SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2005

OR

o 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 0-32501

CYTORI THERAPEUTICS, INC.

(Exact name of Registrant as Specified in Its Charter)

DELAWARE	**33-0827593**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
3020 CALLAN ROAD, SAN DIEGO, CALIFORNIA	**92121**
(Address of principal executive offices)	(Zip Code)

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

Securities registered pursuant to Section 12(b) of the Act:
None

Securities registered pursuant to Section 12(g) of the Act:
Common stock, par value $0.001

Indicate by check mark if the registrant is a well-known seasoned issuer as defined in Rule 405 of the Securities Act. Yes o No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes o No ☒

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 o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is an accelerated filer or a non-accelerated filer as defined in Rule 12b-2 of the Exchange Act. Large Accelerated filer o Accelerated filer o Non-accelerated filer ☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No ☒

The aggregate market value of the common stock of the registrant held by non-affiliates of the registrant on June 30, 2005, the last business day of the registrant's most recently completed second fiscal quarter, was $29,991,417 based on the average of the reported high and low sales price of the registrant's common stock on June 30, 2005 as reported on the Frankfurt Stock Exchange, of 2.53 Euros, or $3.05 per share, based on the exchange rate in effect as of such date.

As of January 31, 2006, there were 15,401,865 shares of the registrant's common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement for the 2006 Annual Meeting of Stockholders, which will be filed with the Securities and Exchange Commission within 120 days after the end of the year ended December 31, 2005, are incorporated by reference in Part III, Items 10, 11, 12, 13 and 14 of this Form 10-K.

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PART I

Item 1. Business

General

Cytori Therapeutics, Inc., is a biotechnology company that specializes in the discovery and development of cell based regenerative medicine therapies. Our goal is to advance adipose stem cell therapies into and through clinical trials and commercialize these therapies through an innovative cell processing system. The therapeutic indications we are focused on currently include cardiovascular disease, gastrointestinal disorders, spine and orthopedic repair, and aesthetic and reconstructive surgery. To facilitate the processing and delivery of adipose stem and regenerative cells, we have designed the proprietary point-of-care Celution™ system, to isolate and concentrate a patient's own regenerative cells in real-time in approximately one hour.

To broaden and accelerate our development efforts, we are seeking co-development partnerships with pharmaceutical, medical device or biotechnology companies. Moreover, we are searching for partners who can help identify drugs, proteins or genes that when combined with adipose stem and regenerative cells, enhance or stimulate certain select properties. For example, we may seek to identify a drug that when mixed with adipose stem and regenerative cells, directs specific cells to turn more quickly and efficiently into blood vessels.

We also have a business unit that operates under the name MacroPore Biosurgery. This business consists of two product families. The HYDROSORB™ family of bioresorbable spine and orthopedic implants is distributed worldwide exclusively by Medtronic, Inc. ("Medtronic") who owned 1.0 million shares in Cytori, or 6.5% of our total shares outstanding as of December 31, 2005. Our Thin Film product line will be marketed exclusively in Japan by Senko Medical Trading Co. ("Senko") following approval of the product in Japan. The potential revenues and profits from the MacroPore Biosurgery division would be used by Cytori to support the research and development of Cytori's cell-based therapeutics.

Adipose Stem Cell Technology

Adipose, also known as fat tissue, is considered the richest and most accessible known source of stem and regenerative cells. Peer reviewed research demonstrates that the mechanisms by which adipose stem and regenerative cells act are through the release of growth factors as well as other healing and repair mechanisms that occur naturally in the body. Additionally, isolated stem cells in adipose tissue have been shown to differentiate into multiple cell types, including muscle, bone, fat, cartilage, and nerve. The major advantages of adipose tissue as a source of regenerative cells, which distinguishes it from alternative cell sources, include:

- Yield: A meaningful dose of regenerative cells can be isolated in approximately one hour without cell culture (repeated cell replications)
- Safety: Patients receive their own cells (autologous-use) so there is no risk of immune rejection or disease transmission
- Versatility: Stem cells from adipose tissue impart benefit through multiple mechanisms-of-action

The Celution™ System was designed to automate our proprietary process and methods for separating, isolating and concentrating a high yield of stem and regenerative cells from adipose. Our goal is to introduce the first system that can enable real-time cellular therapy at the bedside. In 2005, we completed the development of the engineering and design for the Celution™ Clinical, which is the version of Celution™ System that will be used to conduct clinical trials in Europe and Japan to investigate clinical applications for adipose stem and regenerative cells. We received European regulatory clearance for the Celution™ Clinical through the receipt of a CE Mark in January 2006.

Regenerative Medicine Technology Collaboration

In November 2005, we formed a 50:50 joint venture, Olympus-Cytori, Inc. (the "Joint Venture"), with Olympus Corporation ("Olympus") to develop and manufacture future generation devices based on our Celution™ System. Olympus, a worldwide leader in the development of innovative medical products, will contribute its expertise in engineering, manufacturing and servicing of sophisticated Celution™ System associated and disposable products, enabling us to increase our focus on the development of therapeutic applications for adipose stem and regenerative cells. Key provisions of the agreement include:

- Olympus paid $30 million to the Joint Venture for its 50% interest therein;
- We licensed our tissue processing device technology, including the Celution™ System and certain related intellectual property, to the Joint Venture and received an initial $11 million payment and our 50% interest in the Joint Venture;

- Upon our receipt of a CE Mark for the first generation Celution™ System in January 2006, we became entitled to and subsequently received an additional $11 million milestone payment from the Joint Venture; and
- The Joint Venture obtained exclusive rights to develop, manufacture, and supply the devices for all therapeutic applications solely to Cytori at a formula-based transfer price and Cytori will maintain marketing rights to the devices for all therapeutic applications of adipose stem and regenerative cells.

Bioresorbable Technology

Cytori's MacroPore Biosurgery unit develops and manufactures innovative bioresorbable surgical implants. Any cash flows that we may realize from MacroPore Biosurgery would be used to support the development of our adipose stem and regenerative cell therapies.

The unit's product lines include:

1. HYDROSORB™ bioresorbable spine and orthopedic surgical implants, which are marketed worldwide by Medtronic; and
2. Thin Film bioresorbable surgical implants (includes SurgiWrap™ bioresorbable products), which are used for soft tissue indications; we have disposed of our rights to these products other than in Japan. In Japan, the products will be distributed exclusively by Senko once the products receive Japanese regulatory approval.

Both bioresorbable product lines are made from a polylactide copolymer composed of lactic acid similar to that which occurs naturally in the human body. The polymer implant maintains its strength during the healing process, while slowly breaking down in the body through hydrolysis. The polymer fragments into single lactic acid molecules and the lactic acid molecules are then metabolized into carbon dioxide and water, and released from the body through the lungs and kidney. By polymerizing lactic acid and taking advantage of thermoplastic properties, we can create bioresorbable products that can be easily shaped, sized and applied to varying anatomical structures.

