinence, and deep thermal burns combined with radiation exposure.

Our cellular therapeutics are collectively known by the trademarked name, Cytori Cell Therapy™, and consist of a heterogeneous population of specialized cells including stem cells that are involved in response to injury, repair and healing. These cells are extracted from an adult patient's own adipose (fat) tissue using our fully automated, enzymatic, sterile Celution® System devices and consumable sets at the place where the patient is receiving their care (i.e. there is no off-site processing or manufacturing). Cytori Cell Therapy can either be administered to the patient the same day or banked for future use. An independent published study has demonstrated that our proprietary process results in higher nucleated cell viability, less residual enzyme activity, less processing time, and improved economics in terms of cell progenitor output compared to other semi-automated and automated processes available.

Our goal is to bring Cytori Cell Therapy to market first for the treatment of impaired hand function in scleroderma and osteoarthritis of the knee, through Cytori-sponsored clinical development efforts. We received Investigational Device Exemption (IDE) approval from the U.S. Food and Drug Administration (FDA) in late 2014 and in early 2015 initiated the osteoarthritis study. Enrollment in the osteoarthritis study was completed in June 2015. The first sites for the scleroderma study were initiated towards the end of July 2015. In addition, we are developing a treatment for thermal burns combined with radiation injury under a contract from the Biomedical Advanced Research Development Authority (BARDA), a division of the U.S. Department of Health and Human Services. We are also exploring other development opportunities in a variety of other conditions.

In addition to our targeted therapeutic development, we have continued to commercialize the Celution® System under select medical device approvals, clearances and registrations to research customers developing new therapeutic applications for Cytori Cell Therapy in Europe, Japan, and other regions. The sale of systems, consumables and ancillary products in advance of specific regulatory claims and reimbursement contributes a margin that partially offset our operating expenses and will continue to play a role in fostering familiarity within the medical community with our technology. These sales have also facilitated the discovery of new applications for Cytori Cell Therapy by customers conducting investigator-initiated and funded research.

### **Development Pipeline**

The primary therapeutic areas currently in the development pipeline are scleroderma, orthopedics, stress urinary incontinence, and the treatment of thermal burns.

#### ***Scleroderma***

In January 2015, the FDA granted unrestricted IDE approval for a pivotal clinical trial, named the "STAR" trial, to evaluate Cytori Cell Therapy as a potential treatment for impaired hand function in scleroderma, a rare autoimmune disease affecting approximately 50,000 patients in the U.S. The STAR trial is a 48-week, randomized, double blind, placebo-controlled pivotal clinical trial of 80 patients in the U.S. The trial evaluates the safety and efficacy of a single administration of Cytori Cell Therapy (ECCS-50) in scleroderma patients affecting the hands and fingers. The STAR trial plans to use the Cochin Hand Function Scale (CHFS), a validated measure of hand function, as the primary endpoint measured at six months after a single administration of ECCS-50 or placebo. Patients in the placebo group will be eligible for crossover to the active arm of the trial after all patients have completed 48 weeks of follow up. In February 2015, the FDA approved our request to increase the number of investigational sites from 12 to up to 20. The increased number of sites is anticipated to broaden the geographic coverage of the trial and facilitate trial enrollment. The first sites for the scleroderma study were initiated towards the end of July 2015.

The STAR trial is predicated on a completed investigator-initiated pilot phase I/II trial performed in France termed SCLERADEC-I. The trial received partial support from Cytori. The results were published in the Annals of the Rheumatic Diseases in May 2014 and demonstrate approximately a 50 percent improvement at six months across four important and validated endpoints used to assess the clinical status in patients with scleroderma with impaired hand function. Patients perceived their health status to be improved as shown by a 45.2% and 42.4% decrease of the Scleroderma Health Assessment Questionnaire (SHAQ) at month 2 ( $p=0.001$ ) and at month 6 ( $p=0.001$ ) respectively. A 47% and 56% decrease of the CHFS at month 2 and month 6 in comparison to baseline was observed ( $p<0.001$  for both). Grip strength increased at month 6 with a mean improvement of  $+4.8\pm 6.4$  kg for the dominant hand ( $p=0.033$ ) and  $+4.0\pm 3.5$  kg for the non-dominant hand ( $p=0.002$ ). Similarly, an increase in pinch strength at month 6 was noted with a mean improvement of  $+1.0\pm 1.1$  kg for the dominant hand ( $p=0.009$ ) and  $+0.8\pm 1.2$  kg for the non-dominant hand ( $p=0.050$ ). Among subjects having at least one digital ulcer (DU) at inclusion, total number of DU decreased, from 15 DUs at baseline, 10 at month 2 and 7 at month 6. The average reduction of the Raynaud's Condition Score from baseline was 53.7% at month 2 ( $p<0.001$ ) and 67.5% at month 6 ( $p<0.001$ ). Hand pain showed a significant decrease of 63.6% at month 2 ( $p=0.001$ ) and 70% at month 6 ( $p<0.001$ ). A preliminary assessment for 12 month follow-up data has been reviewed by Cytori, and Cytori management believes such data reflects no reports of adverse events or safety concerns, average values for CHFS, RCS, and SHAQ score that are statistically consistent with those at the 6 month follow up visit and, while the average hand pain at 12 months was lower than that at baseline (reflecting overall symptom improvement over baseline), there was an approximately 50% reduction in the average therapeutic benefit on hand pain from six to twelve months.

In 2014, Dr.'s Guy Magalon and Brigitte Granel from the Assistance Publique des Hôpitaux de Marseille submitted a study for review for a follow-up pivotal/phase III randomized, double-blind, placebo controlled trial in France, to be co-sponsored by Cytori, called SCLERADEC II. Patients will be followed for 6 months post-procedure. The trial was approved by the French government in April 2015. The study will be initiated in the fourth quarter of 2015.

Scleroderma is a chronic autoimmune disorder associated with fibrosis of the skin, destructive changes in blood vessels and multiple organ systems as the result of a generalized overproduction of collagen. Scleroderma affects women four times more frequently than men and is typically detected between the ages of 30 and 50. More than 90 percent of scleroderma patients have hand involvement that is typically progressive and can result in chronic pain, blood flow changes and severe dysfunction. The limited available treatments for scleroderma may provide some benefit but do little to modify disease progression or substantially improve symptoms. Treatment options are directed at protecting the hands from injury and detrimental environmental conditions as well as the use of vasodilators. When the disease is advanced, immunosuppressive and other medications may be used but are often accompanied by intolerable side effects.

### ***Osteoarthritis***

In the later part of 2014, we received approval by the FDA to begin a U.S. IDE pilot (phase IIa/b) trial of Cytori Cell Therapy in patients with osteoarthritis of the knee. The trial, called ACT-OA, is a 90 patient, randomized, double-blind, placebo control study involving two dose escalations of Cytori Cell Therapy, a low dose and a high dose, and will be conducted over 48 weeks. The randomization is 1:1:1 between the control, low and high dose groups. Enrollment on this trial began in February 2015 and was completed in June 2015.

Osteoarthritis is a disease of the entire joint involving the cartilage, joint lining, ligaments, and underlying bone. The breakdown of tissue leads to pain, joint stiffness and reduced function. It is the most common form of arthritis and affects an estimated 13.9% of US adults over the age of 25, and 33.6% of adults over the age of 65. Current treatments include physical therapy, non-steroidal anti-inflammatory medications, viscosupplement injections, and total knee replacement. A substantial medical need exists as present medications have limited efficacy and joint replacement is a relatively definitive treatment for those with the most advanced disease.

### ***Stress Urinary Incontinence***

Another therapeutic target under evaluation by us is stress urinary incontinence in men following surgical removal of the prostate gland, which is based on positive data reported in a peer reviewed journal resulting from the use of adipose-derived regenerative cells processed by our Celution System. The ADRESU trial is a 45 patient, open-label, multi-center, and single arm trial that has recently been approved by Japan's Ministry of Health, Labour and Welfare (MHLW) and is being led by both Momokazu Gotoh, MD, Ph.D., Professor and Chairman of the Department of Urology and Tokunori Yamamoto, MD, Ph.D., Associate Professor Department of Urology at Nagoya University Graduate School of Medicine . The goal of this investigator-initiated trial will be to gain product approval for Cytori Cell Therapy technology for this indication. This clinical trial is primarily sponsored and funded by the Japanese Government .

### ***Cutaneous and Soft Tissue Thermal and Radiation Injuries***

Cytori Cell Therapy is also being developed for the treatment of thermal burns combined with radiation injury. In the third quarter of 2012, we were awarded a contract to develop a new countermeasure for thermal burns valued at up to \$106 million with the U.S. Department of Health and Human Service's Biomedical Advanced Research and Development Authority (BARDA). The initial base period included \$4.7 million over two years and covered preclinical research and continued development of Cytori's Celution® System to improve cell processing. The additional contract options, if fully executed, could cover our clinical development through FDA approval under a device-based pre-market approval application (PMA) regulatory pathway.

The cost-plus-fixed-fee contract is valued at up to \$106 million, with a guaranteed two-year base period of approximately \$4.7 million. We submitted reports to BARDA in late 2013 detailing the completion of the objectives in the initial contract. An In-Process Review Meeting in the first half of 2014 confirmed completion of the proof of concept phase.

In August and December, 2014, BARDA awarded Cytori contract options of \$14 million. The options allow for continuation of research, regulatory, clinical, and other activities required for approval and completion of a pilot clinical trial using Cytori Cell Therapy for the treatment of thermal burns combined with radiation injury. The award for conducting the pilot trial, approximately \$8 million, would follow FDA approval of the trial protocol and associated documentation. Once the data from pilot trial is analyzed, the final phase would include research, regulatory, and clinical activities necessary to achieve regulatory clearances to optimize a treatment for combined injury involving thermal burn and radiation exposure. A pivotal clinical trial of the use of the Cytori Cell Therapy for thermal burn injury would be the primary basis of an FDA approval. The total award is intended to support all clinical, preclinical, regulatory, and technology development activities needed to complete the FDA approval process for use in thermal burn injury under a device-based PMA regulatory pathway.

### ***Other Clinical Indications***

Heart failure due to ischemic heart disease does not represent a clinical target at this time and the Company intends to minimize expenses related to its initiatives in this area. The ATHENA and ATHENA II trial programs, which sought to evaluate the safety and feasibility of Cytori Cell Therapy in patients with heart failure due to ischemic heart disease, were truncated and we intend to use the data from these trial programs for regulatory support for our other indications and also to publish in peer reviewed forums.

**Recent Developments****Regulatory Clearance**

In April 2015, one of our exclusive licensees, Lorem Vascular Pty. Ltd, was granted regulatory clearance for the Cytori Celution® System by the State Food and Drug Administration of the People's Republic of China (CFDA). This regulatory clearance officially makes our Celution System available in the largest healthcare market in the world and triggers a 2015 product purchase order for the Company from Lorem Vascular.

**Orphan Designation**

In April 2015, the European Commission, acting on the positive recommendation from the European Medicines Agency Committee for Orphan Medicinal Products, has designated our ECCS-50 cellular therapeutic as an orphan medicinal product for the treatment of scleroderma. This designation marks the first autologous adipose derived cell therapy for scleroderma granted orphan status in the European Union.

**Results of Operations****Product revenues**

Product revenues consisted of revenues primarily from our Celution® System, related consumables and StemSource® Cell Banks.

The following table summarizes the components for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
Product revenues - third party	\$ 1,614,000	\$ 935,000	\$ 2,516,000	\$ 1,965,000

We experienced an increase in product revenue during the three and six months ended June 30, 2015 as compared to the same periods in 2014, due principally to the partial fulfillment of Lorem Vascular's opening purchase order upon CFDA's clearance during the second quarter.

*The future* : We expect to continue to generate product revenues from the sale of Celution® Systems, related consumables and StemSource® Cell Banks. We will sell these products to a diverse group of researchers and clinicians in EMEA, Japan, Asia Pacific, and Americas, who may apply the products towards reconstructive surgery, soft tissue repair, research, aesthetics, and cell and tissue banking as approved in each country. Additionally, as a result of Class I Device Clearance for Celution® and a number of our other products in Japan and regulatory clearance from the CFDA, we anticipate selling these products to researchers at academic hospitals seeking to perform investigator-initiated and funded studies using Cytori's Cell Therapy.

**Cost of product revenues**

Cost of product revenues relate primarily to Celution® System products and StemSource® Cell Banks and includes material, manufacturing labor, and overhead costs. The following table summarizes the components of our cost of revenues for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
Cost of product revenues	\$ 1,276,000	\$ 746,000	\$ 1,855,000	\$ 1,148,000
Share-based compensation	20,000	20,000	39,000	39,000
Total cost of product revenues	\$ 1,296,000	\$ 766,000	\$ 1,894,000	\$ 1,187,000
Total cost of product revenues as % of product revenues	80.3%	81.9%	75.3%	60.4%

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Cost of product revenues as a percentage of product revenues was 80.3% and 75.3% for the three and six months ended June 30, 2015 and 81.9% and 60.4% for the three and six months ended June 30, 2014, respectively. Fluctuation in this percentage is to be expected due to the product mix, distributor and direct sales mix, and allocation of overhead.

*The future.* We expect to continue to see variation in our gross profit margin as the product mix, distributor and direct sales mix and geographic mix comprising revenues fluctuate.

Development revenues

Under our government contract with BARDA, we recognized a total of \$1.9 million and \$3.3 million in revenues for the three and six months ended June 30, 2015, respectively which included allowable fees as well as cost reimbursements. During the three and six months ended June 30, 2015, we incurred \$1.7 million and \$3.1 million in qualified expenditures, respectively. We recognized a total of \$0.4 million and \$0.8 million in revenues for the three and six months ended June 30, 2014, respectively which also included allowable fees as well as cost reimbursements. During the three and six months ended June 30, 2014, we incurred \$0.3 million and \$0.7 million in qualified expenditures, respectively. The increase in revenues for the three and six months ended June 30, 2015 as compared to the same period in 2014 is primarily due to increased research and development activities aligned with the commencement of the new contract option awarded.

*The future :* In August 2014, BARDA exercised Option 1 of the contract, as amended in December 2014, for us to perform research, regulatory, clinical and other tasks required for initiation of a pilot clinical trial of the Cytori Cell Therapy (DCCT-10) in thermal burn injury, amendments to the Statement of Work, and reorganization of the contract options for a total fixed fee of up to \$14 million. We expect approximately half of the work associated with Option 1, as amended, to be completed by the end of 2015.

Research and development expenses

Research and development expenses include costs associated with the design, development, testing and enhancement of our products, regulatory fees, the purchase of laboratory supplies, pre-clinical studies and clinical studies.

The following table summarizes the components of our research and development expenses for the three and six months ended June 30, 2015 and 2014:

	<u>For the three months ended June 30,</u>		<u>For the six months ended June 30,</u>	
	<u>2015</u>	<u>2014</u>	<u>2015</u>	<u>2014</u>
General research and development	\$ 5,906,000	\$ 4,530,000	\$ 9,743,000	\$ 8,700,000
Share-based compensation	142,000	144,000	269,000	266,000
Total research and development expenses	<u>\$ 6,048,000</u>	<u>\$ 4,674,000</u>	<u>\$ 10,012,000</u>	<u>\$ 8,966,000</u>

Research and development expenses relate to the development of a technology platform that involves using adipose tissue as a source of autologous regenerative cells for therapeutic applications as well as the continued development efforts related to our Celution® System.

The increase in research and development expenses for the three and six months ended June 30, 2015 as compared to the same periods in 2014 is due to increases in clinical study expense of \$1.8 million and \$1.9 million, respectively and an increase in research supplies expense of \$0.1 million and \$0.1 million, respectively both increases were primarily driven by faster than anticipated enrollment of our ACT-OA clinical trial. These increases were offset by a decrease in salary and related benefits expense (excluding share-based compensation) of \$0.3 million and \$0.4 million, respectively and decrease in consulting expenses of \$0.3 million and \$0.4 million respectively.

*The future :* We expect research and development expenditures to stay consistent at current levels as we conduct two clinical trials in 2015; STAR, a trial for treatment of impaired hand function in scleroderma, and ACT-OA, a trial for the potential treatment for osteoarthritis of the knee.

Sales and marketing expenses

Sales and marketing expenses include costs of sales and marketing personnel, tradeshows, physician training, and promotional activities and materials. The following table summarizes the components of our sales and marketing expenses for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
Sales and marketing	\$ 627,000	\$ 1,784,000	\$ 1,437,000	\$ 3,596,000
Share-based compensation	27,000	150,000	56,000	265,000
Total sales and marketing expenses	<u>\$ 654,000</u>	<u>\$ 1,934,000</u>	<u>\$ 1,493,000</u>	<u>\$ 3,861,000</u>

The decrease in sales and marketing expense during the three and six months ended June 30, 2015 as compared to the same periods in 2014 is mainly attributed to the decrease in salary and related benefits expense (excluding share-based compensation) of \$0.8 million and \$1.2 million, respectively due to reduction in headcount, decrease in travel and entertainment expenses of \$0.2 million and \$0.4 million, respectively, decrease in professional services expense of \$0.1 million and \$0.3 million, respectively and other reduction in expenses consistent with our cost curtailment efforts implemented throughout 2014.

*The future:* We expect sales and marketing expenditures to stabilize or slightly increase in 2015, if revenues increase.

General and administrative expenses

General and administrative expenses include costs for administrative personnel, legal and other professional expenses, and general corporate expenses. The following table summarizes the general and administrative expenses for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
General and administrative	\$ 2,294,000	\$ 4,154,000	\$ 4,510,000	\$ 8,064,000
Share-based compensation	499,000	448,000	782,000	878,000
Total general and administrative expenses	<u>\$ 2,793,000</u>	<u>\$ 4,602,000</u>	<u>\$ 5,292,000</u>	<u>\$ 8,942,000</u>

The decrease in general and administrative expenses during the three and six months ended June 30, 2015 as compared to the same period in 2014 is mainly attributed to a decrease in salary and related benefits expense of \$0.7 million and \$1.1 million (excluding share-based compensation), respectively, due to reduction in headcount, a decrease in professional services of \$0.6 million and \$1.3 million, respectively, consistent with our cost curtailment efforts implemented in 2014; and a decrease in non-cash accounts receivable charges of \$0.4 million and \$0.9 million, respectively.

*The future:* We expect general and administrative expenditures to remain consistent at current levels throughout 2015.

Share-based compensation expenses

Share-based compensation expenses include charges related to options and restricted stock awards issued to employees, directors and non-employees along with charges related to the employee stock purchases under the Employee Stock Purchase Plan (ESPP). We measure stock-based compensation expense based on the grant-date fair value of any awards granted to our employees. Such expense is recognized over the period of time that employees provide service to us and earn all rights to the awards.

The following table summarizes the components of our share-based compensation expenses for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
Cost of product revenues	\$ 20,000	\$ 20,000	\$ 39,000	\$ 39,000
Research and development-related	142,000	144,000	269,000	266,000
Sales and marketing-related	27,000	150,000	56,000	265,000
General and administrative-related	499,000	448,000	782,000	878,000
Total share-based compensation	<u>\$ 688,000</u>	<u>\$ 762,000</u>	<u>\$ 1,146,000</u>	<u>\$ 1,448,000</u>

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The decrease in share-based compensation expenses for the three and six months ended June 30, 2015 as compared to the same period in 2014 is primarily related to a lower annual grant caused by reductions in headcount and due to the decline in the stock price during 2015 as compared to the same period in 2014, and its corresponding impact into the share-based compensation.

*The future* . We expect to continue to grant options and stock awards (which will result in an expense) to our employees, directors, and, as appropriate, to non-employee service providers. In addition, previously-granted options will continue to vest in accordance with their original terms. As of June 30, 2015, the total compensation cost related to non-vested stock options and stock awards not yet recognized for all our plans is approximately \$3.4 million which is expected to be recognized as a result of vesting under service conditions over a weighted average period of 1.61 years.

Change in fair value of warrant liability

The following is a table summarizing the change in fair value of our warrant liability for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
Change in fair value of warrant liability	\$ (13,122,000)	\$ —	\$ 2,322,000	\$ —

The main drivers for the change in the fair value of warrants at June 30, 2015, as compared to the stock price at December 31, 2014 were issuance of new warrants, exercise of issued warrants and change in our stock price.

*The future*: Future changes in the fair value of the warrants will be recognized in earnings until such time as the warrants are exercised or expire. Our stock price can be volatile and there could be material fluctuations in the value of warrants in the future periods.

Financing items

The following table summarizes interest income, interest expense, and other income and expense for the three and six months ended June 30, 2015 and 2014:

	For the three months ended June 30,		For the six months ended June 30,	
	2015	2014	2015	2014
Loss on debt extinguishment	\$ (260,000)	\$ —	\$ (260,000)	\$ —
Interest income	3,000	1,000	3,000	3,000
Interest expense	(936,000)	(1,085,000)	(2,007,000)	(2,026,000)
Other income (expense), net	(148,000)	(58,000)	(47,000)	28,000
Total	\$ (1,341,000)	\$ (1,142,000)	\$ (2,311,000)	\$ (1,995,000)

In connection with the Loan and Security Agreement entered into on May 29, 2015 (the “Loan Agreement”) with Oxford Finance LLC (the “Lender”), a loss on debt extinguishment was recorded that relates to the payoff of the prior loan obligation. See Notes to Consolidated Condensed Financial Statements for further information.

Interest expense decreased for the three and six months ended June 30, 2015 as compared to the same period in 2014, due to paydown and refinance of principal loan balance.

The changes in other income (expense) during the three months ended June 30, 2015 as compared to the same period in 2014 resulted primarily from changes in foreign currency exchange rates.

*The future*: We expect interest expense in 2015 to decrease as we refinanced and decreased the principal of our outstanding Term Loan.

## Liquidity and Capital Resources

### Short-term and long-term liquidity

The following is a summary of our key liquidity measures at June 30, 2015 and December 31, 2014:

	<u>As of June 30, 2015</u>	<u>As of December 31, 2014</u>
Cash and cash equivalents	\$ 23,842,000	\$ 14,622,000
Current assets	\$ 29,657,000	\$ 21,686,000
Current liabilities	9,221,000	15,917,000
Working capital	<u>\$ 20,436,000</u>	<u>\$ 5,769,000</u>

We have net income of \$4.5 million and net loss of \$17.5 million for the three and six months ended June 30, 2015, respectively and incurred net losses of \$11.8 million and \$22.2 million for the three and six months ended June 30, 2014, respectively. We have an accumulated deficit of \$356 million as of June 30, 2015. Additionally, we have used net cash of \$9.8 million and \$18.1 million to fund our operating activities for the six months ended June 30, 2015 and 2014, respectively. To date, these operating losses have been funded primarily from outside sources of invested capital and gross profits. As of June 30, 2015, we had cash and cash equivalents of approximately \$23.8 million. Through April 30, 2015, we sold a total of 5.8 million shares of our common stock, raising approximately \$7.2 million in net proceeds through an ATM facility, 8.5 million of the October 2014 warrants have been exercised at \$0.5771 per share for net proceeds of \$4.9 million and in May 2015, we entered into a Securities Purchase Agreement with certain institutional investors pursuant to which the Company agreed to sell up to \$25 million of units, with each unit consisting of its common stock and one warrant to purchase one share of its common stock. The offering will have two separate closings, the first closing took place on May 8, 2015, and we received \$17.7 million in net proceeds. The second closing is subject to certain conditions, including, without limitation, shareholder vote, which is anticipated to take place in August 2015. Giving effect to these issuances we have received approximately \$30 million in proceeds from the sale of securities for the six months ended June 30, 2015.

Pursuant to the recently announced securities transaction and related equity issuance, as well as anticipated gross profits and potential outside sources of capital, we believe we have sufficient cash to fund operations through at least the next 12 months. The Company continues to seek additional capital through product revenues, strategic transactions, including extension opportunities under the awarded U.S. Department of Health and Human Service's Biomedical Advanced Research and Development Authority ("BARDA") contract, and from other financing alternatives.

See Note 12 above for a discussion on our May 2015 Securities Purchase Agreement.

The following table summarizes our contractual obligations and other commitments at June 30, 2015, and the effect such obligations could have on our liquidity and cash flow in future periods:

<u>Contractual Obligations</u>	<u>Payments due by period</u>				
	<u>Total</u>	<u>Less than 1 year</u>	<u>1 – 3 years</u>	<u>3 – 5 years</u>	<u>More than 5 years</u>
Long-term obligations	\$ 18,807,000	\$ 19,000	\$ 18,788,000	\$ —	\$ —
Interest commitment on long-term obligations	4,089,000	1,611,000	2,478,000	—	—
Operating lease obligations	5,201,000	2,207,000	2,994,000	—	—
Minimum purchase obligation	1,022,000	1,022,000	—	—	—
Joint venture purchase obligation	2,192,000	2,192,000	—	—	—
Clinical research study obligations	9,203,000	5,203,000	4,000,000	—	—
Total	<u>\$ 40,514,000</u>	<u>\$ 12,254,000</u>	<u>\$ 28,260,000</u>	<u>\$ —</u>	<u>\$ —</u>

Cash (used in) provided by operating, investing, and financing activities for the six months ended June 30, 2014 and 2013 is summarized as follows:

	<u>For the six months ended June 30,</u>	
	<u>2015</u>	<u>2014</u>
Net cash used in operating activities	\$ (9,788,000)	\$ (18,137,000)
Net cash used in investing activities	(510,000)	(1,122,000)
Net cash provided by financing activities	19,532,000	16,509,000
Effect of exchange rate changes on cash and cash equivalents	(14,000)	4,000
Net increase (decrease) in cash and cash equivalents	<u>\$ 9,220,000</u>	<u>\$ (2,746,000)</u>

### Operating activities

Net cash used in operating activities, for the six months ended June 30, 2015 was \$9.8 million, approximately \$8.3 million lower than the same period in 2014, primarily due to the \$6.2 million decrease in operating net loss, adjusted for non-cash items, such as fair value of warrants, and our overall working capital improvement of approximately \$2.1 million due primarily to decreased payments related to inventories, accounts payable and accrued liabilities.

### Investing activities

Net cash used in investing activities for the six months ended June 30, 2015 resulted from cash outflows for payment for purchases of property and equipment of \$0.5 million. The cash outflow was \$0.6 million lower than the same period in 2014 due to the culmination of our license fee obligation and due to lower expenditures related to our intellectual property.

### Financing Activities

The net cash provided by financing activities for the six months ended June 30, 2015 was approximately \$3.0 million higher than the same period it 2014 and it was related primarily to a sale of common stock in connection with a Securities Purchase Agreement to sell up to \$25 million of units, of which we received net proceeds of \$17.7 million. We also received net proceeds of \$7.2 million for the sale of 5.3 million shares through an “at the market offering” and proceeds of \$4.9 million through warrant exercises. These proceeds were offset by cash outflows for the debt refinance and its related final payment fees, issuance costs and other loan fees as well as payments towards our Joint Venture purchase obligation.

### **Critical Accounting Policies and Significant Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires us to make estimates and assumptions that affect the reported amounts of our assets, liabilities, revenues and expenses, and that affect our recognition and disclosure of contingent assets and liabilities.

While our estimates are based on assumptions we consider reasonable at the time they were made, our actual results may differ from our estimates, perhaps significantly. If results differ materially from our estimates, we will make adjustments to our financial statements prospectively as we become aware of the necessity for an adjustment.

We believe it is important for you to understand our most critical accounting policies. Our critical accounting policies and estimates remain consistent with those reported in our Annual Report on Form 10-K for the fiscal year ended December 31, 2014.

### **Recent Accounting Pronouncements**

From time to time, new accounting pronouncements are issued by the Financial Accounting Standards Board, or the FASB, or other standard setting bodies that the Company adopts as of the specified effective date. The Company believes that the impact of recently issued standards that are not yet effective will not have a material impact on its financial condition or results of operations upon adoption.

In April 2015, the FASB issued Accounting Standards Update (ASU) 2015-03, Interest - Imputation of Interest. The standard requires debt issuance costs related to a recognized debt liability to be presented in the balance sheet as a direct deduction from the debt liability. The Company is currently evaluating the impact of ASU 2015-03 on its consolidated financial statements.

In May 2014, the FASB issued Accounting Standards Update (ASU) 2014-09, Revenue from Contracts with Customers. The new standard is based on the principle that revenue should be recognized to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 will be effective for the Company beginning in the first quarter of fiscal 2018 and allows for a full retrospective or a modified retrospective adoption approach. The Company is currently evaluating the impact of ASU 2014-09 on its consolidated financial statements.

In July 2015, the FASB issued Accounting Standard Update (ASU) 2015-11, simplifying the measurement of Inventory. The standard requires companies to measure inventory (excluding inventory measured using LIFO and retail inventory methods) at the lower of cost or net realizable value. The Company is currently evaluating the impact of ASU 2015-11 on its consolidated financial statements.

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to market risk related to fluctuations in interest rates and in foreign currency exchange rates. There have been no material changes in our market risks during the quarter ended June 30, 2015.

#### **Interest Rate Exposure**

We are not subject to market risk due to fluctuations in interest rates on our long-term obligations as they bear a fixed rate of interest. Our exposure relates primarily to short-term investments, including funds classified as cash equivalents. As of June 30, 2015, all excess funds were invested in money market funds and other highly liquid investments, therefore our interest rate exposure is not considered to be material.

#### **Foreign Currency Exchange Rate Exposure**

Our exposure to market risk due to fluctuations in foreign currency exchange rates relates primarily to our activities in Europe and Japan. Transaction gains or losses resulting from cash balances and revenues have not been significant in the past and we are not currently engaged in any hedging activity in the Euro, the Yen or other currencies. Based on our cash balances and revenues derived from markets other than the United States for the three months ended June 30, 2015, a hypothetical 10% adverse change in the Euro or Yen against the U.S. dollar would not result in a material foreign currency exchange loss. Consequently, we do not expect that reductions in the value of such sales denominated in foreign currencies resulting from even a sudden or significant fluctuation in foreign exchange rates would have a direct material impact on our financial position, results of operations or cash flows.

Notwithstanding the foregoing, the indirect effect of fluctuations in interest rates and foreign currency exchange rates could have a material adverse effect on our business, financial condition and results of operations. For example, foreign currency exchange rate fluctuations may affect international demand for our products. In addition, interest rate fluctuations may affect our customers' buying patterns. Furthermore, interest rate and currency exchange rate fluctuations may broadly influence the United States and foreign economies resulting in a material adverse effect on our business, financial condition and results of operations.

### **Item 4. Controls and Procedures**

#### *Evaluation of Disclosure Controls and Procedures*

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports filed or furnished pursuant to the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended, as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Quarterly Report.

#### *Changes in Internal Control over Financial Reporting*

There have been no changes in our internal control over financial reporting during the quarter ended June 30, 2015 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II. OTHER INFORMATION**

### **Item 1. Legal Proceedings**

From time to time, we have been involved in routine litigation incidental to the conduct of our business. As of June 30, 2015, we were not a party to any material legal proceeding.

**Item 1A. Risk Factors**

Our business is subject to various risks, including those described in Item 1A “Risk Factors” of our Annual Report on Form 10-K for the fiscal year ended December 31, 2014, , as supplemented and updated by the risk factors included in Part II, Item 1A. "Risk Factors" in our quarterly report on Form 10-Q for the period ended March 31, 2015, which we strongly encourage you to review with all other information contained or incorporated by reference in this report before you decide to invest in our common stock.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

None

**Item 3. Defaults Upon Senior Securities**

None

**Item 4. Mine Safety Disclosures**

Not applicable

**Item 5. Other Information**

None

**Item 6. Exhibits**

Refer to the Exhibit Index immediately following the signature page, which is incorporated herein by reference.

**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 thereunto duly authorized.

**CYTORI THERAPEUTICS, INC.**

Dated: August 10, 2015

By: /s/ Marc H. Hedrick

Marc H. Hedrick

*President & Chief Executive Officer*

Dated: August 10, 2015

By: /s/ Tiago Girao

Tiago Girao

*VP of Finance and Chief Financial Officer*

**Exhibits Index**

Exhibit No.	Description
3.1	Composite Certificate of Incorporation (incorporated by reference to our Annual Report on Form 10-K filed with the Commission on March 16, 2015)
3.2	Amended and Restated Bylaws of Cytori Therapeutics, Inc. (incorporated by reference to our Quarterly Report on Form 10-Q filed with the Commission on August 14, 2003)
3.3	Amendment to Amended and Restated Bylaws of Cytori Therapeutics, Inc. (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 6, 2014)
4.1	Form of Initial Warrant to Purchase Common Stock (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 5, 2015)
4.2	Form of Additional Warrant to Purchase Common Stock (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 5, 2015)
4.3	Form of Pre-Funded Warrant to Purchase Common Stock (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 5, 2015)
10.1	Form of Securities Purchase Agreement, dated May 5, 2015, by and among Cytori Therapeutics, Inc. and the investors named therein (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 5, 2015)
10.2	Placement Agency Agreement, dated May 5, 2015, by and between Cytori Therapeutics, Inc. and Mizuho Securities USA Inc. (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 5, 2015)
10.3	Amendment One to Joint Venture Termination Agreement, dated April 30, 2015, by and between Cytori Therapeutics, Inc. and Olympus Corporation (incorporated by reference to our Current Report on Form 8-K filed with the Commission on May 5, 2015)
<a href="#">10.4</a>	Loan and Security Agreement, dated May 29, 2015, by and between Cytori Therapeutics, Inc. and Oxford Finance, LLC (filed herewith)
<a href="#">31.1</a>	Certification of Principal Executive Officer Pursuant to Securities Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
<a href="#">31.2</a>	Certification of Principal Financial Officer Pursuant to Securities Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
<a href="#">32.1*</a>	Certifications Pursuant to 18 U.S.C. Section 1350/ Securities Exchange Act Rule 13a-14(b), as adopted pursuant to Section 906 of the Sarbanes - Oxley Act of 2002 (filed herewith).
101.INS	XBRL Instance Document
101.SCH	XBRL Schema Document
101.CAL	XBRL Calculation Linkbase Document
101.LAB	XBRL Label Linkbase Document
101.PRE	XBRL Presentation Linkbase Document

\* These certifications are being furnished solely to accompany this report pursuant to 18 U.S.C. 1350 and are not being filed for purposes of Section 18 of the Securities and Exchange Act of 1934 and are not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

**LOAN AND SECURITY AGREEMENT**

**THIS LOAN AND SECURITY AGREEMENT** (as the same may from time to time be amended, modified, supplemented or restated, this “**Agreement**”) dated as of May 29, 2015 (the “**Effective Date**”) among OXFORD FINANCE LLC, a Delaware limited liability company with an office located at 133 North Fairfax Street, Alexandria, Virginia 22314 (“**Oxford**”), as collateral agent (in such capacity, “**Collateral Agent**”), the Lenders listed on Schedule 1.1 hereof or otherwise a party hereto from time to time including Oxford in its capacity as a Lender (each a “**Lender**” and collectively, the “**Lenders**”), and CYTORI THERAPEUTICS, INC., a Delaware corporation with offices located at 3020 Callan Road, San Diego, CA 92121 (“**Borrower**”), provides the terms on which the Lenders shall lend to Borrower and Borrower shall repay the Lenders. The parties agree as follows:

**1. ACCOUNTING AND OTHER TERMS**

**1.1** Accounting terms not defined in this Agreement shall be construed in accordance with GAAP. Calculations and determinations must be made in accordance with GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein. All references to “**Dollars**” or “**\$**” are United States Dollars, unless otherwise noted.

**2. LOANS AND TERMS OF PAYMENT**

**2.1 Promise to Pay.** Borrower hereby unconditionally promises to pay each Lender, the outstanding principal amount of all Term Loans advanced to Borrower by such Lender and accrued and unpaid interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

**2.2 Term Loan.**

(a) Availability. Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, to make term loans to Borrower on the Effective Date in an aggregate amount of Seventeen Million Seven Hundred Thousand Dollars (\$17,700,000) according to each Lender’s Term Loan Commitment as set forth on Schedule 1.1 hereto (such term loans are hereinafter referred to singly and collectively as “**Term Loan**”). After repayment, no Term Loan may be re-borrowed.

(b) Repayment. Borrower shall make monthly payments of interest only, in arrears, commencing on the first (1<sup>st</sup>) Payment Date following the Funding Date of the Term Loan, and continuing on the Payment Date of each successive month thereafter through and including the Payment Date immediately preceding the Amortization Date. Borrower agrees to pay, on the Funding Date of the Term Loan, any initial partial monthly interest payment otherwise due for the period between the Funding Date of the Term Loan and the first Payment Date thereof. Commencing on the Amortization Date, and continuing on the Payment Date of each month thereafter, Borrower shall make consecutive equal monthly payments of principal, together with applicable interest, in arrears, to each Lender, as calculated by Collateral Agent (which calculations shall be deemed correct absent manifest error) based upon: (1) the amount of such Lender’s Term Loan, (2) the effective rate of interest, as determined in Section 2.3(a), and (3) a repayment schedule equal to thirty-six (36) months, or if either the US-ACT-OA Event or the Qualified Transaction Event occurs, then the repayment schedule shall equal thirty (30) months. All unpaid principal and accrued and unpaid interest with respect to the Term Loan is due and payable in full on the Maturity Date. The Term Loan may only be prepaid in accordance with Sections 2.2(c) and 2.2(d).

(c) Mandatory Prepayments. If the Term Loan is accelerated following the occurrence of an Event of Default, Borrower shall immediately pay to Lenders, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of: (i) all outstanding principal of the Term Loan plus accrued and unpaid interest thereon through the prepayment date, (ii) (except to the extent that the sole basis for such acceleration is the occurrence of an Event of Default under Section 8.3 based on a Material Adverse Change) the Final Payment, (iii) the Prepayment Fee, plus (iv) all other Obligations that are due and payable, including Lenders’ Expenses and interest at the Default Rate with respect to any past due amounts. Notwithstanding (but without duplication with) the foregoing, on the Maturity Date, if the Final Payment had not previously been paid in full in connection with the prepayment of the Term Loan in full, Borrower shall pay to Collateral Agent, for payment to each Lender in accordance with its respective Pro Rata Share, the Final Payment in respect of the Term Loan.

(d) Permitted Prepayment of Term Loan. Borrower shall have the option to prepay all, but not less than all, of the Term Loan advanced by the Lenders under this Agreement, provided Borrower (i) provides written notice to Collateral Agent of its election to prepay the Term Loan at least fifteen (15) days prior to such prepayment, and (ii) pays to the Lenders on the date of such prepayment, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of (A) all outstanding principal of the Term Loan plus accrued and unpaid interest thereon through the prepayment date, (B) the Final Payment, (C) the Prepayment Fee, plus (D) all other Obligations that are due and payable, including Lenders' Expenses and interest at the Default Rate with respect to any past due amounts.

### 2.3 Payment of Interest on the Credit Extensions .

(a) Interest Rate. Subject to Section 2.3(b), the principal amount outstanding under the Term Loans shall accrue interest at a floating per annum rate equal to the Basic Rate, determined by Collateral Agent, which interest shall be payable monthly in arrears in accordance with Sections 2.2(b) and 2.3(e). Interest shall accrue on each Term Loan commencing on, and including, the Funding Date of the Term Loan, and shall accrue on the principal amount outstanding under the Term Loan through and including the day on which the Term Loan is paid in full.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall accrue interest at a floating per annum rate equal to the rate that is otherwise applicable thereto plus five percentage points (5.00%) (the "**Default Rate**"). Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Collateral Agent.

(c) 360-Day Year. Interest shall be computed on the basis of a three hundred sixty (360) day year, and the actual number of days elapsed.

(d) Debit of Accounts. Collateral Agent and each Lender may debit (or ACH) any deposit accounts, maintained by Borrower, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes the Lenders under the Loan Documents if and to the extent that Borrower fails to pay such amounts when due; provided, however, the Collateral Agent and the Lenders must first satisfy the amount such unpaid principal and interest payments from the Designated Deposit Account and may only debit (or ACH) any other account only if, and to the extent, the amount of such unpaid principal and interest payments is not satisfied from the Designated Deposit Account. Any such debits (or ACH activity) shall not constitute a set-off.

(e) Payments. Except as otherwise expressly provided herein, all payments by Borrower under the Loan Documents shall be made to the respective Lender to which such payments are owed, at such Lender's office in immediately available funds on the date specified herein. Unless otherwise provided, interest is payable monthly on the Payment Date of each month. Payments of principal and/or interest received after 12:00 noon Eastern time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment is due the next Business Day and additional fees or interest, as applicable, shall continue to accrue until paid. All payments to be made by Borrower hereunder or under any other Loan Document, including payments of principal and interest, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds.