HYDROSORB™ Bioresorbable Implants

Our HYDROSORB™ bioresorbable family of surgical implant revenues were $5,634,000, $3,803,000, and $9,882,000 for the years ended December 31, 2005, 2004, and 2003, respectively. The HYDROSORB™ product line accounted for 100% of our product revenues in 2005, mostly derived from stocking orders placed for the recently launched product-line extension, Mystique™, a cervical graft containment plate. Our quarterly sales of these implants have been irregular and we currently do not observe seasonal trends for demand of the HYDROSORB™ products from Medtronic.

The HYDROSORB™ BoomerangÒ, HYDROSORB™ Cornerstone™ HSR, HYDROSORB™ Mesh and HYDROSORB™ Telamon® products have received FDA clearance in the United States for certain graft containment applications, and have received the CE Mark in Europe for spinal interbody fusion procedures. The HYDROSORB™ Mystique ™ has received FDA clearance in the United States for use in spinal fusion procedures, in conjunction with traditional rigid fixation, as a means to maintain the relative position of weak bony tissue such as autografts. The HYDROSORB™ Shield has received FDA clearance in the United States for minimizing the attachment of soft tissue, and has received the CE Mark in Europe for the control of post-operative adhesions in spine surgery.

Thin Film Bioresorbable Implants

We entered into a distribution and supply agreement in the third quarter of 2004 with Senko to market Thin Film bioresorbable implant products in Japan. The terms of the agreement include us receiving a $1,500,000 upfront license fee, which was received in July 2004, a $1,250,000 milestone payment related to a regulatory submission, which was received in the third quarter of 2004, a $250,000 milestone payment for a regulatory clearance, plus manufacturing revenues and royalties for a three year-period following initiation of commercialization. We are preparing to sell Thin Film implants to Senko for distribution in Japan following our receipt of a regulatory clearance for Thin Films from the Japanese Ministry of Health, Labour and Welfare (“MHLW”). We expect regulatory clearance to be received in 2006.

We sold all worldwide rights and assets to the Thin Film product line outside of Japan to MAST Biosurgery AG and its U.S. subsidiary (MAST) in 2004 for approximately $7,000,000. Refer to note 4 in the consolidated financial statements for further details.

Market and Competition

We compete with many other pharmaceutical, biotechnology and medical device companies as well as universities, government

agencies and private organizations that are involved in varying degrees in the discovery, development and commercialization of medical technologies and therapeutic products.

The field of regenerative medicine is rapidly progressing, as many organizations are initiating or expanding their research efforts in this area. Most of these organizations are involved in research using alternative cell sources to adipose tissue, including bone marrow, embryonic and fetal tissue, umbilical cord and peripheral blood, and skeletal muscle. We work exclusively with adult regenerative cells from adipose tissue.

Companies performing regenerative cell research and development include, among others, Aastrom Biosciences, Inc., Baxter International, Inc., BioHeart, Inc., Cellerix SA, Genzyme, Inc., Geron Corporation, Medtronic, MG Biotherapeutics (a joint venture between Genzyme and Medtronic), Osiris Therapeutics, Inc., Stem Cells, Inc., and ViaCell, Inc. We cannot with any accuracy forecast when or if these companies are likely to bring cell therapies to market for indications that we are also pursuing.

We are aware of two ongoing clinical studies using adipose-derived regenerative cells. One is sponsored by Cellerix, which is performing a 50 patient, Phase IIb clinical trial in Spain where adipose-derived regenerative cells are being used to treat fistulas associated with Crohn’s disease. The other is sponsored by the University of Tokyo, where researchers are examining the potential of adipose-derived regenerative cells in soft tissue repair and breast tissue augmentation.

One of the most studied areas for regenerative cells is cardiovascular disease, due to its growing prevalence worldwide. According to the American Heart Association’s “Heart Disease and Stroke Statistics 2005” report, heart failure affects an estimated five million Americans each year. The report added that there have been 13 million cases of coronary heart disease and of those, 865,000 have been new or recurrent cases of myocardial infarction.

Companies with advanced research and development programs for regenerative treatments of cardiovascular disease include Baxter, BioHeart, MG Biotherapeutics, Osiris, and ViaCell. Baxter supports a Phase II study at St. Elizabeth’s Medical Center in Boston using stem cells extracted from peripheral blood as an investigational treatment for myocardial ischemia. BioHeart is currently conducting a Phase I clinical study in the US on the investigational product MyoCell^{TM}, an autologous, skeletal myoblast cell therapy for heart disorders as an adjunct to bypass surgery. In addition, Bioheart is conducting a Phase I trial in the US on the investigational product MyoCell™ which is delivered via a percutaneous catheter system. Osiris Therapeutics, Inc. is currently conducting a Phase I clinical trial using Provacel^{TM}, an investigational, allogeneic, adult, mesenchymal stem cell therapy for acute myocardial infarction. ViaCell, Inc. is currently in preclinical development using allogeneic cells derived from umbilical cord blood for cardiac disease and they are expected to enter clinical trials in 2006 or 2007.

The only regenerative cell product or service currently marketed by us is our cell banking service, which is being offered on a limited basis, to surgical patients undergoing liposuction procedures. We are aware of only one other company, BioMatrix, Inc., who is intending to provide a similar service. There are various companies engaged in umbilical cord blood and bone marrow stem cell preservation.

Our HYDROSORB™ product line competes primarily with titanium, allograft tissue (cadaver bone), and polyetheretherketone (PEEK) polymer products. We believe that an increasing number of other companies are developing, or are offering, bioresorbable devices. Stryker, Inc., Interpore Cross (Biomet), and Synthes are three companies that we are aware of who distribute both bioresorbable and titanium implants. Our Thin Film product line, if approved in Japan, will compete directly with Genzyme’s SepraFilm anti-adhesion barrier product.

Many of our competitors and potential competitors have substantially greater financial, technological, research and development, marketing and personnel resources than we do. These competitors may also have greater experience in developing products, conducting clinical trials, obtaining regulatory approvals, and manufacturing and marketing such products. Some of these competitors may obtain patent protection, approval or clearance by the FDA or from foreign countries, or may achieve product commercialization earlier than we can, any of which could materially and adversely affect our business or results of operations. We cannot be assured that our competitors will not succeed in developing alternative technologies and products that are more effective, easier to use or more economical than those which have been or are being developed by us or that would render our technology and products obsolete and noncompetitive in these fields. In addition, even if our products are technologically superior, it is possible that competitors’ superior marketing power could limit our share of the marketplace. Furthermore, Medtronic may pursue parallel development of or acquisition of rights to other technologies or products, which may result in Medtronic developing or acquiring rights to additional products that will compete with our bioresorbable spine and orthopedic products. This would in turn induce Medtronic to further de-emphasize marketing of our products in favor of more profitable products.