**2.4 Secured Promissory Notes.** The Term Loan shall be evidenced by one or more Secured Promissory Notes in the form attached as Exhibit D hereto (each a "**Secured Promissory Note**"), and shall be repayable as set forth in this Agreement. Borrower irrevocably authorizes each Lender to make or cause to be made, on or about the Funding Date of any Term Loan or at the time of receipt of any payment of principal on such Lender's Secured Promissory Note, an appropriate notation on such Lender's Secured Promissory Note Record reflecting the making of such Term Loan or (as the case may be) the receipt of such payment. The outstanding amount of each Term Loan set forth on such Lender's Secured Promissory Note Record shall be prima facie evidence of the principal amount thereof owing and unpaid to such Lender absent manifest error, but the failure to record, or any error in so recording, any such amount on such Lender's Secured Promissory Note Record shall not limit or otherwise affect the obligations of Borrower under any Secured Promissory Note or any other Loan Document to make payments of principal of or interest on any Secured Promissory Note when due. Upon receipt of an affidavit of an officer of a Lender as to the loss, theft, destruction, or mutilation of its Secured Promissory Note, Borrower shall issue, in lieu thereof, a replacement Secured Promissory Note in the same principal amount thereof and of like tenor.

**2.5 Fees.** Borrower shall pay to Collateral Agent:

(a) Facility Fee. A fully earned facility fee of Fifty Thousand Dollars (\$50,000) to be shared between the Lenders pursuant to their respective Commitment Percentages which has already been paid by the Borrower on or about May 14, 2015. Such facility fee shall become non-refundable upon funding of the Term Loan and if the Term Loan is not funded, such facility fee net of all Lenders' Expenses (including reasonable attorneys' fees and expenses of Collateral Agent for documentation and negotiation of this Agreement) incurred through the Effective Date shall be returned to Borrower;

(b) Final Payment. The Final Payment, when due hereunder, to be shared between the Lenders in accordance with their respective Pro Rata Shares;

(c) Prepayment Fee. The Prepayment Fee, when due hereunder, to be shared between the Lenders in accordance with their respective Pro Rata Shares;

(d) Lenders' Expenses. All Lenders' Expenses (including reasonable attorneys' fees and expenses of Collateral Agent for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due.

**2.6 withholding.** Payments received by the Lenders from Borrower hereunder will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any governmental authority (including any interest, additions to tax or penalties applicable thereto). Specifically, however, if at any time any Governmental Authority, applicable law, regulation or international agreement requires Borrower to make any withholding or deduction from any such payment or other sum payable hereunder to the Lenders, Borrower hereby covenants and agrees that the amount due from Borrower with respect to such payment or other sum payable hereunder will be increased to the extent necessary to ensure that, after the making of such required withholding or deduction, each Lender receives a net sum equal to the sum which it would have received had no withholding or deduction been required and Borrower shall pay the full amount withheld or deducted to the relevant Governmental Authority. Borrower will, upon request, furnish the Lenders with proof reasonably satisfactory to the Lenders indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings and as to which payment in full is bonded or reserved against by Borrower. The agreements and obligations of Borrower contained in this Section 2.6 shall survive the termination of this Agreement. Any Lender claiming any additional amounts payable pursuant to this Section 2.6, or for whom Borrower is required to increase the amount of any payment pursuant to this Section 2.6, shall use its reasonable efforts (consistent with its internal policies and requirements of law) to change the jurisdiction of its lending office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender. Each Lender organized under the laws of a jurisdiction outside the United States as to which payments to be made under this Agreement or under the Notes are exempt from United States withholding tax under an applicable statute or tax treaty shall provide to Borrower and Agent a properly completed and executed IRS Form W 8ECI or Form W 8BEN or other applicable form, certificate or document prescribed by the IRS or the United States.

**3. CONDITIONS OF LOANS**

**3.1 Conditions Precedent to Credit Extension.** Each Lender's obligation to make the Term Loan is subject to the condition precedent that Collateral Agent and each Lender shall consent to or shall have received, in form and substance satisfactory to Collateral Agent and each Lender, such documents, and completion of such other matters, as Collateral Agent and each Lender may reasonably deem necessary or appropriate, including, without limitation:

- (a) original Loan Documents, each duly executed by Borrower and each Subsidiary, as applicable;
- (b) duly executed original Control Agreements with respect to any Collateral Accounts maintained by Borrower or any of its Subsidiaries other than Foreign Subsidiaries, to the extent required under Section 6.6;
- (c) duly executed original Secured Promissory Notes in favor of each Lender according to its Term Loan Commitment Percentage;
- (d) the certificates for the Shares, if any, together with assignments separate from such certificates, duly executed in blank;
- (e) the Operating Documents and good standing certificates of Borrower certified by the Secretary of State (or equivalent agency) of Borrower's jurisdiction of organization or formation and each jurisdiction in which Borrower is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date;
- (f) a completed Perfection Certificate for Borrower;
- (g) the Annual Projections, for the current calendar year;
- (h) duly executed original officer's certificate for Borrower and each Subsidiary that is a Guarantor party to the Loan Documents, in a form acceptable to Collateral Agent and the Lenders;
- (i) certified copies, dated as of date no earlier than thirty (30) days prior to the Effective Date, of financing statement searches, as Collateral Agent shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;
- (j) a landlord's consent executed in favor of Collateral Agent in respect of all of Borrower's and each Subsidiaries' leased locations other than for Permitted Locations (as defined herein below);
- (k) a bailee waiver executed in favor of Collateral Agent in respect of each third party bailee where Borrower or any Subsidiary maintains Collateral having a book value in excess of One Hundred Thousand Dollars (\$100,000.00) other than for Permitted Locations;
- (l) a duly executed legal opinion of counsel to Borrower dated as of the Effective Date;
- (m) evidence satisfactory to Collateral Agent and the Lenders that the insurance policies required by Section 6.5 hereof are in full force and effect, together with appropriate evidence showing loss payable and/or additional insured clauses or endorsements in favor of Collateral Agent, for the ratable benefit of the Lenders;
- (n) a payoff letter from Silicon Valley Bank in respect of the Existing Indebtedness;
- (o) a payoff letter from Oxford in respect of the Existing Indebtedness;

(p) evidence that (i) the Liens securing the Existing Indebtedness will be terminated and (ii) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have or will, concurrently with the initial Credit Extension, be terminated;

(q) payment of the Lenders' Expenses then due as specified in Section 2.5 hereof.

(r) receipt by Collateral Agent of an executed Disbursement Letter in the form of Exhibit B attached hereto;

(s) receipt by Collateral Agent of an executed copy of the JV Termination Agreement;

(t) the representations and warranties in Section 5 hereof shall be true, accurate and complete in all material respects on the date of the Disbursement Letter (and the Loan Payment/Advance Request Form) and on the Funding Date of the Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. The Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in Section 5 hereof are true, accurate and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(u) in such Lender's discretion, there has not been any Material Adverse Change.

### **3.2 Intentionally Left Blank.**

**3.3 Covenant to Deliver.** Borrower agrees to deliver to Collateral Agent and the Lenders each item required to be delivered to Collateral Agent under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Collateral Agent or any Lender of any such item shall not constitute a waiver by Collateral Agent or any Lender of Borrower's obligation to deliver such item, and any such Credit Extension in the absence of a required item shall be made in each Lender's sole discretion.

**3.4 Procedures for Borrowing.** Subject to the prior satisfaction of all other applicable conditions to the making of a Term Loan set forth in this Agreement, to obtain a Term Loan, Borrower shall notify the Lenders (which notice shall be irrevocable) by electronic mail, facsimile, or telephone by 12:00 noon Eastern time three (3) Business Days prior to the date the Term Loan is to be made. Together with any such electronic, facsimile or telephonic notification, Borrower shall deliver to the Lenders by electronic mail or facsimile a completed Disbursement Letter executed by a Responsible Officer or his or her designee. The Lenders may rely on any telephone notice given by a person whom a Lender reasonably believes is a Responsible Officer or designee. On the Funding Date, each Lender shall credit and/or transfer (as applicable) to the Designated Deposit Account, an amount equal to its Term Loan Commitment.

## **4. CREATION OF SECURITY INTEREST**

**4.1 Grant of Security Interest.** Borrower hereby grants Collateral Agent, for the ratable benefit of the Lenders, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Collateral Agent, for the ratable benefit of the Lenders, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral, subject only to Permitted Liens that are permitted by the terms of this Agreement to have priority to Collateral Agent's Lien. For the sake of clarity, (i) Liens described in clauses (a), (c)-(h), and (l)-(p) of the definition of Permitted Liens are permitted to have priority to the Collateral Agent's Lien, and (ii) Collateral Agent's Lien shall be subject to the licenses described in clauses (j) and (k) of the definition of Permitted Liens. If Borrower shall acquire a commercial tort claim (as defined in the Code), Borrower, shall promptly notify Collateral Agent in a writing signed by Borrower, as the case may be, of the general details thereof (and further details as may be required by Collateral Agent) and grant to Collateral Agent, for the ratable benefit of the Lenders, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Collateral Agent.

If this Agreement is terminated, Collateral Agent's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) arising under this Agreement and at such time as the Lenders' obligation to make Credit Extensions has terminated, Collateral Agent shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower.

**4.2 Authorization to File Financing Statements.** Borrower hereby authorizes Collateral Agent to file financing statements or take any other action required to perfect Collateral Agent's security interests in the Collateral, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Collateral Agent's interest or rights under the Loan Documents, including a notice that any disposition of the Collateral, except to the extent permitted by the terms of this Agreement, by Borrower, or any other Person, shall be deemed to violate the rights of Collateral Agent under the Code.

**4.3 Pledge of Collateral.** Borrower hereby pledges, assigns and grants to Collateral Agent, for the ratable benefit of the Lenders, a security interest in all the Shares, together with all proceeds and substitutions thereof (to the extent such proceeds or substitutions, if in the form of stock or other equity interests, constitute Shares), all cash, stock (to the extent such stock constitutes Shares) and other moneys and property paid thereon, all rights to subscribe for securities declared or granted in connection therewith, and all other cash and noncash proceeds of the foregoing (to the extent such proceeds, if in the form of stock or other equity interests, constitute Shares), as security for the performance of the Obligations. On the Effective Date, or, to the extent not certificated as of the Effective Date, within twenty (20) days of the certification of any Shares, the certificate or certificates for the Shares will be delivered to Collateral Agent, accompanied by an instrument of assignment duly executed in blank by Borrower. To the extent required by the terms and conditions governing the Shares, Borrower shall cause the books of each entity whose Shares are part of the Collateral and any transfer agent to reflect the pledge of the Shares. Upon the occurrence and during the continuance of an Event of Default hereunder, Collateral Agent may effect the transfer of any securities included in the Collateral (including but not limited to the Shares) into the name of Collateral Agent and cause new (as applicable) certificates representing such securities to be issued in the name of Collateral Agent or its transferee. Borrower will execute and deliver such documents, and take or cause to be taken such actions, as Collateral Agent may reasonably request to perfect or continue the perfection of Collateral Agent's security interest in the Shares. Unless an Event of Default shall have occurred and be continuing, Borrower shall be entitled to exercise any voting rights with respect to the Shares and to give consents, waivers and ratifications in respect thereof, provided that no vote shall be cast or consent, waiver or ratification given or action taken which would be inconsistent with any of the terms of this Agreement or which would constitute or create any violation of any of such terms. All such rights to vote and give consents, waivers and ratifications shall terminate upon the occurrence and continuance of an Event of Default.

## **5. REPRESENTATIONS AND WARRANTIES**

Borrower represents and warrants to Collateral Agent and the Lenders as follows:

**5.1 Due Organization, Authorization: Power and Authority.** Borrower and each of its Subsidiaries is duly existing and in good standing as a Registered Organization in its jurisdictions of organization or formation and Borrower and each of its Subsidiaries is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its businesses or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Change. In connection with this Agreement, Borrower has delivered to Collateral Agent a completed perfection certificate signed by an officer of Borrower or such Subsidiary (the "**Perfection Certificate**"). Borrower represents and warrants that (a) Borrower and each of its Subsidiaries' exact legal name is that which is indicated on the Perfection Certificate and on the signature page of each Loan Document to which it is a party; (b) Borrower and each of its Subsidiaries is an organization of the type and is organized in the jurisdiction set forth on its respective Perfection Certificate; (c) each Perfection Certificate accurately sets forth each of Borrower's and its Subsidiaries' organizational identification number or accurately states that Borrower or such Subsidiary has none; (d) each Perfection Certificate accurately sets forth Borrower's and each of its Subsidiaries' place of business, or, if more than one, its chief executive office as well as Borrower's and each of its Subsidiaries' mailing address (if different than its chief executive office); (e) Borrower and each of its Subsidiaries (and each of its respective predecessors) have not, in the past five (5) years, changed its jurisdiction of organization, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Perfection Certificates pertaining to Borrower and each of its Subsidiaries, is accurate and complete in all material respects (it being understood and agreed that Borrower and each of its Subsidiaries may from time to time update certain information in the Perfection Certificates (including the information set forth in clause (d) above) after the Effective Date to the extent permitted by one or more specific provisions in this Agreement); such updated Perfection Certificates subject to the review and approval of Collateral Agent. If Borrower or any of its Subsidiaries is not now a Registered Organization but later becomes one, Borrower shall notify Collateral Agent of such occurrence and provide Collateral Agent with such Person's organizational identification number within five (5) Business Days of receiving such organizational identification number.

The execution, delivery and performance by Borrower and each of its Subsidiaries of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's or such Subsidiaries' organizational documents, including its respective Operating Documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law applicable thereto, (iii) contravene, conflict or violate any material applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or such Subsidiary, or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect) or are being obtained pursuant to Section 6.1(b), or (v) constitute an event of default under any Material Agreement. As used herein, "Material Agreement" means any agreement or contract required to be filed by Borrower with the Securities and Exchange Commission ("SEC") pursuant to Item 601(b)(10) of Regulation S-K (other than (x) employment or compensation related agreements, including agreements relating to stock option grants to employees, consultants and directors, and (y) agreements that have been filed with the SEC but that have been assigned or terminated or as to which Borrower has no continuing obligations and is owed no further consideration or performance by the other parties thereto, in each case, prior to the date of this Agreement). Neither Borrower nor any of its Subsidiaries is in default under any Material Agreement to which it is a party or by which it or any of its assets is bound in which such default could reasonably be expected to have a Material Adverse Change.

## **5.2 Collateral.**

(a) Borrower and each its Subsidiaries have good title to, have rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien under the Loan Documents, free and clear of any and all Liens except Permitted Liens, and neither Borrower nor any of its Subsidiaries have any Deposit Accounts, Securities Accounts, Commodity Accounts or other investment accounts other than the Collateral Accounts or the other investment accounts, if any, described in the Perfection Certificates delivered to Collateral Agent in connection herewith with respect of which Borrower or such Subsidiary has given Collateral Agent notice and, to the extent required under Section 6.6 hereof, taken such actions as are necessary to give Collateral Agent a perfected security interest therein. The Accounts are bona fide, existing obligations of the Account Debtors.

(b) On the Effective Date, except for Permitted Locations and except as disclosed on the Perfection Certificate (i) the Collateral is not in the possession of any third party bailee (such as a warehouse), and (ii) no such third party bailee possesses components of the Collateral in excess of One Hundred Thousand Dollars (\$100,000.00). None of the components of the Collateral shall be maintained at locations other than as disclosed in the Perfection Certificates on the Effective Date or as permitted pursuant to Section 6.11.

(c) All Inventory is in all material respects of good and marketable quality, free from material defects, or for which Borrower maintains adequate reserves in accordance with GAAP and consistent with Borrower's past practices.

(d) Borrower and each of its Subsidiaries is the sole owner of the Intellectual Property each respectively purports to own, free and clear of all Liens other than Permitted Liens.

**5.3 Litigation.** Except as disclosed (i) on the Perfection Certificates, or (ii) in accordance with Section 6.9 hereof, there are no actions, suits, investigations, or proceedings pending or, to the knowledge of the Responsible Officers, threatened in writing by or against Borrower or any of its Subsidiaries the outcome of which could reasonably be expected to have a Material Adverse Change.

**5.4 No Material Deterioration in Financial Condition; Financial Statements.** All consolidated financial statements for Borrower and its Subsidiaries, delivered to Collateral Agent fairly present, in conformity with GAAP (subject, in the case of unaudited financial statements, to the absence of footnotes and normal year-end adjustments), in all material respects the consolidated financial condition of Borrower and its Subsidiaries, and the consolidated results of operations of Borrower and its Subsidiaries as of the dates and for the periods specified therein. There has not been any material deterioration in the consolidated financial condition of Borrower and its Subsidiaries since the date of the most recent financial statements submitted to any Lender.

**5.5 Solvency.** Borrower and each of its Subsidiaries is Solvent.

**5.6 Regulatory Compliance.** Neither Borrower nor any of its Subsidiaries is an “investment company” or a company “controlled” by an “investment company” under the Investment Company Act of 1940, as amended. Neither Borrower nor any of its Subsidiaries is engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower and each of its Subsidiaries has complied in all material respects with the Federal Fair Labor Standards Act. Neither Borrower nor any of its Subsidiaries is a “holding company” or an “affiliate” of a “holding company” or a “subsidiary company” of a “holding company” as each term is defined and used in the Public Utility Holding Company Act of 2005. Neither Borrower nor any of its Subsidiaries has violated any laws, ordinances or rules, the violation of which could reasonably be expected to have a Material Adverse Change. Neither Borrower’s nor any of its Subsidiaries’ properties or assets has been used by Borrower or such Subsidiary or, to Borrower’s knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than in material compliance with applicable laws. Borrower and each of its Subsidiaries has obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted.

None of Borrower, any of its Subsidiaries, or any of Borrower’s or its Subsidiaries’ Affiliates or any of their respective agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement is (i) in violation of any Anti-Terrorism Law, (ii) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, or (iii) is a Blocked Person. None of Borrower, any of its Subsidiaries, or to the knowledge of Borrower and any of their Affiliates or agents, acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (x) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (y) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law.

**5.7 Investments.** Neither Borrower nor any of its Subsidiaries owns any stock, shares, partnership interests or other equity securities except for Permitted Investments.

**5.8 Tax Returns and Payments; Pension Contributions.** Borrower and each of its Subsidiaries has timely filed all required federal (and all material state and local tax returns and reports (or timely extensions therefor), and Borrower and each of its Subsidiaries, has timely paid all federal and all material foreign, state, and local taxes, assessments, deposits and contributions owed by Borrower and such Subsidiaries, in all jurisdictions in which Borrower or any such Subsidiary is subject to taxes, including the United States, unless such taxes are being contested in accordance with the following sentence. Borrower and each of its Subsidiaries, may defer payment of any contested taxes, provided that Borrower or such Subsidiary, (a) in good faith contests its obligation to pay the taxes by appropriate proceedings promptly and diligently instituted and conducted, (b) notifies Collateral Agent in writing of the commencement of, and any material development in, the proceedings, and (c) posts bonds or takes any other steps required to prevent the Governmental Authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a “**Permitted Lien**.” Neither Borrower nor any of its Subsidiaries is aware of any claims or adjustments proposed for any of Borrower’s or such Subsidiaries’, prior tax years which could result in additional taxes becoming due and payable by Borrower or its Subsidiaries. Borrower and each of its Subsidiaries have paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither Borrower nor any of its Subsidiaries have, withdrawn from participation in, and have not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower or its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

**5.9 Use of Proceeds.** Borrower shall use the proceeds of the Credit Extensions solely as working capital and to fund its general business requirements in accordance with the provisions of this Agreement, and not for personal, family, household or agricultural purposes. A portion of the proceeds of the Term Loan shall be used by Borrower to repay the Existing Indebtedness in full on the Effective Date.

**5.10 Shares.** Borrower has full power and authority to create a first lien on the Shares and no disability or contractual obligation exists that would prohibit Borrower from pledging the Shares pursuant to this Agreement. To Borrower's knowledge, there are no subscriptions, warrants, rights of first refusal or other restrictions on transfer relative to, or options exercisable with respect to the Shares. The Shares have been and will be duly authorized and validly issued, and are fully paid and non-assessable. To Borrower's knowledge, the Shares are not the subject of any present or threatened suit, action, arbitration, administrative or other proceeding, and Borrower knows of no reasonable grounds for the institution of any such proceedings.

**5.11 Full Disclosure.** No written representation, warranty or other statement of Borrower or any of its Subsidiaries in any certificate or written statement given to Collateral Agent or any Lender, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to Collateral Agent or any Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements, in light of the circumstances under which they were made, not misleading (it being recognized that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

**5.12 Definition of "Knowledge."** For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of the Responsible Officers.

**6. AFFIRMATIVE COVENANTS**

Borrower shall, and, other than Section 6.2 below shall cause each of its Subsidiaries to, do all of the following:

**6.1 Government Compliance.**

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of organization and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Change; provided however, nothing herein shall prohibit or restrict the wind-down, dissolve and terminate of the existence of Cytori Development and Cytori Italia, S.R.L. Comply with all laws, ordinances and regulations to which Borrower or any of its Subsidiaries is subject, the noncompliance with which could reasonably be expected to have a Material Adverse Change.

(b) Obtain and keep in full force and effect, all of the material Governmental Approvals necessary for the performance by Borrower and its Subsidiaries of their respective businesses and obligations under the Loan Documents and the grant of a security interest to Collateral Agent for the ratable benefit of the Lenders, in all of the Collateral. Borrower shall promptly provide copies to Collateral Agent of any material Governmental Approvals obtained by Borrower or any of its Subsidiaries.

## 6.2 Financial Statements, Reports, Certificates.

(a) Borrower shall deliver to each Lender:

(i) as soon as available, but no later than forty-five (45) days after the last day of each month, a company prepared consolidated and consolidating balance sheet, income statement and cash flow statement covering the consolidated operations of Borrower and its Subsidiaries for such month certified by a Responsible Officer and in a form reasonably acceptable to Collateral Agent;

(ii) as soon as available, but no later than one hundred twenty (120) days after the last day of Borrower's fiscal year or within five (5) days of filing with the SEC, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Collateral Agent in its reasonable discretion ;

(iii) as soon as available after approval thereof by Borrower's Board of Directors, but no later than forty-five (45) days after the last day of each of Borrower's fiscal years, Borrower's annual financial projections for the entire current fiscal year as approved by Borrower's Board of Directors, which such annual financial projections shall be set forth in a quarter-by-quarter format (such annual financial projections as originally delivered to Collateral Agent and the Lenders are referred to herein as the "**Annual Projections**"); provided that, any revisions of the Annual Projections approved by Borrower's Board of Directors shall be delivered to Collateral Agent and the Lenders no later than seven (7) Business Days after such approval);

(iv) within five (5) Business Days of delivery, copies of all statements, reports and notices made available generally by Borrower to Borrower's security holders or holders of Subordinated Debt;

(v) in the event that Borrower becomes subject to the reporting requirements under the Securities Exchange Act of 1934, as amended, within five (5) Business Days of filing, all reports on Form 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission,

(vi) prompt notice of any material amendments of or other changes to the Operating Documents of Borrower or any of its Subsidiaries, together with any copies reflecting such amendments or changes with respect thereto;

(vii) prompt notice of any event that could reasonably be expected to materially and adversely affect the value of the Intellectual Property;

(viii) as soon as available, but no later than thirty (30) days after the last day of each month, copies of the month-end account statements for each Collateral Account maintained by Borrower or its Subsidiaries, which statements may be provided to Collateral Agent and each Lender by Borrower or directly from the applicable institution(s), and

(ix) other information as reasonably requested by Collateral Agent or any Lender.

Notwithstanding the foregoing, documents required to be delivered pursuant to the terms hereof (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 Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address.

(b) Concurrently with the delivery of the financial statements specified in Section 6.2(a)(i) above but no later than thirty (30) days after the last day of each month, deliver to each Lender, a duly completed Compliance Certificate signed by a Responsible Officer.

(c) Keep proper books of record and account in accordance with GAAP in all material respects, in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities. Borrower shall, and shall cause each of its Subsidiaries to, allow, at the sole cost of Borrower, Collateral Agent or any Lender, during regular business hours upon reasonable prior notice (provided that no notice shall be required when an Event of Default has occurred and is continuing), to visit and inspect any of its properties, to examine and make abstracts or copies from any of its books and records, and to conduct a collateral audit and analysis of its operations and the Collateral. Such audits shall be conducted no more often than twice every year unless (and more frequently if) an Event of Default has occurred and is continuing.

**6.3 Inventory; Returns.** Keep all Inventory in good and marketable condition, free from material defects, or for which Borrower maintains adequate reserves in accordance with GAAP consistent with Borrower's past practices. Returns and allowances between Borrower, or any of its Subsidiaries, and their respective Account Debtors shall follow Borrower's, or such Subsidiary's, customary practices substantially as they exist at the Effective Date. Borrower must promptly notify Collateral Agent of all returns, recoveries, disputes and claims that involve more than One Million Dollars (\$1,000,000.00) individually or in the aggregate in any calendar year.

**6.4 Taxes; Pensions.** Timely file and require each of its Subsidiaries to timely file, all required federal (and all material state and local tax returns and reports (or timely extensions therefor) and timely pay, and require each of its Subsidiaries to timely file, all federal and all material foreign, state, and local taxes, assessments, deposits and contributions owed by Borrower or its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.8 hereof, and shall deliver to Lenders, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with the terms of such plans.

**6.5 Insurance.** Keep Borrower's and its Subsidiaries' business and the Collateral insured for risks and in amounts standard for companies in Borrower's and its Subsidiaries' industry and location and as Collateral Agent may reasonably request. Insurance policies shall be in a form, with companies, and in amounts that are reasonably satisfactory to Collateral Agent and Lenders. All property policies shall have a lender's loss payable endorsement showing Collateral Agent as lender loss payee and waive subrogation against Collateral Agent, and all liability policies shall show, or have endorsements showing, Collateral Agent, as additional insured. The Collateral Agent shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral, and each provider of any such insurance shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Collateral Agent, that it will give the Collateral Agent thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled. At Collateral Agent's request, Borrower shall deliver certified copies of policies and evidence of all premium payments. Proceeds payable under any policy shall, at Collateral Agent's option, be payable to Collateral Agent, for the ratable benefit of the Lenders, on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy up to Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to any loss, but not exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00), in the aggregate for all losses under all casualty policies in any one year, toward the replacement or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Collateral Agent has been granted a first priority security interest (to the extent it held a first priority security interest in the property subject to the casualty loss), and (b) after the occurrence and during the continuance of an Event of Default, subject to the rights of any third party holding a Permitted Lien in such Collateral that is senior to the Lien of Collateral Agent as permitted hereunder, all proceeds payable under such casualty policy shall, at the option of Collateral Agent, be payable to Collateral Agent, for the ratable benefit of the Lenders, on account of the Obligations. If Borrower or any of its Subsidiaries fails to obtain insurance as required under this Section 6.5 or to pay any amount or furnish any required proof of payment to third persons, Collateral Agent and/or any Lender may make, at Borrower's expense, all or part of such payment or obtain such insurance policies required in this Section 6.5, and take any action under the policies Collateral Agent or such Lender deems prudent.

## 6.6 Operating Accounts.

(a) Maintain all of Borrower's and its Subsidiaries' (other than its Foreign Subsidiaries') primary Collateral Accounts in accounts which are subject to a Control Agreement in favor of Collateral Agent; provided that Borrower and its Subsidiaries may also maintain accounts with Wells Fargo Bank, N.A. that are subject to Control Agreement(s) in favor of Collateral Agent.

(b) Borrower shall provide Collateral Agent five (5) days' prior written notice before Borrower or any of its Subsidiaries (other than its Foreign Subsidiaries') establishes any Collateral Account at or with any Person other than Wells Fargo Bank, N.A.). In addition, for each Collateral Account that Borrower or any of its Subsidiaries, at any time maintains, Borrower or such Subsidiary (other than a Foreign Subsidiary) shall cause the applicable bank or financial institution at or with which such Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Collateral Agent's Lien in such Collateral Account in accordance with the terms hereunder prior to the establishment of such Collateral Account, which Control Agreement may not be terminated without prior written consent of Collateral Agent. The account control agreements shall not be required for: (a) deposit accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Borrower's, or any of its Subsidiaries', employees and identified to Collateral Agent by Borrower as such in the Perfection Certificates, (b) such dedicated deposit accounts, and such deposit accounts pledged to support the SVB Certificate of Deposit and the Wells Fargo Certificate of Deposit. In addition, notwithstanding the foregoing, Borrower and its Subsidiaries shall be permitted to maintain the Deposit Accounts, Securities Accounts and other accounts identified in the Perfection Certificate, so long as the value of the assets credited to or on deposit in such accounts does not exceed the "maximum amounts" set forth on the Perfection Certificate as of the Effective Date for such accounts.

(c) Neither Borrower nor any of its Subsidiaries (other than Foreign Subsidiaries) shall maintain any Collateral Accounts except Collateral Accounts maintained in accordance with Sections 6.6(a) and (b).

**6.7 Protection of Intellectual Property Rights.** Borrower and each of its Subsidiaries shall: (a) use commercially reasonable efforts to protect, defend and maintain the validity and enforceability of its Intellectual Property that is material to Borrower's business; (b) promptly advise Collateral Agent in writing of material infringement by a third party of its Intellectual Property; and (c) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Collateral Agent's prior written consent except that Borrower and its Subsidiaries may abandon or forfeit registrations with respect to such Intellectual Property in jurisdictions outside the United States where, in the good faith business judgment of Borrower's board of directors, the value of the registrations of such Intellectual Property is outweighed by the cost of maintaining such registrations in such jurisdiction.

**6.8 Litigation Cooperation.** Commencing on the Effective Date and continuing through the termination of this Agreement, make available to Collateral Agent and the Lenders, without expense to Collateral Agent or the Lenders, Borrower and each of Borrower's officers, employees and agents and Borrower's Books, to the extent that Collateral Agent or any Lender may reasonably deem them necessary to prosecute or defend any third-party suit or proceeding instituted by or against Collateral Agent or any Lender with respect to any Collateral or relating to Borrower. Notwithstanding any other provision of this Agreement or any other Loan Document, so long as no Default or Event of Default then exists, Borrower and its Subsidiaries shall have the right to deny or restrict Collateral Agent, the Lenders and their respective representatives, access to highly confidential and proprietary scientific data and specifications, in each case, solely to the extent pertaining to Celution Systems.

**6.9 Notices of Litigation and Default.** Borrower will give prompt written notice to Collateral Agent and the Lenders of any litigation or governmental proceedings pending or threatened (in writing) against Borrower or any of its Subsidiaries, which could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more or which could reasonably be expected to have a Material Adverse Change. Without limiting or contradicting any other more specific provision of this Agreement, promptly (and in any event within three (3) Business Days) upon Borrower becoming aware of the existence of any Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default, Borrower shall give written notice to Collateral Agent and the Lenders of such occurrence, which such notice shall include a reasonably detailed description of such Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default.

**6.10 Financial Covenant.** Borrower shall at all times maintain unrestricted cash and/or Cash Equivalents in a minimum aggregate amount of \$5,000,000.

**6.11 Landlord waivers; Bailee waivers.** In the event that Borrower or any of its Subsidiaries, after the Effective Date, add any new offices or business locations, including warehouses, or otherwise store any portion of the Collateral with, or deliver any portion of the Collateral to, a bailee, in each case pursuant to Section 7.2, then Borrower or such Subsidiary (if a Guarantor) will, in the event that the Collateral at any new location (other than a new location that is a Permitted Location) is valued in excess of Two Hundred Fifty Thousand (\$250,000.00) in the aggregate at such location, give Collateral Agent prompt written notice and use commercially reasonable efforts to obtain from such bailee or landlord, as applicable, a bailee waiver or landlord waiver, as applicable, in form and substance reasonably satisfactory to Collateral Agent. Notwithstanding anything in this Agreement or any other Loan Document to the contrary, the failure to obtain a fully executed landlord waiver, bailee waiver or other form of collateral access agreement with respect to any location shall not constitute a Default or Event of Default hereunder. As used herein, “**Permitted Locations**” means the following locations: (i) facilities located outside of the United States at which Borrower or its Subsidiaries maintain Celution Systems (as defined below) in ordinary course of business, (ii) locations where Celution Systems may be temporarily located by Borrower or a Subsidiary for use in clinical trials by an unaffiliated third party in ordinary course of business, (iii) locations where Celution Systems may be temporarily located by Borrower or Subsidiary with physicians and other health care providers for demonstration, testing and product development purposes or for general commercial use (including on a lease or placement basis) in ordinary course of business, (iv) locations where Celution Systems may be temporarily located by a Loan Party for maintenance or repair in ordinary course of business (provided, that with respect to the locations described in the immediately preceding clauses (i) through and including (iv), the book value of all Collateral at such locations shall at no time be greater than \$200,000 per location or \$750,000 in the aggregate and such locations may not include the headquarters of Borrower), (v) the bonded warehouse known as FICHTNER Medizintechnik located in Germany (the “Bonded Warehouse”), provided, that the book value of all the Collateral located at the Bonded Warehouse shall at no time be greater than \$500,000, and (vi) locations where portable goods (such as laptops, phones and other similar equipment) may be located with employees or consultants of in the ordinary course of business and locations where Collateral may be temporarily located for sales, testing or demonstration purposes in the ordinary course of business. As used herein, “**Celution Systems**” means the family of products (600, 700, 800, 900/MB & next generation Celution device), which processes patients’ cells at the bedside in real time separating a therapeutic dose of stem and regenerative cells from a patient’s own fat tissue, including a central processing device, a related single-use consumable used for each patient specific procedure, and supportive procedural components.

**6.12 Creation/Acquisition of Subsidiaries.** In the event Borrower, or any of its Subsidiaries creates or acquires any Subsidiary, Borrower shall provide prior written notice to Collateral Agent and each Lender of the creation or acquisition of such new Subsidiary and take all such action as may be reasonably required by Collateral Agent or any Lender to cause each such Subsidiary to become a co-Borrower hereunder or to guarantee the Obligations of Borrower under the Loan Documents and, in each case, grant a continuing pledge and security interest in and to the assets of such Subsidiary (substantially as described on Exhibit A hereto); and Borrower (or its Subsidiary, as applicable) shall grant and pledge to Collateral Agent, for the ratable benefit of the Lenders, a perfected security interest in the Shares of each such newly created Subsidiary; provided, however, that solely in the circumstance in which Borrower or any Subsidiary acquires a Foreign Subsidiary (or a Subsidiary wholly-owned by a Foreign Subsidiary) in an acquisition permitted by Section 7.3 hereof, acquires a Subsidiary (or a Subsidiary wholly-owned by a Foreign Subsidiary) in a transaction approved by the Required Lenders or otherwise creates a Foreign Subsidiary, (i) such Foreign Subsidiary (or such Subsidiary wholly-owned by a Foreign Subsidiary) shall not be required to guarantee the Obligations of Borrower under the Loan Documents or to grant a continuing pledge and security interest in and to any of the assets of such Foreign Subsidiary (or such Subsidiary that is wholly-owned by a Foreign Subsidiary), and (ii) neither Borrower nor any Subsidiary shall be required to grant and pledge to Collateral Agent, for the ratable benefit of Lenders, a perfected security interest in more than sixty-five percent (65%) of the Shares of such Foreign Subsidiary (or such Subsidiary that is wholly-owned by a Foreign Subsidiary).

### 6.13 Further Assurances .

(a) Execute any further instruments and take further action as Collateral Agent reasonably requests to perfect or continue Collateral Agent's Lien in the Collateral or to effect the purposes of this Agreement.

(b) Deliver to Collateral Agent and Lenders, within five (5) days after the same are sent or received, copies of all material correspondence, reports, documents and other filings with any Governmental Authority that could reasonably be expected to have a material adverse effect on any of the Governmental Approvals material to Borrower's business or otherwise could reasonably be expected to have a Material Adverse Change.

## 7. NEGATIVE COVENANTS

Borrower shall not, and shall not permit any of its Subsidiaries to, do any of the following without the prior written consent of the Required Lenders:

**7.1 Dispositions.** Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, " **Transfer** "), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn out, surplus or obsolete Equipment; and (c) in connection with Permitted Liens, Permitted Investments and Permitted Licenses.

**7.2 Changes in Business, Management, Ownership, or Business Locations.** (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses engaged in by Borrower or its Subsidiaries as of the Effective Date or reasonably related or incidental thereto; (b) liquidate or dissolve (other than the liquidation and dissolution of Cytori Development); or (c) (i) any Key Person shall cease to be actively engaged in the day-to-day management of Borrower unless written notice thereof is provided to Collateral Agent within 10 Business Days of such change, or (ii) enter into any transaction or series of related transactions (other than by the sale of Borrower's equity securities in a public offering, a private placement of public equity or to venture capital or private equity investors so long as Borrower identifies to Collateral Agent the venture capital or private equity investors prior to the closing of the transaction) resulting in any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act or any successor provisions to either of the foregoing), including any group acting for the purpose of acquiring, holding, voting or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act, becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act, except that a person will be deemed to have "beneficial ownership" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 50% of the total voting power of the voting stock of Borrower. Borrower shall not, without at least thirty (30) days' prior written notice to Collateral Agent: (A) add any new offices or business locations, including warehouses (unless such new offices or business locations are Permitted Locations or contain less than Two Hundred Fifty Thousand Dollars (\$250,000.00) in assets or property of Borrower or any of its Subsidiaries at such location); (B) change its jurisdiction of organization, (C) change its organizational type, (D) change its legal name, or (E) change any organizational number (if any) assigned by its jurisdiction of organization.

**7.3 Mergers or Acquisitions.** Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock, shares or property of another Person. Notwithstanding the foregoing, Borrower and its Subsidiaries may acquire, directly or indirectly, all or substantially all of the assets or stock of another Person (such Person, the "Target") so long as (a) Collateral Agent and each Lender shall receive at least twenty (20) Business Days' prior written notice of such proposed acquisition, which notice shall include a reasonably detailed description of such proposed acquisition; (b) such acquisition shall comprise a business, or those assets of a business, substantially of the type engaged in by Borrower or its Subsidiaries and which business would not subject Collateral Agent or any Lender to regulatory or third party approvals in connection with the exercise of its rights and remedies under this Agreement or any other Loan Documents other than approvals applicable to the exercise of such rights and remedies with respect to Borrower prior to such acquisition; (c) such acquisition shall be consensual and shall have been approved by Target's board of directors or similar governing body (as applicable); (d) the purchase price paid and/or payable in cash or other property (other than capital stock) in connection with all acquisitions (including all transaction costs and all Indebtedness, liabilities and contingent obligations incurred or assumed in connection therewith or otherwise reflected in a consolidated balance sheet of Borrower and Target) shall not exceed \$1,000,000 during the term of this Agreement; (e) with respect to an acquisition paid for in whole or in part with capital stock, such acquisition shall not result in any decrease in the Tangible Net Worth (as defined below) of Borrower; (f) the business and assets acquired in such acquisition shall be free and clear of all Liens (other than Permitted Liens); (g) at or prior to the closing of any acquisition, unless the acquiring entity is a Foreign Subsidiary, Collateral Agent will be granted a first priority perfected Lien (subject to Permitted Liens), for the ratable benefit of Collateral Agent and Lenders, in all assets or stock acquired pursuant thereto and Borrower shall have executed such documents and taken such actions as may be required by Collateral Agent in connection therewith; (h) at the time of such acquisition and after giving effect thereto, no Default or Event of Default has occurred and is continuing; and (i) immediately after the consummation of such acquisition and after giving effect thereto, Borrower shall have unrestricted balance sheet cash and Cash Equivalents in one or more deposit accounts or securities accounts over which Collateral Agent has obtained control of not less than the product of (x) negative twelve (-12) times (y) the Cash Burn Amount based on pro forma financial statements that are delivered to and approved by Collateral Agent and the Lenders. "Tangible Net Worth" means, on any date, the consolidated total assets of Borrower and its Subsidiaries minus, (x) any amounts attributable to (1) goodwill, (2) intangible items such as unamortized debt discount and expense, patents, trade and service marks and names, copyrights and research and development expenses except prepaid expenses, and (3) reserves not already deducted from assets, and (y) the obligations that should, under GAAP, be classified as liabilities on Borrower's consolidated balance sheet, including all Indebtedness. In addition, a Foreign Subsidiary may merge or consolidate into another Foreign Subsidiary or a U.S. Subsidiary, and any U.S. Subsidiary may merge or consolidate into another U.S. Subsidiary (provided such surviving Subsidiary (other than a Foreign Subsidiary) is a "co-Borrower" hereunder or has provided a secured Guaranty of Borrower's Obligations hereunder) or with (or into) Borrower provided Borrower is the surviving legal entity, and as long as no Event of Default is occurring prior thereto or arises as a result therefrom.