Research and Development

Research and development expenses, excluding stock based compensation, were $15,271,000, $10,352,000, and $8,694,000 for the years ended December 31, 2005, 2004 and 2003, respectively. For 2005, $12,930,000 was allocated toward our regenerative cell

technology and $2,341,000 was allocated toward our bioresorbable technology.

Our research and development efforts in 2005 focused predominantly on two areas:

- Completing the designing and testing of the Celution™ System and preparing international regulatory submissions; and
- Conducting preclinical studies to investigate the therapeutic potential of adipose stem and regenerative cells in primarily cardiovascular disease, as well as other select indications.

The most significant development for the Celution™ System in 2005 was that we submitted an application for a CE Mark on the system. The CE Mark, which grants regulatory approval in the European Union and other countries that recognize the CE Mark, was received in January 2006. In 2006, we will continue our efforts to seek regulatory approval for the Celution™ System in Japan and the United States.

Our preclinical research in 2005 focused predominantly on developing applications for cardiovascular disease, which include myocardial infarction and congestive heart failure. We presented data in conjunction with Tulane University, from a randomized, controlled study in October 2005. In this preclinical study, injections of either adipose stem and regenerative cells (treated) or a saline injection (control) were received via catheter into the artery at the site of the heart attack. After eight weeks, there was a statistically significant reduction in the perfusion defect, which is the area of the heart deprived of oxygen as a result of the infarct. A corresponding benefit was observed by the improvement in ejection fraction, a common measure of the heart's pumping efficiency. We reported results from additional studies, which showed that one of the primary mechanisms by which adipose stem and regenerative cells act is through the promotion of blood vessel growth, thereby improving oxygen flow to damaged tissue at risk of dying.

We also have ongoing preclinical collaborations with several other major U.S. and European academic research institutions. Our collaborators include the University of California, Los Angeles, where a team directed by W. Robb MacLellan, M.D., is working with us on a National Institutes of Health Small Business Innovation Research grant. We also have research underway both internally and with a collaborator in Europe exploring potential spine and orthopedic applications for adipose stem and regenerative cells.

In 2005, our bioresorbable technology research and development efforts resulted in multiple new spine and orthopedic products and product advancements in conjunction with existing products sold to our distributor Medtronic. This included the development and FDA clearance for a radiographically identifiable version of our HYDROSORB™ Spine System, which is the first and only resorbable spinal implant to include a radiopaque marker fabricated from a resorbable material. It will allow physicians to visualize and monitor the position and placement of plates, screws, or other implants over time without obstructing the view of the healing bone. This new product line was launched in July 2005 by Medtronic as the MYSTIQUE™ Resorbable Graft Containment Plating System.

Our bioresorbable research and development efforts also focused on gaining regulatory approval to market our Thin Film products in Japan. In September 2004, we submitted an application to the MHLW for approval to market SurgiWrap™ and CardioWrap™. We expect to receive regulatory clearance in 2006.

Products and Services

Our regenerative cell related therapeutic business is currently in the development stage and we have not yet developed regenerative cell related therapies or treatments for commercial use in any region. In January 2006, we received a CE Mark for the Celution ™ System, granting us regulatory approval in the European Union and all member states that recognized the CE Mark. However, at this time, we are not actively marketing the Celution ™ System in Europe, and choose to do so in a very limited and controlled capacity until the completion of clinical studies to confirm the efficacy of adipose stem and regenerative cells for specific human therapeutic indications. At this time, we have not yet commercialized any regenerative cell related therapies or treatments for use in any geographical regions.

Our MacroPore Biosurgery business manufactures a line of surgical implants derived from our bioresorbable technology. The HYDROSORB™ family of products is distributed exclusively by Medtronic. HYDROSORB™ is a trademark of Medtronic. In 2005, this product line accounted for 100% of our total product revenues. The Thin Film line of products, pending regulatory approval in Japan, would be distributed exclusively through Senko. These products would be used for anti-adhesion applications, soft tissue support, and minimization of the attachment of soft tissues throughout the body.

We operate a California state-licensed tissue bank facility for the preservation of stem and regenerative cells extracted from adipose tissue. This service is being offered on a limited basis to surgical patients undergoing liposuction procedures. Typically arranged through a patient's physician, cell preservation is the process by which regenerative cells, taken from a liposuction or other procedure, are stored (cryopreserved) in a liquid nitrogen freezer at -320°F (-196°C) exclusively for the patient who preserved them.

The cells can be preserved indefinitely.

Customers

Medtronic is our primary distributor and our principal customer for our bioresorbable implant products, directly accounting for $5,634,000 or 100% of our product revenues for the year ended December 31, 2005, $4,085,000 or 64.6% of our product revenues for the year ended December 31, 2004, and $12,893,000 or 91.6% of our product revenues for the year ended December 31, 2003.

Under our global co-development and supply agreement with Medtronic, we co-develop bioresorbable implants for spinal or reconstructive fixation, stabilization and fusion. Medtronic has exclusive worldwide rights to market and sell all of the bioresorbable products that we co-develop for this application through January 2012. Currently our only commercially available product line under this agreement is the HYDROSORB™ family of spine and orthopedic implants. Both companies own an undivided, one-half interest in any inventions we jointly develop.

In July 2004, we entered into a Distribution Agreement with Senko. Under this agreement, we granted to Senko an exclusive license to sell and distribute certain Thin Film products in Japan. The sale of products through Senko commences upon "commercialization," which requires regulatory clearance from the MHLW. We expect to gain the required regulatory clearance in 2006. Following commercialization, the Distribution Agreement has a five-year duration and is renewable for an additional five years after reaching mutually agreed minimum purchase guarantees.

Sales by Geographic Region

We sell our products predominantly in the United States and to a lesser extent internationally through Medtronic. International sales may be limited or disrupted by political instability, price controls, acts of war, trade restrictions and changes in tariffs. Our existing distribution agreements all provide for payment in U.S. dollars and we intend to include similar payment provisions in future distribution agreements. Fluctuations in currency exchange rates may affect demand for our products by increasing the price of our products relative to the currency of the countries in which the products are sold.

For the year ended December 31, 2005, we recorded $6,005,000 in product and development revenues, all of which were derived from customers based in the United States. For the year end ended December 31, 2004, we recorded $6,818,000 in product and development revenues, including $6,602,000 of revenues in the United States and $216,000 of revenues outside the United States. For the year ended December 31, 2003, we recorded $14,088,000 in product and development revenues, including $13,727,000 of revenues in the United States and $361,000 of revenues outside the United States.

We hope that our future international product revenues will increase as a result of our Distribution Agreement with Senko.