**7.4 Indebtedness.** Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

**7.5 Encumbrance.** Create, incur, allow, or suffer any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or permit any Collateral not to be subject to the first priority security interest granted herein (except for Permitted Liens that are permitted by the terms of this Agreement to have priority over Collateral Agent's Lien), or enter into any agreement, document, instrument or other arrangement (except with or in favor of Collateral Agent, for the ratable benefit of the Lenders) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower, or any of its Subsidiaries, from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or such Subsidiary's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of " **Permitted Liens** " herein and except for customary restrictions on assignment, pledge and transfer contained in licenses under which Borrower or a Subsidiary is the licensee.

**7.6 Maintenance of Collateral Accounts.** Maintain any Collateral Account except pursuant to the terms of Section 6.6 hereof.

**7.7 Distributions; Investments.** (a) Pay any dividends (other than dividends payable solely in capital stock) or make any distribution (other than distributions payable solely in capital stock) or payment in respect of or redeem, retire or purchase any of its capital stock, in each case, other than (i) dividends and distributions by a Subsidiary of any Loan Party to a Loan Party, (ii) the conversion or exchange of debt securities or equity securities into capital stock, (iii) the issuance of capital stock upon the exercise or conversion of warrants or options, (iv) repurchases pursuant to the terms of employee stock purchase plans, employee restricted stock agreements, stockholder rights plans, director or consultant stock option plans, or similar plans, provided such repurchases do not exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate per fiscal year); or (b) directly or indirectly make any Investment other than Permitted Investments, or permit any of its Subsidiaries to do so.

**7.8 Transactions with Affiliates.** Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower or any of its Subsidiaries, except for (a) transactions that are in the ordinary course of Borrower's or such Subsidiary's business, upon fair and reasonable terms that are no less favorable to Borrower or such Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person, (b) transactions that would be Permitted Investments pursuant to part (i), (l) or (m) of the definition of "Permitted Investments", (c) transactions among Borrower and any Guarantor or among Guarantors, or among Subsidiaries that are not Guarantors, (d) Subordinated Debt or equity investments by Borrower's investors in Borrower or its Subsidiaries, and (e) dividends and distributions expressly permitted under Section 7.7(a).

**7.9 Subordinated Debt.** (a) Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof or adversely affect the subordination thereof to Obligations owed to the Lenders.

**7.10 Compliance.** Become an “investment company” or a company controlled by an “investment company”, under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a Material Adverse Change, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower or any of its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

**7.11 Compliance with Anti-Terrorism Laws.** Collateral Agent hereby notifies Borrower and each of its Subsidiaries that pursuant to the requirements of Anti-Terrorism Laws, and Collateral Agent’s policies and practices, Collateral Agent is required to obtain, verify and record certain information and documentation that identifies Borrower and each of its Subsidiaries and their principals, which information includes the name and address of Borrower and each of its Subsidiaries and their principals and such other information that will allow Collateral Agent to identify such party in accordance with Anti-Terrorism Laws. Neither Borrower nor any of its Subsidiaries shall, nor shall Borrower or any of its Subsidiaries permit any Affiliate to, directly or indirectly, knowingly enter into any documents, instruments, agreements or contracts with any Person listed on the OFAC Lists. Borrower and each of its Subsidiaries shall immediately notify Collateral Agent if Borrower or such Subsidiary has knowledge that Borrower, or any Subsidiary or Affiliate of Borrower, is listed on the OFAC Lists or (a) is convicted on, (b) pleads *nolo contendere* to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Neither Borrower nor any of its Subsidiaries shall, nor shall Borrower or any of its Subsidiaries, permit any Affiliate to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 or any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law.

## **8. EVENTS OF DEFAULT**

Any one of the following shall constitute an event of default (an “**Event of Default**”) under this Agreement:

**8.1 Payment Default.** Borrower fails to (a) make any payment of principal or interest on any Credit Extension on its due date, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day grace period shall not apply to payments due on the Maturity Date or the date of acceleration pursuant to Section 9.1 (a) hereof). During the cure period, the failure to cure the payment default is not an Event of Default (but no Credit Extension will be made during the cure period);

### **8.2 Covenant Default.**

(a) Borrower or any of its Subsidiaries fails or neglects to perform any obligation in Sections 6.2 (Financial Statements, Reports, Certificates), 6.4 (Taxes), 6.5 (Insurance), 6.6 (Operating Accounts), 6.7 (Protection of Intellectual Property Rights), 6.9 (Notice of Litigation and Default), 6.10 (Financial Covenant), 6.12 (Creation/Acquisition of Subsidiaries) or Borrower violates any covenant in Section 7 or Section 13; or

(b) Borrower, or any of its Subsidiaries, fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the earlier of (i) the date on which an executive officer (including, without limitation, a president, chief executive officer, chief financial officer, secretary, vice president or general counsel) of Borrower becomes aware, or through the exercise of reasonable diligence should have become aware, of such failure and (ii) the date on which notice shall have been given to Borrower from Collateral Agent; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Grace periods provided under this Section shall not apply, among other things, to financial covenants or any other covenants set forth in subsection (a) above;

**8.3 Material Adverse Change.** A Material Adverse Change occurs;

**8.4 Attachment; Levy; Restraint on Business.**

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or any of its Subsidiaries (taken as a whole) or of any entity under control of Borrower or its Subsidiaries on deposit with any Lender or any Lender's Affiliate or any bank or other institution at which Borrower or any of its Subsidiaries maintains a Collateral Account, or (ii) a notice of lien, levy, or assessment is filed against Borrower or any of its Subsidiaries or their respective assets by any government agency, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; and

(b) (i) any material portion of Borrower's and its Subsidiaries' assets (taken as a whole) is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower or any of its Subsidiaries from conducting any material part of its business;

**8.5 Insolvency.** (a) Borrower and its Subsidiaries, taken as a whole, are or become Insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and not dismissed or stayed within forty-five (45) days (but no Credit Extensions shall be made while Borrower or any Subsidiary is Insolvent and/or until any Insolvency Proceeding is dismissed);

**8.6 Other Agreements.** There is a default in any agreement to which Borrower or any of the other Loan Parties is a party with a third party or parties resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of Two Hundred and Fifty Thousand Dollars (\$250,000.00) or that could reasonably be expected to have a Material Adverse Change; provided, however, that the Event of Default under this Section 8.6 caused by the occurrence of a default under such other agreement shall be cured or waived for purposes of this Agreement upon Collateral Agent receiving written notice from the party asserting such default of such cure or waiver of the default under such other agreement, if at the time of such cure or waiver under such other agreement (x) Collateral Agent has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith judgment of Collateral Agent be materially more burdensome to Borrower;

**8.7 Judgments.** One or more judgments, orders, or decrees for the payment of money in an amount, individually or in the aggregate, of at least Three Hundred Thousand Dollars (\$300,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower or any of its Subsidiaries and shall remain unsatisfied, unvacated, or unstayed for a period of thirty (30) days after the entry thereof (provided that no Credit Extensions will be made prior to the satisfaction, vacation, or stay of such judgment, order or decree);

**8.8 Misrepresentations.** Borrower or any of its Subsidiaries or any Person acting for Borrower or any of its Subsidiaries makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Collateral Agent and/or Lenders or to induce Collateral Agent and/or the Lenders to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made or deemed made;

**8.9 Subordinated Debt.** A default or breach occurs under any agreement between Borrower or any of its Subsidiaries and any creditor of Borrower or any of its Subsidiaries that signed a subordination, intercreditor, or other similar agreement with Collateral Agent or the Lenders, or any creditor that has signed such an agreement with Collateral Agent or the Lenders breaches any terms of such agreement;

**8.10 Guaranty.** (a) Any Guaranty terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any Guaranty; (c) any circumstance described in Sections 8.3, 8.4, 8.5, 8.7, or 8.8 occurs with respect to any Guarantor; (d) the liquidation, winding up, or termination of existence of any Guarantor; or (e) a Material Adverse Change with respect to any Guarantor.

**8.11 Governmental Approvals.** Any Governmental Approval shall have been revoked, rescinded, suspended, modified in an adverse manner, or not renewed in the ordinary course for a full term *and* such revocation, rescission, suspension, modification or non-renewal has resulted in or could reasonably be expected to result in a Material Adverse Change;

**8.12 Lien Priority .** Any Lien created hereunder or by any other Loan Document shall at any time fail to constitute a valid and perfected Lien on any of the Collateral purported to be secured thereby, subject to no prior or equal Lien, other than Permitted Liens which are permitted to have priority in accordance with the terms of this Agreement;

## **9. RIGHTS AND REMEDIES**

### **9.1 Rights and Remedies .**

(a) Upon the occurrence and during the continuance of an Event of Default, Collateral Agent may, and at the written direction of Required Lenders shall, without notice or demand, do any or all of the following: (i) deliver notice of the Event of Default to Borrower, (ii) by notice to Borrower declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations shall be immediately due and payable without any action by Collateral Agent or the Lenders) or (iii) by notice to Borrower suspend or terminate the obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Collateral Agent and/or the Lenders (but if an Event of Default described in Section 8.5 occurs all obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Collateral Agent and/or the Lenders shall be immediately terminated without any action by Collateral Agent or the Lenders).

(b) Without limiting the rights of Collateral Agent and the Lenders set forth in Section 9.1(a) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right without notice or demand, to do any or all of the following:

(i) foreclose upon and/or sell or otherwise liquidate, the Collateral;

(ii) apply to the Obligations any (a) balances and deposits of Borrower that Collateral Agent or any Lender holds or controls, or (b) any amount held or controlled by Collateral Agent or any Lender owing to or for the credit or the account of Borrower; and/or

(iii) commence and prosecute an Insolvency Proceeding or consent to Borrower commencing any Insolvency Proceeding.

(c) Without limiting the rights of Collateral Agent and the Lenders set forth in Sections 9.1(a) and (b) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right, without notice or demand, to do any or all of the following:

(i) settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Collateral Agent considers advisable, notify any Person owing Borrower money of Collateral Agent's security interest in such funds, and verify the amount of such account;

(ii) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Collateral Agent requests and make it available in a location as Collateral Agent reasonably designates. Collateral Agent may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Collateral Agent a license to enter and occupy any of its premises, without charge, to exercise any of Collateral Agent's rights or remedies;

(iii) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, and/or advertise for sale, the Collateral. Collateral Agent is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's and each of its Subsidiaries' labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Collateral Agent's exercise of its rights under this Section 9.1, Borrower's and each of its Subsidiaries' rights under all licenses and all franchise agreements inure to Collateral Agent, for the benefit of the Lenders;

(iv) place a "hold" on any account maintained with Collateral Agent or the Lenders and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(v) demand and receive possession of Borrower's Books;

(vi) appoint a receiver to seize, manage and realize any of the Collateral, and such receiver shall have any right and authority as any competent court will grant or authorize in accordance with any applicable law, including any power or authority to manage the business of Borrower or any of its Subsidiaries; and

(vii) subject to clauses 9.1(a) and (b), exercise all rights and remedies available to Collateral Agent and each Lender under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

(d) Without limiting the rights of Collateral Agent and the Lenders set forth in Sections 9.1(a), (b) and (c) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right to terminate, upon written notice to Borrower, Borrower's and its Subsidiaries' right to continue to enter into non-exclusive licenses in the ordinary course of business.

Collateral Agent may only give a Notice of Exclusive Control with respect to any deposit account or securities account at any time at which an Event of Default has occurred and is continuing.

Notwithstanding any provision of this Section 9.1 to the contrary, upon the occurrence of any Event of Default, Collateral Agent shall have the right to exercise any and all remedies referenced in this Section 9.1 without the written consent of Required Lenders following the occurrence of an Exigent Circumstance. As used in the immediately preceding sentence, "**Exigent Circumstance**" means any event or circumstance that, in the reasonable judgment of Collateral Agent, imminently threatens the ability of Collateral Agent to realize upon all or any material portion of the Collateral, such as, without limitation, fraudulent removal, concealment, or abscondment thereof, destruction or material waste thereof, or failure of Borrower or any of its Subsidiaries after reasonable demand to maintain or reinstate adequate casualty insurance coverage, or which, in the judgment of Collateral Agent, could reasonably be expected to result in a material diminution in value of the Collateral.

**9.2 Power of Attorney.** Borrower hereby irrevocably appoints Collateral Agent as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's or any of its Subsidiaries' name on any checks or other forms of payment or security; (b) sign Borrower's or any of its Subsidiaries' name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account Debtors, for amounts and on terms Collateral Agent determines reasonable; (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Collateral Agent or a third party as the Code or any applicable law permits. Borrower hereby appoints Collateral Agent as its lawful attorney-in-fact to sign Borrower's or any of its Subsidiaries' name on any documents necessary to perfect or continue the perfection of Collateral Agent's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations (other than inchoate indemnity obligations) have been satisfied in full and Collateral Agent and the Lenders are under no further obligation to make Credit Extensions hereunder. Collateral Agent's foregoing appointment as Borrower's or any of its Subsidiaries' attorney in fact, and all of Collateral Agent's rights and powers, coupled with an interest, are irrevocable until all Obligations (other than inchoate indemnity obligations) have been fully repaid and performed and Collateral Agent's and the Lenders' obligation to provide Credit Extensions terminates.

**9.3 Protective Payments.** If Borrower or any of its Subsidiaries fail to obtain the insurance called for by Section 6.5 or fails to pay any premium thereon or fails to pay any other amount which Borrower or any of its Subsidiaries is obligated to pay under this Agreement or any other Loan Document, Collateral Agent may obtain such insurance or make such payment, and all amounts so paid by Collateral Agent are Lenders' Expenses and immediately due and payable, bearing interest at the Default Rate, and secured by the Collateral. Collateral Agent will make reasonable efforts to provide Borrower with notice of Collateral Agent obtaining such insurance or making such payment at the time it is obtained or paid or within a reasonable time thereafter. No such payments by Collateral Agent are deemed an agreement to make similar payments in the future or Collateral Agent's waiver of any Event of Default.

**9.4 Application of Payments and Proceeds.** Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, (a) Borrower irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Collateral Agent from or on behalf of Borrower or any of its Subsidiaries of all or any part of the Obligations, and, as between Borrower on the one hand and Collateral Agent and Lenders on the other, Collateral Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as Collateral Agent may deem advisable notwithstanding any previous application by Collateral Agent, and (b) the proceeds of any sale of, or other realization upon all or any part of the Collateral shall be applied: first, to the Lenders' Expenses; second, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of the United States Bankruptcy Code, would have accrued on such amounts); third, to the principal amount of the Obligations outstanding; and fourth, to any other indebtedness or obligations of Borrower owing to Collateral Agent or any Lender under the Loan Documents. Any balance remaining shall be delivered to Borrower or to whoever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. In carrying out the foregoing, (x) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (y) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its pro rata share of amounts available to be applied pursuant thereto for such category. Any reference in this Agreement to an allocation between or sharing by the Lenders of any right, interest or obligation "ratably," "proportionally" or in similar terms shall refer to Pro Rata Share unless expressly provided otherwise. Collateral Agent, or if applicable, each Lender, shall promptly remit to the other Lenders such sums as may be necessary to ensure the ratable repayment of each Lender's portion of any Term Loan and the ratable distribution of interest, fees and reimbursements paid or made by Borrower. Notwithstanding the foregoing, a Lender receiving a scheduled payment shall not be responsible for determining whether the other Lenders also received their scheduled payment on such date; provided, however, if it is later determined that a Lender received more than its ratable share of scheduled payments made on any date or dates, then such Lender shall remit to Collateral Agent or other Lenders such sums as may be necessary to ensure the ratable payment of such scheduled payments, as instructed by Collateral Agent. If any payment or distribution of any kind or character, whether in cash, properties or securities, shall be received by a Lender in excess of its ratable share, then the portion of such payment or distribution in excess of such Lender's ratable share shall be received by such Lender in trust for and shall be promptly paid over to the other Lender for application to the payments of amounts due on the other Lenders' claims. To the extent any payment for the account of Borrower is required to be returned as a voidable transfer or otherwise, the Lenders shall contribute to one another as is necessary to ensure that such return of payment is on a pro rata basis. If any Lender shall obtain possession of any Collateral, it shall hold such Collateral for itself and as agent and bailee for Collateral Agent and other Lenders for purposes of perfecting Collateral Agent's security interest therein.

**9.5 Liability for Collateral.** So long as Collateral Agent and the Lenders comply with reasonable banking practices and the Code regarding the safekeeping of the Collateral in the possession or under the control of Collateral Agent and the Lenders, Collateral Agent and the Lenders shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

**9.6 No waiver; Remedies Cumulative.** Failure by Collateral Agent or any Lender, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Collateral Agent or any Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by Collateral Agent and the Required Lenders and then is only effective for the specific instance and purpose for which it is given. The rights and remedies of Collateral Agent and the Lenders under this Agreement and the other Loan Documents are cumulative. Collateral Agent and the Lenders have all rights and remedies provided under the Code, any applicable law, by law, or in equity. The exercise by Collateral Agent or any Lender of one right or remedy is not an election, and Collateral Agent's or any Lender's waiver of any Event of Default is not a continuing waiver. Collateral Agent's or any Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

**9.7 Demand waiver.** Borrower waives, to the fullest extent permitted by law, demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Collateral Agent or any Lender on which Borrower or any Subsidiary is liable.

## **10. NOTICES**

All notices, consents, requests, approvals, demands, or other communication (collectively, "**Communication**") by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Any of Collateral Agent, Lender or Borrower may change its mailing address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower:

Cytori Therapeutics, Inc.  
3020 Callan Road  
San Diego, California 92121  
Attn: Tiago M. Girão  
Fax: (858) 450-4355  
Email: [tgirao@cytori.com](mailto:tgirao@cytori.com)

with a copy (which shall not constitute notice) to:

Cytori Therapeutics, Inc.  
3020 Callan Road  
San Diego, California 92121  
Attn: In-House Counsel  
Fax: (858) 450-4335

If to Collateral Agent or Oxford:

OXFORD FINANCE LLC  
133 North Fairfax Street  
Alexandria, Virginia 22314  
Attention: Legal Department  
Fax: (703) 519-5225  
Email: LegalDepartment@oxfordfinance.com

with a copy (which shall not constitute notice) to:

Greenberg Traurig, LLP  
One International Place  
Boston, MA 02110  
Attn: Jonathan Bell, Esq.  
Fax: (617) 279-8438  
Email: Bellj@gtlaw.com

#### **11. CHOICE OF LAW, VENUE AND JURY TRIAL WAIVER, AND JUDICIAL REFERENCE**

California law governs the Loan Documents without regard to principles of conflicts of law. Borrower, Collateral Agent and each Lender each submit to the exclusive jurisdiction of the State and Federal courts in Santa Clara County, California; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Collateral Agent or any Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Collateral Agent or any Lender. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

**TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER, COLLATERAL AGENT AND EACH LENDER EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR EACH PARTY TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.**

WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY, if the above waiver of the right to a trial by jury is not enforceable, the parties hereto agree that any and all disputes or controversies of any nature between them arising at any time shall be decided by a reference to a private judge, mutually selected by the parties (or, if they cannot agree, by the Presiding Judge of the Santa Clara County, California Superior Court) appointed in accordance with California Code of Civil Procedure Section 638 (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts), sitting without a jury, in Santa Clara County, California; and the parties hereby submit to the jurisdiction of such court. The reference proceedings shall be conducted pursuant to and in accordance with the provisions of California Code of Civil Procedure §§ 638 through 645.1, inclusive. The private judge shall have the power, among others, to grant provisional relief, including without limitation, entering temporary restraining orders, issuing preliminary and permanent injunctions and appointing receivers. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. If during the course of any dispute, a party desires to seek provisional relief, but a judge has not been appointed at that point pursuant to the judicial reference procedures, then such party may apply to the Santa Clara County, California Superior Court for such relief. The proceeding before the private judge shall be conducted in the same manner as it would be before a court under the rules of evidence applicable to judicial proceedings. The parties shall be entitled to discovery which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and orders applicable to judicial proceedings in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to California Code of Civil Procedure § 644(a). Nothing in this paragraph shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

## 12. GENERAL PROVISIONS

**12.1 Successors and Assigns.** This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not transfer, pledge or assign this Agreement or any rights or obligations under it without Collateral Agent's and each Lender's prior written consent (which may be granted or withheld in Collateral Agent's and each Lender's discretion, subject to Section 12.6). The Lenders have the right, without the consent of or notice to Borrower, to sell, transfer, assign, pledge, negotiate, or grant participation in ( any such sale, transfer, assignment, negotiation , or grant of a participation, a "**Lender Transfer**") all or any part of, or any interest in, the Lenders' obligations, rights, and benefits under this Agreement and the other Loan Documents; *provided, however*, that any such Lender Transfer (other than a transfer, pledge, sale or assignment to an Eligible Assignee) of its obligations, rights, and benefits under this Agreement and the other Loan Documents shall require the prior written consent of the Required Lenders (such approved assignee, an "**Approved Lender**"). Borrower and Collateral Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned until Collateral Agent shall have received and accepted an effective assignment agreement in form satisfactory to Collateral Agent executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee or Approved Lender as Collateral Agent reasonably shall require. Notwithstanding anything to the contrary contained herein, so long as no Event of Default has occurred and is continuing, no Lender Transfer (other than a Lender Transfer (i) in respect of the Warrants (which shall be governed by the terms of the Warrants) or (ii) in connection with (x) assignments by a Lender due to a forced divestiture at the request of any regulatory agency; or (y) upon the occurrence of a default, event of default or similar occurrence with respect to a Lender's own financing or securitization transactions) shall be permitted, without Borrower's consent, to any Person which is an Affiliate or Subsidiary of Borrower, a direct competitor of Borrower or a vulture hedge fund or distressed debt purchaser, each as determined by Collateral Agent.

**12.2 Indemnification.** Borrower agrees to indemnify, defend and hold Collateral Agent and the Lenders and their respective directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Collateral Agent or the Lenders (each, an "**Indemnified Person** ") harmless against: (a) all obligations, demands, claims, and liabilities (collectively, "**Claims** ") asserted by any other party in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents; and (b) all losses or Lenders' Expenses incurred, or paid by Indemnified Person in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents between Collateral Agent, and/or the Lenders and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct. Borrower hereby further indemnifies, defends and holds each Indemnified Person harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnified Person) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnified Person shall be designated a party thereto and including any such proceeding initiated by or on behalf of Borrower, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Collateral Agent or Lenders) asserting any right to payment for the transactions contemplated hereby which may be imposed on, incurred by or asserted against such Indemnified Person as a result of or in connection with the transactions contemplated hereby and the use or intended use of the proceeds of the loan proceeds except for liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements directly caused by such Indemnified Person's gross negligence or willful misconduct.

**12.3 Time of Essence.** Time is of the essence for the performance of all Obligations in this Agreement.

**12.4 Severability of Provisions.** Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

**12.5 Correction of Loan Documents.** Collateral Agent and the Lenders may correct patent errors and fill in any blanks in this Agreement and the other Loan Documents consistent with the agreement of the parties .

**12.6 Amendments in writing; Integration.** (a) No amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, no approval or consent thereunder, or any consent to any departure by Borrower or any of its Subsidiaries therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower, Collateral Agent and the Required Lenders provided that:

(i) no such amendment, waiver or other modification that would have the effect of increasing or reducing a Lender's Term Loan Commitment or Commitment Percentage shall be effective as to such Lender without such Lender's written consent;

(ii) no such amendment, waiver or modification that would affect the rights and duties of Collateral Agent shall be effective without Collateral Agent's written consent or signature;

(iii) no such amendment, waiver or other modification shall, unless signed by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Term Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Term Loan (B) postpone the date fixed for, or waive, any payment of principal of any Term Loan or of interest on any Term Loan (other than default interest) or any fees provided for hereunder (other than late charges or for any termination of any commitment); (C) change the definition of the term " **Required Lenders** " or the percentage of Lenders which shall be required for the Lenders to take any action hereunder; (D) release all or substantially all of any material portion of the Collateral, authorize Borrower to sell or otherwise dispose of all or substantially all or any material portion of the Collateral or release any Guarantor of all or any portion of the Obligations or its guaranty obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be expressly permitted under this Agreement or the other Loan Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 12.6 or the definitions of the terms used in this Section 12.6 insofar as the definitions affect the substance of this Section 12.6; (F) consent to the assignment, delegation or other transfer by Borrower of any of its rights and obligations under any Loan Document or release Borrower of its payment obligations under any Loan Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; (G) amend any of the provisions of Section 9.4 or amend any of the definitions of Pro Rata Share, Term Loan Commitment, Commitment Percentage or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder; (H) subordinate the Liens granted in favor of Collateral Agent securing the Obligations; or (I) amend any of the provisions of Section 12.10. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F), (G) and (H) of the preceding sentence;

(iv) the provisions of the foregoing clauses (i), (ii) and (iii) are subject to the provisions of any interlender or agency agreement among the Lenders and Collateral Agent pursuant to which any Lender may agree to give its consent in connection with any amendment, waiver or modification of the Loan Documents only in the event of the unanimous agreement of all Lenders.

(b) Other than as expressly provided for in Section 12.6(a)(i)-(iii), Collateral Agent may, if requested by the Required Lenders, from time to time designate covenants in this Agreement less restrictive by notification to a representative of Borrower.

(c) This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

**12.7 Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

**12.8 Survival.** All covenants, representations and warranties made in this Agreement continue in full force and effect until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) have been satisfied. The obligation of Borrower in Section 12.2 to indemnify each Lender and Collateral Agent, as well as the confidentiality provisions in Section 12.9 below, shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

**12.9 Confidentiality.** In handling any confidential information of Borrower or any of its Subsidiaries, the Lenders and Collateral Agent shall exercise the same degree of care that it exercises for their own proprietary information, but disclosure of information may be made: (a) subject to the terms and conditions of this Agreement, to the Lenders' and Collateral Agent's Subsidiaries or Affiliates, or in connection with a Lender's own financing or securitization transactions and upon the occurrence of a default, event of default or similar occurrence with respect to such financing or securitization transaction; (b) to prospective transferees (other than those identified in (a) above) or purchasers of any interest in the Credit Extensions (provided, however, the Lenders and Collateral Agent shall, except upon the occurrence and during the continuance of an Event of Default, obtain such prospective transferee's or purchaser's agreement to the terms of this provision or to similar confidentiality terms); (c) as required by law, regulation, subpoena, or other order provided that Collateral Agent and each Lender shall use reasonable efforts to provide prior written notice to Borrower of such disclosure, unless such notice is prohibited by applicable law or an order of a governmental authority; (d) to Lenders' or Collateral Agent's regulators or as otherwise required in connection with an examination or audit; (e) as Collateral Agent reasonably considers appropriate in exercising remedies under the Loan Documents; and (f) to third party service providers of the Lenders and/or Collateral Agent so long as such service providers have executed a confidentiality agreement with the Lenders and Collateral Agent with terms no less restrictive than those contained herein and the persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential. Confidential information does not include information that either: (i) is in the public domain or in the Lenders' and/or Collateral Agent's possession when disclosed to the Lenders and/or Collateral Agent, or becomes part of the public domain after disclosure to the Lenders and/or Collateral Agent (other than by the actions of the Lenders and/or Collateral Agent); or (ii) is disclosed to the Lenders and/or Collateral Agent by a third party, if the Lenders and/or Collateral Agent does not know that the third party is prohibited from disclosing the information. Collateral Agent and the Lenders may also: (i) use confidential information for any of their internal record keeping, due diligence, risk analysis, market analysis, maintenance and development of client databases, statistical and reporting purposes; (ii) use Borrower's name and the principal terms of the Loans for customary client reference purposes; and (iii) use masked confidential information for regulatory reporting purposes to the extent required by or advisable under applicable law. The provisions of this Section 12.9 shall survive the termination of this Agreement. The agreements provided under this Section 12.9 supersede all prior agreements, understanding, representations, warranties, and negotiations between the parties about the subject matter of this Section 12.9.

**12.10 Right of Set Off.** Borrower hereby grants to Collateral Agent and to each Lender, a lien, security interest and right of set off as security for all Obligations to Collateral Agent and each Lender hereunder, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Collateral Agent or the Lenders or any entity under the control of Collateral Agent or the Lenders (including a Collateral Agent affiliate) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Collateral Agent or the Lenders may set off the same or any part thereof and apply the same to any liability or obligation of Borrower even though unmaturing and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE COLLATERAL AGENT TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

**12.11 Cooperation of Borrower.** If necessary, Borrower agrees to (i) execute any documents (including new Secured Promissory Notes) reasonably required to effectuate and acknowledge each assignment of a Term Loan Commitment or Loan to an assignee in accordance with Section 12.1, (ii) make Borrower's management available to meet with Collateral Agent and prospective participants and assignees of Term Loan Commitments or Credit Extensions (which meetings shall be conducted no more often than twice every twelve months unless an Event of Default has occurred and is continuing), and (iii) assist Collateral Agent or the Lenders in the preparation of information relating to the financial affairs of Borrower as any prospective participant or assignee of a Term Loan Commitment or Term Loan reasonably may request. Subject to the provisions of Section 12.9, Borrower authorizes each Lender to disclose to any prospective participant or assignee of a Term Loan Commitment, any and all information in such Lender's possession concerning Borrower and its financial affairs which has been delivered to such Lender by or on behalf of Borrower pursuant to this Agreement, or which has been delivered to such Lender by or on behalf of Borrower in connection with such Lender's credit evaluation of Borrower prior to entering into this Agreement.

### **13. JOINT VENTURE TERMINATION**

Notwithstanding anything in this Agreement to the contrary, (a) Borrower may purchase certain assets (including without limitation all stock of Cytori Development that is owned by Olympus) from Olympus pursuant to the terms of a JV Termination Agreement, and (b) Borrower may perform all of its obligations under the JV Termination Agreement, except that Borrower may not make any payments of the "Total Purchase Price" (as such term is defined in the JV Termination Agreement) other than as provided for in this Section 13; provided, however, that (i) Borrower shall deliver to Collateral Agent a copy of any other agreements or documents executed or delivered in connection with JV Agreement promptly upon the execution and delivery thereof, (ii) Borrower may only make payments to Olympus under Section 2.4(a) of the JV Termination Agreement and may not make any payments to Olympus pursuant to Section 2.4(b) or Section 2.4(c) of the JV Termination Agreement nor become obligated to make any payment under Section 2.4(b) or Section 2.4(c) of the JV Termination Agreement, without the prior written consent of Collateral Agent and the Required Lenders, and (iii) as soon as practicable (in light of the time period necessary to transfer certain assets to Cytori Development as contemplated by the JV Termination Agreement) following the effectiveness of the JV Termination Agreement, Borrower will initiate dissolution of Cytori Development and use its best efforts to complete such dissolution at the earliest date thereafter (and provide evidence of its dissolution to Collateral Agent promptly thereafter) and cause all of the assets of Cytori Development to be transferred and assigned to Borrower, and Borrower will execute such other documents and take such other actions as may be required by Collateral Agent for Collateral Agent to obtain a security interest in all such transferred assets of Cytori Development, and (v) notwithstanding the provisions of this Agreement to the contrary, until Cytori Development is dissolved as described in the foregoing clause (iv), Borrower shall not make Investments in Cytori Development in excess of \$50,000 in the aggregate. The failure of Borrower to take any action or satisfy any conditions described in the preceding sentence shall constitute an immediate Event of Default hereunder.

### **14. DEFINITIONS**

**14.1 Definitions.** As used in this Agreement, the following terms have the following meanings:

"**Account**" is any "account" as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

"**Account Debtor**" is any "account debtor" as defined in the Code with such additions to such term as may hereafter be made.

“ **Affiliate** ” of any Person is a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person’s senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person’s managers and members.

“ **Agreement** ” is defined in the preamble hereof.

“ **Amortization Date** ” is July 1, 2016 if neither US-ACT-OA Event nor the Qualified Transaction Event occurs, and January 1, 2017 if either the US-ACT-OA Event or the Qualified Transaction Event occurs.

“ **Annual Projections** ” is defined in Section 6.2(a).

“ **Anti-Terrorism Laws** ” are any laws relating to terrorism or money laundering, including Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC.

“ **Approved Fund** ” is any (i) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business or (ii) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (i) and that, with respect to each of the preceding clauses (i) and (ii), is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

“ **Approved Lender** ” is defined in Section 12.1.

“ **Bank Services** ” are any products, credit services, and/or financial accommodations previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services as any such products or services may be identified in Bank’s various agreements related thereto (each, a “ **Bank Services Agreement** ”).

“ **Bank** ” is defined in the preamble hereof.

“ **Basic Rate** ” is, with respect to a Term Loan, as determined by Collateral Agent, the per annum rate of interest (based on a year of three hundred sixty (360) days) equal to the sum of (a) the greater of (i) three (3) month U.S. LIBOR rate reported in the Wall Street Journal on the date occurring on the last Business Day of the month that immediately precedes the month in which the interest will accrue and (ii) one percent (1.00%), plus (b) Seven and Ninety-Five Hundredths percent (7.95%). Without limiting the foregoing, the Basic Rate for the Term Loan for the period from the Effective Date through May 31, 2015 shall be Eight and Ninety-Five Hundredths percent (8.95%).

“ **Blocked Person** ” is any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224, or (e) a Person that is named a “specially designated national” or “blocked person” on the most current list published by OFAC or other similar list.

“ **Borrower** ” is defined in the preamble hereof.

“ **Borrower’s Books** ” are Borrower’s or any of its Subsidiaries’ books and records including ledgers, federal, and state tax returns, records regarding Borrower’s or its Subsidiaries’ assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

“ **Business Day** ” is any day that is not a Saturday, Sunday or a day on which Collateral Agent is closed.

“ **Cash Burn Amount** ” means, with respect to Borrower and its consolidated Subsidiaries, as of any date of determination and based on the financial statements most recently delivered to Collateral Agent and the Lenders in accordance with this Agreement:

(1) the product of (i) the sum of, without duplication, (A) net income (loss), plus (B) depreciation, amortization and other non-cash charges (excluding accruals for cash expenses made in the ordinary course of business), minus (C) non-financed capital expenditures, minus (D) non-cash revenue, in each case of clauses (A), (B), (C) and (D), for the immediately preceding six month period on a trailing basis, divided by (ii) six,

minus

(2) the product of (i) the current portion of interest bearing liabilities due and payable in the immediately succeeding six months divided by (ii) six.

“ **Cash Equivalents** ” are (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc., and (c) certificates of deposit maturing no more than one (1) year after issue provided that the account in which any such certificate of deposit is maintained is subject to a Control Agreement in favor of Collateral Agent. For the avoidance of doubt, the direct purchase by Borrower or any of its Subsidiaries of any Auction Rate Securities, or purchasing participations in, or entering into any type of swap or other derivative transaction, or otherwise holding or engaging in any ownership interest in any type of Auction Rate Security by Borrower or any of its Subsidiaries shall be conclusively determined by the Lenders as an ineligible Cash Equivalent, and any such transaction shall expressly violate each other provision of this Agreement governing Permitted Investments. Notwithstanding the foregoing, Cash Equivalents does not include and Borrower, and each of its Subsidiaries, are prohibited from purchasing, purchasing participations in, entering into any type of swap or other equivalent derivative transaction, or otherwise holding or engaging in any ownership interest in any type of debt instrument, including, without limitation, any corporate or municipal bonds with a long-term nominal maturity for which the interest rate is reset through a dutch auction and more commonly referred to as an auction rate security (each, an “ **Auction Rate Security** ”).

“ **Celuton Systems** ” are defined in Section 6.11.

“ **Claims** ” are defined in Section 12.2.

“ **Code** ” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, 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, Collateral Agent’s Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term “Code” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“ **Collateral** ” is any and all properties, rights and assets of Borrower described on Exhibit A.

“ **Collateral Account** ” is any Deposit Account, Securities Account, or Commodity Account, or any other bank account maintained by Borrower or any Subsidiary at any time.

“ **Collateral Agent** ” is, Oxford, not in its individual capacity, but solely in its capacity as agent on behalf of and for the benefit of the Lenders.

“ **Commitment Percentage** ” is set forth in Schedule 1.1, as amended from time to time.

“ **Commodity Account** ” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made.

“ **Communication** ” is defined in Section 10.

“ **Compliance Certificate** ” is that certain certificate in the form attached hereto as Exhibit C.

“ **Contingent Obligation** ” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

“ **Control Agreement** ” is any control agreement entered into among the depository institution at which Borrower or any of its Subsidiaries maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower or any of its Subsidiaries maintains a Securities Account or a Commodity Account, Borrower and such Subsidiary, and Collateral Agent pursuant to which Collateral Agent obtains control (within the meaning of the Code) for the benefit of the Lenders over such Deposit Account, Securities Account, or Commodity Account.

“ **Copyrights** ” are any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

“ **Credit Extension** ” is any Term Loan or any other extension of credit by Collateral Agent or Lenders for Borrower’s benefit.

“ **Cytori Development** ” means Cytori Development, Inc., a Delaware corporation, formerly known as Olympus-Cytori, Inc.

“ **Default Rate** ” is defined in Section 2.3(b).

“ **Deposit Account** ” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made.

“ **Designated Deposit Account** ” is Borrower’s deposit account designated in writing to Collateral Agent prior to the Effective Date.

“ **Disbursement Letter** ” is that certain form attached hereto as Exhibit B.

“ **Dollars** , ” “ **dollars** ” and “**\$**” each mean lawful money of the United States.

“**Dollar Equivalent**” is, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in a Foreign Currency, the equivalent amount therefor in Dollars as determined by Bank at such time on the basis of the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

“ **Effective Date** ” is defined in the preamble of this Agreement.

“ **Eligible Assignee** ” is (i) a Lender, (ii) an Affiliate of a Lender, (iii) an Approved Fund and (iv) any commercial bank, savings and loan association or savings bank or any other entity which is an “accredited investor” (as defined in Regulation D under the Securities Act of 1933, as amended) and which extends credit or buys loans as one of its businesses, including insurance companies, mutual funds, lease financing companies and commercial finance companies, in each case, which either (A) has a rating of BBB or higher from Standard & Poor’s Rating Group and a rating of Baa2 or higher from Moody’s Investors Service, Inc. at the date that it becomes a Lender or (B) has total assets in excess of Five Billion Dollars (\$5,000,000,000.00), and in each case of clauses (i) through (iv), which, through its applicable lending office, is capable of lending to Borrower without the imposition of any withholding or similar taxes; provided that notwithstanding the foregoing, “Eligible Assignee” shall not include, unless an Event of Default has occurred and is continuing, (i) Borrower or any of Borrower’s Affiliates or Subsidiaries or (ii) a direct competitor of Borrower or a vulture hedge fund, each as determined by Collateral Agent. Notwithstanding the foregoing, (x) in connection with assignments by a Lender due to a forced divestiture at the request of any regulatory agency, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party and (y) in connection with a Lender’s own financing or securitization transactions, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party providing such financing or formed to undertake such securitization transaction and any transferee of such Person or party upon the occurrence of a default, event of default or similar occurrence with respect to such financing or securitization transaction; provided that no such sale, transfer, pledge or assignment under this clause (y) shall release such Lender from any of its obligations hereunder or substitute any such Person or party for such Lender as a party hereto until Collateral Agent shall have received and accepted an effective assignment agreement from such Person or party in form satisfactory to Collateral Agent executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee as Collateral Agent reasonably shall require.

“ **Equipment** ” is all “equipment” as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

“ **ERISA** ” is the Employee Retirement Income Security Act of 1974, as amended, and its regulations.

“ **Existing Indebtedness** ” is the indebtedness of Borrower to Oxford Finance LLC and Silicon Valley Bank in the aggregate principal outstanding amount as of the Effective Date of approximately \$23,431,691.49 pursuant to that certain Loan and Security Agreement, dated June 28, 2013, entered into by and among Oxford in its capacity as collateral agent, the lenders listed on Schedule 1.1 thereof from time to time including Oxford in its capacity as a lender and Silicon Valley Bank, and Borrower, as borrower thereunder.

“ **Event of Default** ” is defined in Section 8.