Working Capital

Based on Medtronic's volatile purchasing history, we generally build products to order. Although capital expenditures may vary significantly depending on a variety of factors, including sales, we presently intend to spend approximately $2,500,000 on capital equipment purchases in 2006, mostly related to initial leasehold improvements at our new corporate headquarters. A portion of these may be paid with our current cash reserve.

Raw Materials

We currently purchase the high molecular weight, medical grade, lactic acid copolymer used in manufacturing most of our bioresorbable products from a single qualified source, B.I. Chemicals, Inc. Although we have a contract with B.I. Chemicals, which guarantees continuation of supply through August 15, 2007, we cannot guarantee that they will elect to continue the contract beyond that date, or that they will not elect to discontinue the manufacture of the material. They have agreed that if they discontinue manufacturing they will either find a replacement supplier, or provide us with the necessary technology to self-manufacture the material, either of which could mean a substantial increase in material costs. Also, despite this agreement, they might fail to fulfill their obligations. Under the terms of the contract, B.I. Chemicals, Inc. may choose to raise their prices upon six months prior notice which may also result in a substantially increased material cost. Although we believe that we would be able to obtain the material from at least one other source in the event of a failure of supply, there can be no assurance that we will be able to obtain adequate increased commercial quantities of the necessary high quality within a reasonable period of time or at commercially reasonable rates. Lack of adequate commercial quantities or inability to develop alternative sources meeting regulatory requirements at similar prices and terms within a reasonable time or any interruptions in supply in the future could have a significant negative effect on our ability to manufacture products, and, consequently, could have a material adverse effect on the results of our operations, cash flows and financial condition.

Intellectual Property

Our success depends in large part on our ability to protect our proprietary technology and information, and operate without infringing on the proprietary rights of third parties. We rely on a combination of patent, trade secret, copyright and trademark laws, as well as confidentiality agreements, licensing agreements and other agreements, to establish and protect our proprietary rights. Our success also depends, in part, on our ability to avoid infringing patents issued to others. If we were judicially determined to be infringing any third party patent, we could be required to pay damages, alter our products or processes, obtain licenses or cease certain activities.

To protect our proprietary regenerative cell technology we have filed applications for 27 United States patents, as well as 68 corresponding international patent applications. We are also the exclusive, worldwide licensee of the Regents of the University of California's rights to one U.S. Patent (Patent No. 6,777,231) related to isolated adipose derived stem cells that can differentiate into two or more of a variety of cell types, and five related U.S. patent applications and 26 corresponding international patent applications. With respect to our bioresorbable implant products and technology, we have obtained 13 U.S. patents, three of which were sold in product line dispositions. Our three U.S. patents related to the design of our macro-porous bioresorbable sheets for skeletal repair and regeneration were issued in July 1999, August 2001 and March 2004. Our three U.S. patents for the design of our high torque bioresorbable screws were issued in August 2001, February 2002 and November 2002. Our U.S patent related to our membrane with tissue guiding surface corrugations was issued in May 2002. Our two U.S. patents related to our bioresorbable barrier film for the control of postsurgical adhesions were issued in March 2003 and January 2004 and assigned to MAST as part of the Thin Film product line sale agreement. Our U.S. patent related to stereotaxic detachable needle extensions was issued in June 2003. Our U.S. patent related to non-scatterable radio-opaque material for imaging applications was issued in October 2003. Our U.S. patent related to a resorbable posterior spinal fusion system was issued in April 2004. Our U.S. patent for a cranial flap fixation device was issued in June 2004 and assigned to Medtronic pursuant to the September 2002 CMF product line sale agreement. We also have two Australian patents related to our bioresorbable mesh, one Australian patent for the design of our high torque bioresorbable screws and another Australian patent related to our membrane with tissue guiding surface corrugations. Our four Australian patents were issued in August 2000, January 2003 and September 2003. Each of our patents will expire 20 years from the filing date of the original patent application. In addition, we have filed applications for 15 additional U.S. patents as well as 42 corresponding international patents relating to our bioresorbable technology.

We cannot assure that any of the pending patent applications will be issued, that we will develop additional proprietary products that are patentable, that any patents issued to us will provide us with competitive advantages or will not be challenged by any third parties or that the patents of others will not prevent the commercialization of products incorporating our technology. Furthermore, we cannot assure that others will not independently develop similar products, duplicate any of our products or design around our patents. U.S. patent applications are not immediately made public, so we might be surprised by the grant to someone else of a patent on a technology we are actively using.

Patent law outside the United States is uncertain and in many countries is currently undergoing review and revisions. The laws of some countries may not protect our proprietary rights to the same extent as the laws of the U.S. Third parties may attempt to oppose the issuance of patents to us in foreign countries by initiating opposition proceedings. Opposition proceedings against any of our patent filings in a foreign country could have an adverse effect on our corresponding patents that are issued or pending in the U.S. It may be necessary or useful for us to participate in proceedings to determine the validity of our patents or our competitors' patents that have been issued in countries other than the U.S. This could result in substantial costs, divert our efforts and attention from other aspects of our business, and could have a material adverse effect on our results of operations and financial condition. We currently have pending patent applications in Europe, Australia, Japan, Canada, China, Korea, and Singapore, among others.

Patent litigation results in substantial costs to us and diversion of effort, and may be necessary from time to time to enforce or confirm the ownership of any patents issued or licensed to us or to determine the scope and validity of third party proprietary rights. If our competitors claim technology also claimed by us and prepare and file patent applications in the United States, we may have to participate in interference proceedings declared by the U.S. Patent and Trademark Office or a foreign patent office to determine priority of invention, which could result in substantial costs to and diversion of effort, even if the eventual outcome is favorable to us. For example, in the fourth quarter of 2004, the University of Pittsburgh ("U Pitt") filed a lawsuit naming all of the inventors who had not assigned their ownership interest in Patent 6,777,231 to U Pitt, seeking a determination that its assignors, rather than the University of California's assignors, are the true inventors of Patent No. 6,777,231. If U Pitt wins the lawsuit, our license rights to this patent could be nullified or rendered non-exclusive with respect to any third party that might license rights from U Pitt, and our strategy related to our regenerative cell technology could be significantly impacted. We expect to incur substantial legal costs as a result of U Pitt lawsuit, and our president, Marc Hedrick, M.D., is a named individual defendant in that lawsuit.

In addition to patent protection, we rely on unpatented trade secrets and proprietary technological expertise. We cannot assure you that others will not independently develop or otherwise acquire substantially equivalent techniques, or otherwise gain access to our trade secrets and proprietary technological expertise or disclose such trade secrets, or that we can ultimately protect our rights to such unpatented trade secrets and proprietary technological expertise. We rely, in part, on confidentiality agreements with our marketing partners, employees, advisors, vendors and consultants to protect our trade secrets and proprietary technological expertise.

We cannot assure you that these agreements will not be breached, that we will have adequate remedies for any breach or that our unpatented trade secrets and proprietary technological expertise will not otherwise become known or be independently discovered by competitors.

Failure to obtain or maintain patent protection, or protect trade secrets, for any reason, third party claims against our patents, trade secrets or proprietary rights, or our involvement in disputes over our patents, trade secrets or proprietary rights, including involvement in litigation, could have a substantial negative effect on the results of our operations, cash flows and financial condition.

Government Regulation

Most medical devices, therapies and treatments for use in humans, including our bioresorbable protective sheets, plates, and screws, are subject to stringent government regulation in the United States by the Food and Drug Administration, or "FDA," under the federal Food, Drug and Cosmetic Act, or "FDC" Act. The FDA regulates the clinical testing, manufacturing, safety, labeling, sales, distribution and promotion of medical devices and therapies. Included among these regulations are premarket clearance, premarket approval, biologic license application, new drug application, and Quality System Regulation, or "QSR," requirements. Other statutory and regulatory requirements govern, among other things, registration and inspection, medical device listing, prohibitions against misbranding and adulteration, labeling and postmarket reporting. The regulatory process may be lengthy, expensive and uncertain. Securing FDA approvals and clearances may require us to submit extensive clinical data and supporting information to the FDA. Failure to comply with applicable requirements can result in application integrity proceedings, fines, recalls or seizures of products, injunctions, civil penalties, total or partial suspensions of production, withdrawals of existing product approvals or clearances, refusal to approve or clear new applications or notifications, and criminal prosecution.

Under the FDC Act, medical devices are classified into Class I, Class II or Class III devices, based on their risks and the control necessary to reasonably ensure their safety and effectiveness. Class I devices are subject to general controls such as labeling and adherence to QSR requirements. Class II devices are subject to general controls, and may be subject to specific controls such as performance standards, postmarket surveillance and patient registries. Class II devices require premarket notification to the FDA in the form of a 510(k) application that demonstrates the new device to be "substantially equivalent" to an existing FDA 510(k) cleared device. Generally, Class III devices, which include certain life-sustaining, life-supporting and implantable devices or new devices which have been found not to be substantially equivalent to certain legally marketed devices, must receive premarket approval from the FDA. All of our bioresorbable implant products to date are Class II medical devices. Regenerative medicine devices and therapies are most likely Class III with some exceptions regarding cell processing devices that may be Class II.

Before any new Class II or III medical device may be introduced to the market, the manufacturer generally must obtain either premarket clearance through the 510(k) premarket notification process or premarket approval through the lengthier Premarket Approval Application, or "PMA," process. The FDA will grant a 510(k) premarket notification if the submitted data establishes that the proposed device is "substantially equivalent" to a legally marketed Class I or Class II medical device. The FDA may request data, including clinical studies, before it can make a determination of substantial equivalence. It generally takes from three to 12 months from submission to obtain 510(k) premarket clearance, although it may take longer. There is no assurance that clearance will be granted. We must file a PMA if one of our products is found not to be substantially equivalent to a legally marketed Class II device or if it is a Class III device for which the FDA requires PMAs. A PMA must be supported by extensive data to demonstrate the safety and effectiveness of the device, including laboratory, preclinical and clinical trial data, as well as extensive manufacturing information. Before initiating human clinical trials on devices that present a significant risk, we must first obtain an Investigational Device Exemption, or IDE, for the proposed medical device. Obtaining FDA approval of the Investigational Device Exemption allows the sponsor to begin the collection of clinical data according to a protocol that must be approved by the FDA. Several factors influence the overall time frame of the IDE process. These include: the number of patients required for statistical significance, the requirement

for a pilot (safety) study in advance of initiating a pivotal study, and the duration of follow-up required before the IDE can be closed and the PMA prepared for submission to FDA. This follow-up period typically ranges from 12-24 months on the last patient to be enrolled in the study. Toward the end of the PMA review process, the FDA will generally conduct an inspection of the manufacturing facilities to ensure compliance with QSRs. Approval of a PMA could take up to one or more years from the date of submission of the application or petition; however, the entire process of IDE submission /approval, clinical data collection, patient follow-up, PMA preparation and approval typically requires 4 years or more. The PMA process can also be expensive and uncertain, and there is no guarantee of ultimate approval.

Modifications or enhancements of products that could affect the safety or effectiveness or effect a major change in the intended use of a device that was either cleared through the 510(k) process or approved through the PMA process may require further FDA review through new 510(k) or PMA submissions.

As a medical device manufacturer, we are subject to periodic inspections by the FDA to ensure that devices continue to be manufactured in accordance with QSR requirements. We are also subject to postmarket reporting requirements for deaths or serious injuries when a device may have caused or contributed to death or serious injury, and for certain device malfunctions that would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. Postmarket reporting also may be required

for certain corrective actions undertaken for distributed devices. If safety or effectiveness problems occur after the product reaches the market, the FDA may take steps to prevent or limit further marketing of the product. Additionally, the FDA actively enforces regulations prohibiting marketing of devices for indications or uses that have not been cleared or approved by the FDA.

Under the terms of our development and supply agreement with Medtronic, Medtronic is responsible for preparing and filing applications for, and obtaining regulatory approval of the products we co-develop for use in spinal fixation, stabilization or fusion applications.

We or our marketing partners may not be able to obtain necessary 510(k) clearances or PMA approvals to market the products we are developing in the United States for their intended use on a timely basis, if at all.

We must comply with extensive regulations from foreign jurisdictions regarding safety, manufacturing processes and quality. These regulations, including the requirements for marketing authorization, may differ from the United States FDA regulatory requirements. Specifically, in regard to our licensing agreement with Senko, marketing authorization from the Japanese Ministry of Health, Labour and Welfare is necessary for commercialization of the Thin Film product line in Japan.

We may not be able to obtain marketing authorization in all of the countries where we intend to market our products, may incur significant costs in obtaining or maintaining our foreign marketing authorizations, or may not be able to successfully commercialize our current or future products in any foreign markets. Delays in receipt of marketing authorizations for our products in foreign countries, failure to receive such marketing authorizations or the future loss of previously received marketing authorizations could have a material adverse effect on our results of operations, cash flows and financial condition.

Staff

As of December 31, 2005, we had 137 full-time employees, comprised of 15 employees in manufacturing, 91 employees in research and development, 5 employees in sales and marketing and 26 employees in management and finance and administration. From time to time, we also employ independent contractors to support our administrative organizations. Our employees are not represented by any collective bargaining unit and we have never experienced a work stoppage. A breakout by segment is as follows:

	Regenerative Cell Technology	MacroPore Biosurgery	Corporate	Total
Manufacturing	0	15	0	15
Research & Development	86	5	0	91
Sales and Marketing	3	2	0	5
General & Administrative	0	0	26	26
Total	89	22	26	137

Web Site Access to SEC Filings

We maintain an Internet website at www.cytoritx.com. Through this site, we make available free of charge our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) of the Securities Exchange Act of 1934 as soon as reasonably practicable after we electronically file such material with, or furnish it to, the U.S. Securities and Exchange Commission (SEC). In addition, we publish on our website all reports filed under Section 16(a) of the Exchange Act by our directors, officers and 10% stockholders.