“ **Final Payment** ” is a payment (in addition to and not a substitution for the regular monthly payments of principal plus accrued interest) due on the earliest to occur of (a) the Maturity Date, or (b) the acceleration of any Term Loan, or (c) the prepayment of a Term Loan pursuant to Section 2.2(c) or (d), equal to the original principal amount of such Term Loan multiplied by the Final Payment Percentage, payable to Lenders in accordance with their respective Pro Rata Shares.

“ **Final Payment Percentage** ” is six and fifteen-hundredths percent (6.15%).

“**Foreign Currency**” means lawful money of a country other than the United States.

“ **Foreign Subsidiary** ” is a Subsidiary that is not an entity organized under the laws of the United States or any territory thereof.

“ **Funding Date** ” is any date on which a Credit Extension is made to or on account of Borrower which shall be a Business Day.

“ **FX Contract** ” is any foreign exchange contract by and between Borrower and Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency on a specified date.

“ **GAAP** ” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination.

“ **General Intangibles** ” are all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, trademarks, service marks and, to the extent permitted under applicable law, any applications therefor, whether registered or not, any trade secret rights, including any rights to unpatented inventions, payment intangibles, royalties, contract rights, goodwill, franchise agreements, purchase orders, customer lists, route lists, telephone numbers, domain names, claims, income and other tax refunds, security and other deposits, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“ **Governmental Approval** ” is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“ **Governmental Authority** ” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“ **Guarantor** ” is any Person providing a Guaranty in favor of Collateral Agent with the Required Lenders’ and the Collateral Agent’s approval (which approval may be withheld by the Required Lenders or the Collateral Agent in their or its respective discretion).

“ **Guaranty** ” is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

“ **Indebtedness** ” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

“ **Indemnified Person** ” is defined in Section 12.2.

“ **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 relief.

“ **Insolvent** ” means not Solvent.

“ **Intellectual Property** ” means all of Borrower’s or any Subsidiary’s right, title and interest in and to the following:

- (a) its Copyrights, Trademarks and Patents;

- (b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, operating manuals;
- (c) any and all source code;
- (d) any and all design rights which may be available to Borrower;
- (e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and
- (f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

“ **Inventory** ” is all “inventory” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of any Person’s custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

“ **Investment** ” is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance, payment or capital contribution to any Person.

“ **JV Termination Agreement** ” is that certain Joint Venture Termination Agreement, dated May 8, 2013 (as amended by that certain Amendment One to Joint Venture Termination Agreement made as of April 30, 2015 but excluding any other amendments thereto), by and between Borrower and Olympus regarding, among other things, the termination of a joint venture carried out pursuant to Cytori Development.

“ **Key Person** ” is each of Borrower’s (i) Chief Executive Officer, who is Marc H. Hedrick, M.D. as of the Effective Date, and (ii) Chief Financial Officer, who is Tiago M. Girão as of the Effective Date.

“ **Lender** ” is any one of the Lenders.

“ **Lenders** ” are the Persons identified on Schedule 1.1 hereto and each assignee that becomes a party to this Agreement pursuant to Section 12.1.

“ **Lenders’ Expenses** ” are all audit fees and expenses, costs, and expenses (including reasonable attorneys’ fees and expenses, as well as appraisal fees, fees incurred on account of lien searches, inspection fees, and filing fees) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred by Collateral Agent and/or the Lenders in connection with the Loan Documents.

“ **Lien** ” is a claim, mortgage, deed of trust, levy, charge, pledge, security interest, or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

“ **Loan Documents** ” are, collectively, this Agreement, the Warrants, the Perfection Certificates, each Compliance Certificate, each Disbursement Letter, the Post Closing Letter, the Pledge Agreement, any subordination agreements, any note, or notes or Guaranties executed by Borrower or any other Person, and any other present or future agreement entered into by Borrower, any Guarantor or any other Person for the benefit of the Lenders and Collateral Agent in connection with this Agreement; all as amended, restated, or otherwise modified.

“ **Loan Parties** ” means, collectively, Borrower and the Guarantors.

“ **Material Adverse Change** ” is (a) a material impairment in the perfection or priority of Collateral Agent’s Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations or financial condition of Borrower and its Subsidiaries, taken as a whole; or (c) a material impairment of the prospect of repayment of any portion of the Obligations.

“ **Maturity Date** ” is, for the Term Loan, June 1, 2019.

“ **Obligations** ” are all of Borrower’s obligations to pay when due any debts, principal, interest, Lenders’ Expenses, the Prepayment Fee, the Final Payment, and other amounts Borrower owes the Lenders now or later, in connection with, related to, following, or arising from, out of or under, this Agreement or, the other Loan Documents (other than the Warrants), or otherwise, including, without limitation, all obligations relating to letters of credit (including reimbursement obligations for drawn and undrawn letters of credit), cash management services, and foreign exchange contracts, if any, and including interest accruing after Insolvency Proceedings begin (whether or not allowed) and debts, liabilities, or obligations of Borrower assigned to the Lenders and/or Collateral Agent, and the performance of Borrower’s duties under the Loan Documents (other than the Warrants).

“ **OFAC** ” is the U.S. Department of Treasury Office of Foreign Assets Control.

“ **OFAC Lists** ” are, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

“ **Olympus** ” means Olympus Corporation, a corporation organized and existing under the laws of Japan.

“ **Operating Documents** ” are, for any Person, such Person’s formation documents, as certified by the Secretary of State (or equivalent agency) of such Person’s jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

“ **Patents** ” means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

“ **Payment Date** ” is the first (1<sup>st</sup>) calendar day of each calendar month, commencing on July 1, 2015.

“ **Perfection Certificate** ” and “ **Perfection Certificates** ” is defined in Section 5.1.

“ **Permitted Indebtedness** ” is:

- (a) Borrower’s Indebtedness to the Lenders and Collateral Agent under this Agreement and the other Loan Documents;
- (b) Indebtedness existing on the Effective Date and disclosed on the Perfection Certificate(s);
- (c) Subordinated Debt;
- (d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness consisting of capitalized lease obligations and purchase money Indebtedness, in each case incurred by Borrower or any of its Subsidiaries to finance the acquisition, repair, improvement or construction of fixed or capital assets of such person, provided that (i) the aggregate outstanding principal amount of all such Indebtedness does not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) at any time and (ii) the principal amount of such Indebtedness does not exceed the lower of the cost or fair market value (plus taxes, shipping and installation expenses) of the property so acquired or built or of such repairs or improvements financed with such Indebtedness (each measured at the time of such acquisition, repair, improvement or construction is made);

- (f) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of Borrower's business;
  - (g) obligations under any foreign exchange contract, currency swap agreement, interest rate swap, cap or collar agreement or other similar agreement or arrangement entered into in the ordinary course of business and designed to alter the risks arising from fluctuations in currency values or interest rates, but not for speculative purposes;
  - (h) guaranties by Borrower or any Guarantor of obligations or liabilities of other Borrowers or Guarantors Loan Parties, so long as no Default or Event of Default would occur either before or after giving effect to any such guaranty
  - (i) Indebtedness incurred by Foreign Subsidiaries from third party financial institutions in an aggregate outstanding amount not in excess of \$250,000 at any time;
  - (j) Indebtedness consisting of SVB Cash Management Obligations owing by Borrower to Silicon Valley Bank in an amount not to exceed \$250,000 in the aggregate at any time;
  - (k) Indebtedness consisting of Wells Fargo L/C Obligations owing by Borrower to Wells Fargo Bank, N.A. in an amount not to exceed \$350,000 in the aggregate at any time;
  - (l) Indebtedness owing by any Loan Party to another Loan Party, provided that (i) each Loan Party shall have executed and delivered to each other Loan Party a demand note (each, an "Intercompany Note") to evidence such intercompany loans or advances owing at any time by each Loan Party to the other Loan Parties, which Intercompany Note shall be in form and substance reasonably satisfactory to Agent and shall be pledged and delivered to Agent pursuant to the Pledge Agreement as additional Collateral for the Obligations, (ii) any and all Indebtedness of any Loan Party to another Loan Party shall be subordinated to the Obligations pursuant to the subordination terms set forth in each Intercompany Note, and (iii) no Default or Event of Default would occur either before or after giving effect to any such Indebtedness;
  - (m) Intercompany Indebtedness corresponding to Investments of the type described in clause (l) of the definition of Permitted Investments;
- and
- (n) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (m) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose materially more burdensome terms upon Borrower, or its Subsidiary, as the case may be.

**" Permitted Investments "** are:

- (a) Investments disclosed on the Perfection Certificate(s) and existing on the Effective Date;
- (b) (i) Investments consisting of cash and Cash Equivalents, and (ii) any Investments permitted by Borrower's investment policy attached hereto as Exhibit E, provided that any amendment thereto must be approved in writing by Collateral Agent (such approval not to be unreasonably withheld);
- (c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;
- (d) Investments consisting of Deposit Accounts in which Collateral Agent has a perfected security interest;

(e) Investments in connection with Transfers permitted by Section 7.1;

(f) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower's Board of Directors; not to exceed One Hundred Thousand Dollars (\$100,000) in the aggregate for (i) and (ii) in any fiscal year;

(g) 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 business;

(h) 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 paragraph shall not apply to Investments of Borrower in any Subsidiary;

(i) Investments by Borrower consisting of notes receivable or equity investments in one or more Subsidiaries made pursuant to arm's length transactions not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate in any fiscal year for each Subsidiary;

(j) Investments in joint ventures or strategic alliances in the ordinary course of business consisting of the licensing of technology, the development of technology or the providing of support, provided that (I) any cash Investments do not exceed \$250,000 in the aggregate in any fiscal year and (II) no Default or Event of Default exists at the time of such Investment or would be caused after giving effect thereto;

(k) leases and placements of Celution Systems to physicians or other health care providers in accordance with clause (iii) of the definition of Permitted Locations in Section 6.11 ;

(l) Investments (i) by Borrower and any Guarantor in Borrower or another Guarantor; (ii) by Subsidiaries that are not Guarantors in Borrower or any other Subsidiary; (iii) by Subsidiaries that are not Guarantors in other Subsidiaries that are not Guarantors; and (iv) by Borrower and any Guarantor in a Subsidiary that is not a Guarantor, in an aggregate amount not to exceed (i) Three Hundred Thousand Dollars (\$300,000) per quarter in the aggregate for Borrower's Japan Subsidiary; and (ii) One Hundred Twenty-Five Thousand Dollars (\$125,000) per quarter in the aggregate for all other Subsidiaries (and which aggregate amounts shall include, without duplication, loans made pursuant to clause (n) of the definition of Permitted Indebtedness); and

(m) Investments consisting of the creation of Subsidiaries, provided that the amount of any loans or capital contributions in such Subsidiaries shall otherwise qualify as Permitted Investments.

**" Permitted Licenses "** are (A) licenses of over-the-counter software that is commercially available to the public, (B) non-exclusive licenses for the use of the Intellectual Property of Borrower or any of its Subsidiaries entered into in the ordinary course of business, (C) exclusive licenses for the use of the Intellectual Property of Borrower or any of its Subsidiaries entered into in the ordinary course of business, provided, that, with respect to each such license described in clause (C), (i) no Event of Default has occurred or is continuing at the time of such license; (ii) the license constitutes an arms-length transaction, the terms of which, on their face, do not provide for a sale or assignment of any Intellectual Property and do not restrict the ability of Borrower or any of its Subsidiaries, as applicable, to pledge, grant a security interest in or lien on, or assign or otherwise Transfer any Intellectual Property; (iii) in the case of any exclusive license, (x) Borrower delivers five (5) days' prior written notice and a brief summary of the terms of the proposed license to Collateral Agent and the Lenders and delivers (to the extent permitted under any applicable confidentiality or non-disclosure arrangements) to Collateral Agent and the Lenders copies of the final executed licensing documents entered into in connection with the exclusive license promptly upon consummation thereof (provided that Borrower shall use commercially reasonable efforts to ensure that the confidentiality provisions of such licensing documentation permit Borrower to deliver such documents to Collateral Agent and the Lenders, and if the Borrower fails to obtain such permission, Borrower shall deliver to Collateral Agent and the Lenders such licensing documentation redacted to the extent necessary to comply with such confidentiality restrictions) and (y) any such license could not result in a legal transfer of title of the licensed property but may be exclusive in respects other than territory and may be exclusive as to territory only as to discrete geographical areas outside of the United States; and (iv) all upfront payments, royalties, milestone payments or other proceeds arising from the licensing agreement that are payable to Borrower or any of its Subsidiaries are paid to a Deposit Account that is governed by a Control Agreement; (D) licenses under which Borrower or a Subsidiary is the licensee that are disclosed on the Perfection Certificate or are otherwise immaterial to the business of Borrower and its Subsidiaries, taken as a whole; (E) licenses permitted under clause and (j) of the definition of Permitted Investments.

“ **Permitted Liens** ” are:

- (a) Liens existing on the Effective Date and disclosed on the Perfection Certificate or arising under this Agreement or the other Loan Documents (other than Liens that pursuant to the express terms hereof are to be removed on or before the Effective Date);
- (b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not yet delinquent or (ii) being contested in good faith and for which Borrower maintains adequate reserves on its Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;
- (c) Liens securing Indebtedness permitted under clause (e) of the definition of “ **Permitted Indebtedness** ,” provided that (i) such liens exist prior to the acquisition of, or attach substantially simultaneous with, or within twenty (20) days after the, acquisition, lease, repair, improvement or construction of, such property financed or leased by such Indebtedness and (ii) such liens do not extend to any property of Borrower other than the property (and proceeds thereof) acquired, leased or built, or the improvements or repairs, financed by such Indebtedness;
- (d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;
- (e) Liens to secure payment of workers’ compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);
- (f) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;
- (g) leases or subleases of real property granted in the ordinary course of Borrower’s business (or, if referring to another Person, in the ordinary course of such Person’s business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower’s business (or, if referring to another Person, in the ordinary course of such Person’s business), if the leases, subleases, licenses and sublicenses do not prohibit granting Collateral Agent or any Lender a security interest therein;
- (h) banker’s liens, rights of setoff and Liens in favor of financial institutions incurred in the ordinary course of business arising in connection with Borrower’s deposit accounts or securities accounts held at such institutions solely to secure payment of fees and similar costs and expenses, overdraft obligations or other obligations permitted to be secured by the applicable account control agreement in favor of Collateral Agent for the benefit of the Lenders, and provided such accounts are maintained in compliance with Section 6.6(b) hereof;
- (i) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 8.4 or 8.7;

(j) Liens consisting of Permitted Licenses;

(k) the rights and interests of licensors under licenses (but restricted to the assets that are subject to such licenses) where Borrower or a Subsidiary is the licensee;

(l) zoning restrictions, easements, rights of way, encroachments or other restrictions on the use of, and other minor defects or irregularities in title with respect to, any real property of Borrower or its Subsidiaries so long as the same do not materially impair the use of such real property by Borrower or such Subsidiary;

(m) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(n) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(o) Liens of Silicon Valley Bank on a Certificate of Deposit in an aggregate amount not to exceed \$250,000 (the “ **SVB Certificate of Deposit** ”) issued by Silicon Valley Bank to Borrower to secure the SVB Cash Management Obligations;

(p) Liens of Wells Fargo Bank, N.A. on a Certificate of Deposit in an aggregate amount not to exceed \$350,000 (the “ **wells Fargo Certificate of Deposit** ”) issued by Wells Fargo Bank, N.A. to Borrower to secure the Wells Fargo L/C Obligations; and

(q) Liens of landlords (i) arising by statute or under any lease or related contractual obligation entered into in the ordinary course of business, (ii) on fixtures and movable tangible property located on the real property leased or subleased from such landlord, (iii) for amounts not yet due or that are being contested in good faith by appropriate proceedings diligently conducted, (iv) for which adequate reserves or other appropriate provisions are maintained on the books of such Loan Party in accordance with GAAP and (v) which Liens are subordinated to the security interests granted hereunder pursuant to a landlord waiver, to the extent required hereunder.

“ **Permitted Locations** ” are defined in Section 6.11.

“ **Person** ” is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

“ **Pledge Agreement** ” is that certain Pledge Agreement dated as of the Effective Date by and between Collateral Agent and Borrower.

“ **Post Closing Letter** ” is that certain Post Closing Letter dated as of the Effective Date by and between Collateral Agent and Borrower.

“ **Prepayment Fee** ” is, with respect to any Term Loan subject to prepayment prior to the Maturity Date, whether by mandatory or voluntary prepayment, acceleration or otherwise, an additional fee payable to the Lenders in amount equal to:

(i) for a prepayment made on or after the Funding Date of such Term Loan through and including the first anniversary of the Funding Date of such Term Loan, three percent (3.00%) of the outstanding principal amount of such Term Loan prepaid;

(ii) for a prepayment made after the date which is after the first anniversary of the Funding Date of such Term Loan through and including the second anniversary of the Funding Date of such Term Loan, two percent (2.00%) of the outstanding principal amount of the Term Loan prepaid; and

(iii) for a prepayment made after the date which is after the second anniversary of the Funding Date of such Term Loan, one percent (1.00%) of the outstanding principal amount of the Term Loan prepaid.

“**Pro Rata Share**” is, as of any date of determination, with respect to each Lender, a percentage (expressed as a decimal, rounded to the ninth decimal place) determined by dividing the outstanding principal amount of Term Loan held by such Lender by the aggregate outstanding principal amount of all Term Loan.

“**Qualified Transaction Event**” means the receipt by Borrower, on or before May 31, 2016, of unrestricted cash proceeds of at least Seven Million Dollars (\$7,000,000) from a licensing, partnership or similar transaction, on terms satisfactory to the Lenders.

“**Registered Organization**” is any “registered organization” as defined in the Code with such additions to such term as may hereafter be made.

“**Required Lenders**” means (i) for so long as all of the Persons that are Lenders on the Effective Date (each an “**Original Lender**”) have not assigned or transferred any of their interests in their Term Loan, Lenders holding one hundred percent (100%) of the aggregate outstanding principal balance of the Term Loan, or (ii) at any time from and after any Original Lender has assigned or transferred any interest in its Term Loan, Lenders holding at least sixty six percent (66%) of the aggregate outstanding principal balance of the Term Loan and, in respect of this clause (ii), (A) each Original Lender that has not assigned or transferred any portion of its Term Loan, (B) each assignee or transferee of an Original Lender’s interest in the Term Loan, but only to the extent that such assignee or transferee is an Affiliate or Approved Fund of such Original Lender, and (C) any Person providing financing to any Person described in clauses (A) and (B) above; provided, however, that this clause (C) shall only apply upon the occurrence of a default, event of default or similar occurrence with respect to such financing.

“**Requirement of Law**” is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“**Responsible Officer**” is any of the President, Chief Executive Officer, or Chief Financial Officer of Borrower acting alone.

“**Secured Promissory Note**” is defined in Section 2.4.

“**Secured Promissory Note Record**” is a record maintained by each Lender with respect to the outstanding Obligations owed by Borrower to Lender and credits made thereto.

“**Securities Account**” is any “securities account” as defined in the Code with such additions to such term as may hereafter be made.

“**Shares**” is one hundred percent (100%) of the issued and outstanding capital stock, membership units or other securities owned or held of record by Borrower or Borrower’s Subsidiary (other than a Foreign Subsidiary), in any Subsidiary; provided that, “Shares” shall mean sixty-five percent (65%) of the issued and outstanding capital stock, membership units or other securities owned or held of record by Borrower or its Subsidiary in any Foreign Subsidiary and zero percent of the issued and outstanding capital stock, membership units or other securities owned or held of record by any Foreign Subsidiary.

“**Solvent**” is, with respect to any Person: the fair salable value of such Person’s consolidated assets (including goodwill minus disposition costs) exceeds the fair value of such Person’s liabilities; such Person is not left with unreasonably small capital after the transactions in this Agreement; and such Person is able to pay its debts (including trade debts) as they mature.

“ **Subordinated Debt** ” is indebtedness incurred by Borrower or any of its Subsidiaries subordinated to all Indebtedness of Borrower and/or its Subsidiaries to the Lenders (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Collateral Agent and the Lenders entered into between Collateral Agent, Borrower, and/or any of its Subsidiaries, and the other creditor), on terms acceptable to Collateral Agent and the Lenders.