These materials are accessible via the Investor Relations section of our website within the “SEC Filings” link. Some of the information is stored directly on our website, while other information can be accessed by selecting the provided link to the section on the SEC website, which contains filings for our company and its insiders.

Item 1A. Risk Factors

In analyzing our company, you should consider carefully the following risk factors, together with all of the other information included in this annual report on Form 10-K. Factors that could cause or contribute to differences in our actual results include those discussed in the following section, as well as those discussed below in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and elsewhere throughout this annual report on Form 10-K. Each of the following risk factors, either alone or taken together, could adversely affect our business, operating results and financial condition, as well as adversely affect the value of an investment in our common stock.

We are subject to the following significant risks, among others:

We will need to raise more cash in the future

As of December 31, 2005, we had $15,845,000 of cash, cash equivalents and short-term investments; we have always had negative cash flows from operations. Our regenerative cell business will continue to result in a substantial requirement for research and development expenses for several years, during which it could bring in no significant revenues. We will need to obtain additional cash, through financings or special strategic transactions, by no later than 2007. There can be no guarantee that adequate funds for our operations from any additional debt or equity financing, our operating revenues, arrangements with distribution partners or from other sources will be available when needed or on terms attractive to us. The inability to obtain sufficient funds would require us to delay, scale back or eliminate some or all of our research or product development programs, manufacturing operations, clinical studies or regulatory activities as well as our ability to license third parties to commercialize products or technologies that we would otherwise seek to develop ourselves, thus having a substantial negative effect on the results of our operations and financial condition.

We have never been profitable on an operational basis and we will have significant operating losses for at least the next several years

We have incurred net operating losses in each year since we started doing business. These losses have resulted primarily from expenses associated with our research and development activities and general and administrative expenses. Development-stage losses related to our development of regenerative cell technology are expected to keep us in a loss position on a consolidated basis for several years. We anticipate that our recurring operating expenses will increase to high levels for the next several years, due to the continued need to fund our clinical research program as well as additional preclinical research. We expect to continue to incur operational losses in our spine and orthopedics business at least through the end of 2006, and the amount of future net losses and time necessary to reach operational profitability are somewhat uncertain.

Our business is high-risk

We are focusing all of our resources and efforts primarily on our regenerative cell technology and its development-stage cash needs. This is a high-risk strategy because there can be no assurance that our regenerative cell technology will ever be developed into commercially viable products (commercial risk), that we will be able to preclude other companies from depriving us of market share and profit margins by selling products based on our inventions and developments (legal risk), that we will be able to successfully manage a company in a different business than we have operated in the past (operational risk), that we will be able to deliver regenerative cells into the body to achieve the desired therapeutic results (scientific risk), or that our cash resources will be adequate to develop the regenerative cell technology until it becomes profitable, if ever (financial risk). We are using our cash in one of the riskiest industries in the economy (strategic risk). This may make our stock an unsuitable investment for some investors.

The financial risk in this strategy is significant, particularly since our bioresorbable products are not currently independently cash-flow-positive. Although we eliminated the negative cash flow of the early commercialization stage of the (non-Japan) Thin Film business by selling that business to MAST in May 2004, even our core spine and orthopedics implants business fell back into a negative cash flow position in 2004 due to the sharp reduction in orders from and sales to Medtronic. This trend continued in 2005 despite stocking orders for the new MYSTIQUE™ line and the overall biomaterials cash flow remained negative.

We must keep our joint venture with Olympus operating smoothly

Our regenerative cell business cannot succeed on the current timelines unless our joint venture collaboration with Olympus goes well. We have given Olympus-Cytori, Inc. an exclusive license to our regenerative cell therapeutic device technology for use in future generation devices. If Olympus-Cytori, Inc. does not successfully develop and manufacture future generation devices for sale to us, we may not be able to commercialize any device successfully into the market. In addition, any future disruption in or breakup of our relationship with Olympus would be extremely costly to our reputation, in addition to causing many serious practical problems.

We and Olympus must overcome contractual and cultural barriers as we work together. Our relationship is formally measured by a set of complex contracts, which have not yet been tested in practice. In addition, many aspects of the relationship will be essentially non-contractual and must be worked out between the parties and the responsible individuals over time. The joint venture is intended to have a long life, and it is difficult to maintain cooperative relationships over a long period of time in the face of various kinds of change, especially when the parties are separated by a great distance and (to some degree) language difficulties and cultural differences.

Olympus-Cytori, Inc. is 50% owned by us and 50% owned by Olympus. By contract, each side must consent before any of a wide variety of important business actions can occur. This situation possesses a risk of potential time-consuming and difficult negotiations which could at some point delay the joint venture from pursuing its business strategies.

Olympus is entitled to designate the joint venture’s chief executive officer and a majority of its board of directors, which means that day-to-day decisions which are not subject to a contractual veto will essentially be controlled by Olympus. In addition, Olympus-Cytori, Inc. is likely to need more money than its initial capitalization in order to finalize development of and production of the future generation devices. If we are unable to help provide future financing for Olympus-Cytori, Inc., our relative equity interest in

Olympus-Cytori, Inc. may decrease.

Furthermore, under a License/Joint Development Agreement among Olympus-Cytori, Inc., Olympus, and us, Olympus will have a primary role in the development of Olympus-Cytori, Inc.’s future generation devices. Although Olympus has extensive experience in developing medical devices, this arrangement will result in a reduction of our control over the development and manufacturing of the future generation devices.

We rely on Medtronic to distribute a majority of our current biomaterials products, but Medtronic’s level of commitment to our products is doubtful

We have limited control over sales, marketing and distribution of our biomaterials products. Our strategy for sales and marketing of our bioresorbable products included entering into an agreement with Medtronic, a company with a large distribution network, to market many of our current and certain future products incorporating our technology. The sale of hard-tissue-fixation bioresorbable implant products to our distribution partner, Medtronic, has constituted the majority of our revenues.

We remain significantly dependent on Medtronic to generate sales revenues for all of our spine and orthopedics bioresorbable products. The amount and timing of resources which may be devoted to the performance of Medtronic's contractual responsibilities are not within our control. There can be no guarantee that Medtronic will perform its obligations as expected or pay us any additional option or license fees. There is also no guarantee that it will market any new products under the distribution agreements or that we will derive any significant revenue from such arrangements. Medtronic's sale of our products to end customers in 2004 and 2005, and its rate of product orders placed with us in the same period, disappointed our expectations with the exception of stocking orders for the new MYSTIQUE™ line. 2004 and 2005 results were exceptionally weak, and we are significantly disappointed with the marketing efforts of Medtronic for our non-MYSTIQUE™ products at this time. We recorded an inventory provision for slow-moving non-MYSTIQUE™ inventory in the second, third and fourth quarters of 2005.

Our dependence upon Medtronic to market and sell our bioresorbable products places us in a position where we cannot accurately predict the extent to which our products will be actively and effectively marketed, depriving us of some of the reliable data we need to make optimal operational and strategic decisions. The consequent lack of visibility is evidenced by the withdrawal of our announced financial guidance for 2004, and our results falling within the lowest range of our guidance for 2005.

The prices which Medtronic pays us are fixed (pending biannual price reviews), based on a percentage of Medtronic's historic selling price to its customers. If our costs increase but our selling prices remain fixed, our profit margin will suffer.

Medtronic owns 6.5% of our stock, which may limit our ability to negotiate commercial arrangements optimally with Medtronic. Although Medtronic has exclusive distribution rights to our co-developed spinal implants, it also distributes other products that are competitive to ours. Medtronic might choose to develop and distribute existing or alternative technologies in preference to our technology in the spine, or preferentially market competitive products that can achieve higher profit margins. We suspect that this has in fact been happening.

There can be no assurance that our interests will continue to coincide with those of Medtronic or that disagreement over rights or technology or other proprietary interests will not occur. The loss of the marketing services provided by Medtronic (or the failure of Medtronic to satisfactorily perform these marketing services), or the loss of revenues generated by Medtronic, could have a substantial negative effect on our ability or willingness to continue our spine and orthopedics biomaterials business.

Senko has not yet begun to distribute our Thin Film products in Japan; but if and when they do, we may experience similar risk with them as we have experienced in our Medtronic relationship.

We have a limited operating history; our operating results can be volatile

Our prospects must be evaluated in light of the risks and difficulties frequently encountered by emerging companies and particularly by such companies in rapidly evolving and technologically advanced fields such as the biotechnology and medical device fields. Due to our limited operating history, and the development stage status of our regenerative cell business, comparisons of our year-to-year operating results are not necessarily meaningful and the results for any periods should not necessarily be relied upon as an indication for future performance. Since our limited operating history makes the prediction of future results difficult or impossible, our recent revenue results should not be taken as an indication of any future growth or of a sustainable level of revenue. Operating results will also be affected by our transition away from our revenue generating medical device business and the focus of the vast majority of our resources into the development-stage regenerative cell business.

Moreover, our operating results can vary substantially from our previously published financial guidance (such as occurred in the second quarter of 2004), from analyst expectations and from previous periodic results for many reasons, including the timing of

product introductions and distributor purchase orders. Also, the 2002 sale of our CMF bone fixation implant and accessory product line, which had represented a large portion of our revenues, plus the 2004 sale of our (non-Japan) Thin Film surgical implants for separation of soft tissues, will distort quarterly and annual earning comparisons through 2004, 2005 and 2006. Earnings surprises can have a disproportionate effect on the stock prices of emerging companies such as ours. Also, our stock price is likely to be disproportionately affected by changes which generally affect the economy, the stock market or the medical device and biotechnology industries.

From time to time, we have tried to influence our investors' expectations as to our operating results by periodically announcing financial guidance. However, we have in the past been forced to revise or withdraw such guidance due to lack of visibility and predictability of product demand. This lack of visibility and predictability of product demand for our bioresorbable implant products is likely to occur in the future as well.

We are vulnerable to competition and technological change, and also to physicians' inertia

We compete with many domestic and foreign companies in developing our technology and products, including biotechnical, medical device, pharmaceutical and biopharmaceutical companies. Many of our competitors and potential competitors have substantially greater financial, technological, research and development, marketing and personnel resources than we do. There can be no assurance that our competitors will not succeed in developing alternative technologies and products that are more effective, easier to use or more economical than those which we have developed or are in the process of developing or that would render our technology and products obsolete and non-competitive in these fields. In general, we may not be able to preclude other companies from developing and marketing competitive regenerative cell therapies or bioresorbable products that are similar to ours or perform similar functions.

These competitors may also have greater experience in developing therapeutic treatments, conducting clinical trials, obtaining regulatory clearances or approvals, manufacturing and commercializing therapeutic or biomaterials products. It is possible that certain of these competitors may obtain patent protection, approval or clearance by the U.S. Food and Drug Administration "FDA" or achieve commercialization earlier than we, any of which could have a

substantial negative effect on our business. Finally, Olympus, Medtronic and our other partners might pursue parallel development of other technologies or products, which may result in a partner developing additional products that will compete with our products.

We also compete with other types of regenerative cell therapies such as bone marrow derived cell therapies, and potentially embryonic derived therapies. Our biomaterials business competes with manufacturers of traditional non-bioresorbable implants, such as titanium implants. Doctors have historically been slow to adopt new technologies such as ours, whatever the merits, when older technologies continue to be supported by established providers. Overcoming such inertia often requires very significant marketing expenditures or definitive product superiority.

We expect physicians' inertia and skepticism to also be a significant barrier as we attempt to gain market penetration with our future regenerative cell products. We believe we will need to finance lengthy time-consuming clinical studies (so as to provide convincing evidence of the medical benefit) in order to overcome this inertia and skepticism.

We depend on recently introduced products and anticipated new products, which subject us to development and marketing risks

We are in a relatively early stage of commercialization with many of our products. We believe that our long-term viability and growth will depend in large part on our ability to develop commercial quality cell processing devices and to establish the safety and efficacy of our therapies through clinical trials and studies. We are presently pursuing regenerative cell opportunities in cardiovascular disease, spine and orthopedic conditions, gastrointestinal disorders and new approaches for aesthetic and reconstructive surgery that may require extensive additional capital investment, research, development, clinical testing and regulatory clearances or approvals prior to commercialization. There can be no assurance that our development programs will be successfully completed or that required regulatory clearances or approvals will be obtained on a timely basis, if at all.

The path to commercial profit from our regenerative cell technology is unclear even if we demonstrate the medical benefit of our regenerative cell technology in various applications. There is no proven path for commercializing the technology in a way to earn a durable profit commensurate with the medical benefit. Most of our cell-related products and/or services are at least three to five years away.

Moreover, the successful development and market acceptance of our technologies and products are subject to inherent developmental risks, including ineffectiveness or lack of safety, unreliability, failure to receive necessary regulatory clearances or approvals, high commercial cost and preclusion or obsolescence resulting from third parties' proprietary rights or superior or equivalent products, as well as general economic conditions affecting purchasing patterns. There can be no assurance that we or our partners will be able to successfully develop and commercialize our technologies or products, or that our competitors will not develop competing technologies that are less expensive or otherwise superior to ours. The failure to successfully develop and market our new

regenerative cell technologies would have a substantial negative effect on the results of our operations and financial condition.