“ **Subsidiary** ” is, with respect to any Person, any Person of which more than fifty percent (50%) of the voting stock or other equity interests (in the case of Persons other than corporations) is owned or controlled, directly or indirectly, by such Person or through one or more intermediaries.

“ **Term Loan** ” is defined in Section 2.2(a)(ii) hereof.

“ **Term Loan Commitment** ” is, for any Lender, the obligation of such Lender to make a Term Loan, up to the principal amount shown on Schedule 1.1. “ **Term Loan Commitments** ” means the aggregate amount of such commitments of all Lenders.

“ **Trademarks** ” means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

“ **Transfer** ” is defined in Section 7.1.

“ **US-ACT-OA Event** ” is the receipt by Borrower of positive data of the US-ACT-OA clinical trial of Cytori Cell Therapy for osteoarthritis of the knee, on or before May 31, 2016 and the receipt of evidence thereof by Collateral Agent in such form and substance as is reasonably acceptable to Collateral Agent on or before such date .

“ **warrants** ” are those certain Warrants to Purchase Stock dated as of the Effective Date, or any date thereafter, issued by Borrower in favor of each Lender or such Lender’s Affiliates.

“ **wells Fargo L/C Obligations** ” means reimbursement obligations with respect to a letter of credit issued for the benefit of the landlord with respect to the lease of the facilities located at 3020 Callan Rd, San Diego, California 92121.

*[ Balance of Page Intentionally Left Blank ]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

**BORROWER:**

CYTORI THERAPEUTICS, INC.

By /s/ Tiago Girao  
Name: Tiago Girao  
Title: CFO

**COLLATERAL AGENT AND LENDER:**

OXFORD FINANCE LLC

By /s/ Mark Davis  
Name: Mark Davis  
Title: Vice President – Finance, Secretary and Treasurer

*[ Signature Page to Loan and Security Agreement ]*

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SCHEDULE 1.1

Lenders and Commitments

Term Loan

Lender	Term Loan Commitment	Commitment Percentage
OXFORD FINANCE LLC	\$ 17,700,000	100.00%
<b>TOTAL</b>	<b>\$ 17,700,000</b>	<b>100.00%</b>

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## EXHIBIT A

### Description of Collateral

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles (except as noted below), commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts and other Collateral Accounts, all certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

All Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Notwithstanding the foregoing, the Collateral does not include (i) any Intellectual Property; provided, however, the Collateral shall include all Accounts and all proceeds of Intellectual Property. If a judicial authority (including a U.S. Bankruptcy Court) would hold that a security interest in the underlying Intellectual Property is necessary to have a security interest in such Accounts and such property that are proceeds of Intellectual Property, then the Collateral shall automatically, and effective as of the Effective Date, include the Intellectual Property to the extent necessary to permit perfection of Collateral Agent's security interest in such Accounts and such other property of Borrower that are proceeds of the Intellectual Property; (ii) more than 65% of the total combined voting power of all classes of stock entitled to vote the shares of capital stock (the "Shares") of any Foreign Subsidiary; (iii) any intent-to-use trademark or service mark, and (iv) any license, instrument or contract, and the property subject to such license, instrument or contract, in each case if the granting of a Lien in such license, instrument, contract or property is prohibited by or would constitute a default or termination, or would require a consent, under the agreement governing such license or contract (but (A) only to the extent such prohibition is enforceable under applicable law and (B) other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-408 or 9-409 (or any other Section) of Division 9 of the Code); provided that upon the termination, lapsing or expiration of any such prohibition, such license, instrument, contract or property, as applicable, shall automatically be subject to the security interest granted in favor of Collateral Agent hereunder and become part of the "Collateral."

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**EXHIBIT B**

**Form of Disbursement Letter**

[see attached]

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**DISBURSEMENT LETTER**

[DATE]

The undersigned, being the duly elected and acting \_\_\_\_\_ of CYTORI THERAPEUTICS, INC., a Delaware corporation with offices located at 3020 Callan Road, San Diego, CA 92121 (“**Borrower**”), does hereby certify, in such capacity on behalf of Borrower, to **OXFORD FINANCE LLC** (“**Oxford**” and “**Lender**”), as collateral agent (the “**Collateral Agent**”) in connection with that certain Loan and Security Agreement dated as of May 29, 2015, by and among Borrower, Collateral Agent and the Lenders from time to time party thereto (the “**Loan Agreement**”; with other capitalized terms used below having the meanings ascribed thereto in the Loan Agreement) that:

1. Except as set in the Perfection Certificate, the representations and warranties made by Borrower in Section 5 of the Loan Agreement are true and correct in all material respects as of the date hereof, other than those representations and warranties expressly referring to a specific earlier date, which, except as set forth below, remain true, accurate and complete in all material respects as of such earlier date.
2. No event or condition has occurred that would constitute an Event of Default under the Loan Agreement or any other Loan Document.
3. Borrower is in compliance with the covenants and requirements contained in Sections 4, 6 and 7 of the Loan Agreement.
4. All conditions referred to in Section 3 of the Loan Agreement to the making of the Loan to be made on or about the date hereof have been satisfied or waived by Collateral Agent.
5. No Material Adverse Change has occurred.
6. The undersigned is a Responsible Officer.

*[Balance of Page Intentionally Left Blank]*

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7. The proceeds of the Term Loan shall be disbursed as follows:

**Disbursement from Oxford:**

Loan Amount	\$ _____
Plus:	
--Deposit Received	\$ _____
Less:	
--Facility Fee	(\$ _____)
--Existing Debt Payoff to be remitted to per the Oxford Payoff Letter dated May [__], 2015	(\$ _____)
--Existing Debt Payoff to be remitted to per the SVB Payoff Letter dated May [__], 2015	(\$ _____)
--Interim Interest	(\$ _____)
--Lender's Legal Fees	(\$ _____)*
<b>Net Proceeds due from Oxford:</b>	<b>\$ _____</b>

8. The Term Loan shall amortize in accordance with the Amortization Table attached hereto.

9. The aggregate net proceeds of the Term Loan shall be transferred to the Designated Deposit Account as follows:

Account Name: CYTORI THERAPEUTICS, INC.

Bank Name: WELLS FARGO BANK N.A.

Bank Address: [ ]

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

ABA Number: [ ]

*[Balance of Page Intentionally Left Blank]*

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\* Legal fees and costs are through the Effective Date. Post-closing legal fees and costs, payable after the Effective Date, to be invoiced and paid post-closing.

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Dated as of the date first set forth above.

**BORROWER:**

CYTORI THERAPEUTICS, INC.

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

**COLLATERAL AGENT AND LENDER:**

OXFORD FINANCE LLC

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

[ *Signature Page to Disbursement Letter* ]

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**AMORTIZATION TABLE**  
(Term Loan)

[see attached]

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**EXHIBIT C**

**Compliance Certificate**

TO: OXFORD FINANCE LLC, as Collateral Agent and Lender

FROM: CYTORI THERAPEUTICS, INC.

The undersigned authorized officer (“ **Officer** ”) of Cytori Therapeutics, Inc. (“ **Borrower** ”), hereby certifies, in such capacity on behalf of Borrower, that in accordance with the terms and conditions of the Loan and Security Agreement by and among Borrower, Collateral Agent, and the Lenders from time to time party thereto (the “ **Loan Agreement** ;” capitalized terms used but not otherwise defined herein shall have the meanings given them in the Loan Agreement),

(a) Borrower is in complete compliance for the period ending \_\_\_\_\_ with all required covenants except as noted below;

(b) There are no Events of Default, except as noted below;

(c) Except as noted below, all representations and warranties of Borrower stated in the Loan Documents are true and correct in all material respects on this date and for the period described in (a), above; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date.

(d) Borrower, and each of Borrower’s Subsidiaries, has timely filed all required federal (and all material foreign, state and local) tax returns and reports (or timely extensions therefor), and Borrower, and each of Borrower’s Subsidiaries, has timely paid all federal and all material foreign, state, and local taxes, assessments, deposits and contributions owed by Borrower, or Subsidiary, except as otherwise permitted pursuant to the terms of Section 5.8 of the Loan Agreement;

(e) No Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Collateral Agent and the Lenders.

Attached are the required documents, if any, supporting our certification(s). The Officer, on behalf of Borrower, further certifies that the attached financial statements are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes and except, in the case of unaudited financial statements, for the absence of footnotes and subject to year-end audit adjustments as to the interim financial statements.

**Please indicate compliance status since the last Compliance Certificate by circling Yes, No, or N/A under “Complies” column.**

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	Reporting Covenant	Requirement	Actual	Complies		
1)	Financial statements	Monthly within 45 days	Yes	No	N/A	
2)	Annual (CPA Audited) statements	Within 120 days after FYE	Yes	No	N/A	
3)	Annual Financial Projections/Budget (prepared on a monthly basis)	Annually (within 10 days of FYE), and when revised	Yes	No	N/A	
4)	A/R & A/P agings	If applicable	Yes	No	N/A	
5)	8-K, 10-K and 10-Q Filings	If applicable, within 5 days of filing	Yes	No	N/A	
6)	Compliance Certificate	Monthly within 30 days	Yes	No	N/A	
7)	IP Report	When required	Yes	No	N/A	
8)	Total amount of Borrower's cash and cash equivalents at the last day of the measurement period		\$ _____	Yes	No	N/A
9)	Total amount of Borrower's Subsidiaries' cash and cash equivalents at the last day of the measurement period		\$ _____	Yes	No	N/A

#### **Deposit and Securities Accounts**

*(Please list all accounts; attach separate sheet if additional space needed)*

	Institution Name	Account Number	New Account?		Account Control Agreement in place?	
1)			Yes	No	Yes	No
2)			Yes	No	Yes	No
3)			Yes	No	Yes	No
4)			Yes	No	Yes	No

#### **Financial Covenants**

	Covenant	Requirement	Actual	Compliance	
1)	Unrestricted cash and Cash Equivalents	\$ 5,000,000	[ ] [\$ _____]	Yes	No

#### **Other Matters**

1)	Have there been any changes in management since the last Compliance Certificate?	Yes	No
2)	Have there been any transfers/sales/disposals/retirement of Collateral or IP prohibited by the Loan Agreement?	Yes	No
3)	Have there been any new or pending claims or causes of action against Borrower that could reasonably be expected to have a Material Adverse Change?	Yes	No
4)	Have there been any amendments of or other changes to the Operating Documents of Borrower or any of its Subsidiaries? If yes, provide copies of any such amendments or changes with this Compliance Certificate.	Yes	No

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**Exceptions**

Please explain any exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions." Attach separate sheet if additional space needed.)

CYTORI THERAPEUTICS, INC.

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

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

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

Date:

**LENDER USE ONLY**

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Verified by: \_\_\_\_\_ Date: \_\_\_\_\_

Compliance Status:            Yes            No

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**EXHIBIT D**

**Form of Secured Promissory Note**

[see attached]

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**SECURED PROMISSORY NOTE**  
**(Term Loan)**

\$ \_\_\_\_\_

Dated: [DATE]

FOR VALUE RECEIVED, the undersigned, CYTORI THERAPEUTICS, INC., a Delaware corporation with offices located at 3020 Callan Road, San Diego, CA 92121 (“**Borrower**”) HEREBY PROMISES TO PAY to the order of OXFORD FINANCE LLC (“**Lender**”) the principal amount of [\_\_\_\_\_] MILLION DOLLARS (\$\_\_\_\_\_) or such lesser amount as shall equal the outstanding principal balance of the Term Loan made to Borrower by Lender, plus interest on the aggregate unpaid principal amount of the Term Loan, at the rates and in accordance with the terms of the Loan and Security Agreement dated May 29, 2015 by and among Borrower, Lender, Oxford Finance LLC, as Collateral Agent, and the other Lenders from time to time party thereto (as amended, restated, supplemented or otherwise modified from time to time, the “**Loan Agreement**”). If not sooner paid, the entire principal amount and all accrued and unpaid interest hereunder shall be due and payable on the Maturity Date as set forth in the Loan Agreement. Any capitalized term not otherwise defined herein shall have the meaning attributed to such term in the Loan Agreement.

Principal, interest and all other amounts due with respect to the Term Loan, are payable in lawful money of the United States of America to Lender as set forth in the Loan Agreement and this Secured Promissory Note (this “**Note**”). The principal amount of this Note and the interest rate applicable thereto, and all payments made with respect thereto, shall be recorded by Lender and, prior to any transfer hereof, endorsed on the grid attached hereto which is part of this Note.

The Loan Agreement, among other things, (a) provides for the making of a secured Term Loan by Lender to Borrower, and (b) contains provisions for acceleration of the maturity hereof upon the happening of certain stated events.

This Note may not be prepaid except as set forth in Section 2.2 (c) and Section 2.2(d) of the Loan Agreement.

This Note and the obligation of Borrower to repay the unpaid principal amount of the Term Loan, interest on the Term Loan and all other amounts due Lender under the Loan Agreement is secured under the Loan Agreement.

Presentment for payment, demand, notice of protest and all other demands and notices of any kind in connection with the execution, delivery, performance and enforcement of this Note are hereby waived.

Borrower shall pay all reasonable fees and expenses, including, without limitation, reasonable attorneys’ fees and costs, incurred by Lender in the enforcement or attempt to enforce any of Borrower’s obligations hereunder not performed when due.

This Note shall be governed by, and construed and interpreted in accordance with, the internal laws of the State of California.

The ownership of an interest in this Note shall be registered on a record of ownership maintained by Lender or its agent. Notwithstanding anything else in this Note to the contrary, the right to the principal of, and stated interest on, this Note may be transferred only if the transfer is registered on such record of ownership and the transferee is identified as the owner of an interest in the obligation. Borrower shall be entitled to treat the registered holder of this Note (as recorded on such record of ownership) as the owner in fact thereof for all purposes and shall not be bound to recognize any equitable or other claim to or interest in this Note on the part of any other person or entity.

*[Balance of Page Intentionally Left Blank]*

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IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed by one of its officers thereunto duly authorized on the date hereof.

**BORROWER:**

CYTORI THERAPEUTICS, INC.

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

Name \_\_\_\_\_

Title \_\_\_\_\_

*Term Loan Secured Promissory note*

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**LOAN INTEREST RATE AND PAYMENTS OF PRINCIPAL**

<b>Date</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Scheduled Payment Amount</b>	<b>Notation By</b>
<hr/>				

**CORPORATE BORROWING CERTIFICATE**

**BORROWER :** CYTORI THERAPEUTICS, INC.  
**LENDER:** OXFORD FINANCE LLC, as Collateral Agent and Lender

**DATE :** [DATE]

I hereby certify as follows, on behalf of Borrower, in my capacity as an officer of Borrower, as of the date set forth above:

1. I am the Secretary, Assistant Secretary or other officer of Borrower. My title is as set forth below.
2. Borrower's exact legal name is set forth above. Borrower is a corporation existing under the laws of the State of Delaware.
3. Attached hereto as Exhibit A and Exhibit B, respectively, are true, correct and complete copies of (i) Borrower's Articles/Certificate of Incorporation (including amendments), as filed with the Secretary of State of the state in which Borrower is incorporated as set forth in paragraph 2 above; and (ii) Borrower's Bylaws. Neither such Articles/Certificate of Incorporation nor such Bylaws have been amended, annulled, rescinded, revoked or supplemented, and such Articles/Certificate of Incorporation and such Bylaws remain in full force and effect as of the date hereof.
4. The attached resolutions were duly and validly adopted by Borrower's [\_\_\_\_\_ Committee] of its [Board of Directors] at a duly held meeting of such directors (or pursuant to a unanimous written consent or other authorized corporate action). Such resolutions are in full force and effect as of the date hereof and have not been in any way modified, repealed, rescinded, amended or revoked, and the Lenders may rely on them until each Lender receives written notice of revocation from Borrower.

*[ Balance of Page Intentionally Left Blank ]*

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5. The persons listed above are Borrower's officers or employees with their titles and signatures shown next to their names.

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

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

**Title:** \_\_\_\_\_

\*\*\* If the Secretary, Assistant Secretary or other certifying officer executing above is designated by the resolutions set forth in paragraph 4 as one of the authorized signing officers, this Certificate must also be signed by a second authorized officer or director of Borrower.

I, the \_\_\_\_\_ of Borrower, hereby certify as to paragraphs 1 through 5 above, as of the date set forth above.  
[print title]

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

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

**Title:** \_\_\_\_\_

[ *Signature Page to Corporate Borrowing Certificate* ]

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**EXHIBIT A**

**Articles/Certificate of Incorporation (including amendments)**

[see attached]

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**EXHIBIT B**

**Bylaws**

[see attached]

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**DEBTOR:** CYTORI THERAPEUTICS, INC.  
**SECURED PARTY:** OXFORD FINANCE LLC,  
as Collateral Agent

**EXHIBIT A TO UCC FINANCING STATEMENT**

**Description of Collateral**

The Collateral consists of all of Debtor's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles (except as noted below), commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts and other Collateral Accounts, all certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

All Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Notwithstanding the foregoing, the Collateral does not include (i) any Intellectual Property; provided, however, the Collateral shall include all Accounts and all proceeds of Intellectual Property. If a judicial authority (including a U.S. Bankruptcy Court) would hold that a security interest in the underlying Intellectual Property is necessary to have a security interest in such Accounts and such property that are proceeds of Intellectual Property, then the Collateral shall automatically, and effective as of the Effective Date, include the Intellectual Property to the extent necessary to permit perfection of Collateral Agent's security interest in such Accounts and such other property of Borrower that are proceeds of the Intellectual Property; (ii) more than 65% of the total combined voting power of all classes of stock entitled to vote the shares of capital stock (the "Shares") of any Foreign Subsidiary; (iii) any intent-to-use trademark or service mark, and (iv) any license, instrument or contract, and the property subject to such license, instrument or contract, in each case if the granting of a Lien in such license, instrument, contract or property is prohibited by or would constitute a default or termination, or would require a consent, under the agreement governing such license or contract (but (A) only to the extent such prohibition is enforceable under applicable law and (B) other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-408 or 9-409 (or any other Section) of Division 9 of the Code); provided that upon the termination, lapsing or expiration of any such prohibition, such license, instrument, contract or property, as applicable, shall automatically be subject to the security interest granted in favor of Collateral Agent hereunder and become part of the "Collateral."

Pursuant to the terms of a certain negative pledge arrangement with Collateral Agent and the Lenders, Debtor has agreed not to encumber any of its Intellectual Property.

Capitalized terms used but not defined herein have the meanings ascribed in the Uniform Commercial Code in effect in the State of California as in effect from time to time (the "Code") or, if not defined in the Code, then in the Loan and Security Agreement by and between Debtor, Secured Party and the other Lenders party thereto (as modified, amended and/or restated from time to time).

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**EXHIBIT E**

**Investment Policy**

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**Certification of Principal Executive Officer Pursuant to  
Securities Exchange Act Rule 13a-14(a),  
as Adopted Pursuant to  
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Marc H. Hedrick, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cytori Therapeutics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements and other financial information included in this report fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 10, 2015

/s/ Marc H. Hedrick

\_\_\_\_\_  
Marc H. Hedrick,  
President & Chief Executive Officer

**Certification of Principal Financial Officer Pursuant to  
Securities Exchange Act Rule 13a-14(a),  
as Adopted Pursuant to  
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Tiago Girao, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cytori Therapeutics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements and other financial information included in this report fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report- based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 10, 2015

/s/ Tiago Girao

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Tiago Girao

*VP of Finance and Chief Financial Officer*

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**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350/ SECURITIES EXCHANGE ACT RULE 13a-14(b), AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Cytori Therapeutics, Inc. for the quarterly period ended June 30, 2015 as filed with the Securities and Exchange Commission on the date hereof, Marc H. Hedrick, as President & Chief Executive Officer of Cytori Therapeutics, Inc., and Tiago Girao, as VP of Finance and Chief Financial Officer of Cytori Therapeutics, Inc., each hereby certifies, respectively, that:

1. The Form 10-Q report of Cytori Therapeutics, Inc. that this certification accompanies fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934.
2. The information contained in the Form 10-Q report of Cytori Therapeutics, Inc. that this certification accompanies fairly presents, in all material respects, the financial condition and results of operations of Cytori Therapeutics, Inc.

Dated: August 10, 2015

By: /s/ Marc H. Hedrick  
Marc H. Hedrick  
*President & Chief Executive Officer*

Dated: August 10, 2015

By: /s/ Tiago Girao  
Tiago Girao  
*VP of Finance and Chief Financial Officer*

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