We have limited manufacturing experience

We have no experience in manufacturing the Celution™ system at a commercial level, and although Olympus is a highly capable and experienced manufacturer of medical devices, there can be no guarantee that the Olympus-Cytori joint venture will be able to successfully develop and manufacture the Celution™ system in a manner that is cost-effective or commercially viable, or that development and manufacturing capabilities might not take much longer than currently anticipated to be ready for the market.

In the event that the Olympus-Cytori joint venture is not successful, Cytori may not have the required level of technical ability or other resources to self manufacture commercially viable devices, and in any event this failure would substantially extend the time it would take for us to bring a commercial device to market. This makes us significantly dependant on the continued dedication and skill of Olympus for the successful development of the Celution™ system.

In addition, the future of our biomaterials business success is significantly dependent on our ability to manufacture our bioresorbable implants in commercial quantities, in compliance with regulatory requirements and in a cost-effective manner. Production of some of our products in commercial-scale quantities may involve unforeseen technical challenges and may require significant scale-up expenses for additions to facilities and personnel. There can be no guarantee that we will be able to achieve large-scale manufacturing capabilities for some of our biomaterials products or that we will be able to manufacture these products in a cost-effective manner or in quantities necessary to allow us to achieve profitability. Our 2002 sale of CMF production assets to Medtronic and our 2004 sale of the (non-Japan) Thin Film product line deprived us of some economies of scale in manufacturing. Current demand for spine and orthopedics products from Medtronic is so low that economies of scale are in some instances lacking in regard to that product line as well.

If we are unable to sufficiently meet Medtronic's requirements for certain products as set forth under its agreement, Medtronic itself may then manufacture and sell such product and only pay us royalties on the sales. The resulting loss of payments from Medtronic for the purchase of these products may have a substantial negative effect on the results of our operations and financial condition.

We have to maintain quality assurance certification and manufacturing approvals

The manufacture of our bioresorbable products is, and the manufacture of the Celution™ system for regenerative cells will be, subject to periodic inspection by regulatory authorities and distribution partners. The manufacture of devices and products for human use is subject to regulation and inspection from time to time by the FDA for compliance with the FDA's Quality System Regulation "QSR" requirements, as well as equivalent requirements and inspections by state and non-U.S. regulatory authorities. There can be no guarantee that the FDA or other authorities will not, during the course of an inspection of existing or new facilities, identify what they consider to be deficiencies in our compliance with QSRs or other requirements and request, or seek, remedial action.

Failure to comply with such regulations or a potential delay in attaining compliance may adversely affect our manufacturing activities and could result in, among other things, injunctions, civil penalties, FDA refusal to grant pre-market approvals or clearances of future or pending product submissions, fines, recalls or seizures of products, total or partial suspensions of production and criminal prosecution. There can be no assurance that we will be able to obtain additional necessary regulatory approvals or clearances on a timely basis, if at all. Delays in receipt of or failure to receive such approvals or clearances or the loss of previously received approvals or clearances could have a substantial negative effect on the results of our operations and financial condition.

We depend on a sole source supplier for our crucial raw material for our bioresorbable products

We currently purchase the high molecular weight, medical grade, lactic acid copolymer used in manufacturing most of our bioresorbable products, from a single qualified source. Although we have a contract with B.I. Chemicals, Inc., which guarantees continuation of supply through August 15, 2007, we cannot guarantee that they will elect to continue the contract beyond that date, or that they will not elect to discontinue the manufacture of the material. They have agreed that if they discontinue manufacturing they will either find a replacement supplier, or provide us with the necessary technology to self-manufacture the material, either of which could mean a substantial increase in material costs. Also, despite this agreement they might fail to do these things for us. Under the terms of the contract, B.I. Chemicals, Inc. may choose to raise their prices upon six months' prior notice which may also result in a substantially increased material cost. Although we believe that we would be able to obtain the material from at least one other source in the event of a failure of supply, there can be no assurance that we will be able to obtain adequate increased commercial quantities of the necessary high quality within a reasonable period of time or at commercially reasonable rates. Lack of adequate commercial quantities or the inability to develop alternative sources meeting regulatory requirements at similar prices and terms within a reasonable time or any interruptions in supply in the future could have a significant negative effect on our ability to manufacture products, and, consequently, could have a material adverse effect on the results of our operations and financial condition.

We may not be able to protect our proprietary rights

Our success depends in part on whether we can obtain additional patents, maintain trade secret protection and operate without infringing on the proprietary rights of third parties.

Our regenerative cell technology license agreement with the Regents of the University of California contains certain developmental milestones, which if not achieved could result in the loss of exclusivity or loss of the license rights. The loss of such rights could significantly impact our ability to continue the development of the regenerative cell technology and commercialize related products. Also, our power as licensee to successfully use these rights to exclude competitors from the market is untested. In addition, further legal risk arises from a lawsuit, recently filed by U Pitt naming all of the inventors who had not assigned their ownership interest in Patent 6,777,231 to U Pitt,seeking a determination that its assignors, rather than the University of California's assignors, are the true inventors of U.S. Patent No. 6,777,231. We are the exclusive, worldwide licensee of the University of California's rights under this patent, which relates to adult stem cells isolated from adipose tissue that can differentiate into two or more of a variety of cell types. If U Pitt wins the lawsuit, our license rights to this patent could be nullified or rendered non-exclusive with respect to any third party that might license rights from U Pitt, and our regenerative cell strategy could be impacted.

We have various U.S. patents for the design of our bioresorbable plates and high torque screws and devices and we have filed applications for numerous additional U.S. patents, as well as certain corresponding patent applications outside the United States, relating to our technology. However, we believe we cannot patent the use of our lactic acid copolymer for surgical implants, nor are many of our particular implants generally patentable.

There can be no assurance that any of the pending patent applications will be approved or that we will develop additional proprietary products that are patentable. There is also no assurance that any patents issued to us will provide us with competitive advantages, will not be challenged by any third parties or that the patents of others will not prevent the commercialization of products incorporating our technology. Furthermore, there can be no guarantee that others will not independently develop similar products, duplicate any of our products or design around our patents.

Our commercial success will also depend, in part, on our ability to avoid infringing on patents issued to others. If we were judicially determined to be infringing on any third party patent, we could be required to pay damages, alter our products or processes, obtain licenses or cease certain activities. If we are required in the future to obtain any licenses from third parties for some of our products, there can be no guarantee that we would be able to do so on commercially favorable terms, if at all. U.S. patent applications are not immediately made public, so we might be surprised by the grant to someone else of a patent on a technology we are actively using. As noted above as to U Pitt lawsuit, even patents issued to us or our licensors might be judicially determined to belong in full or in part to third parties.

Litigation, which would result in substantial costs to us and diversion of effort on our part, may be necessary to enforce or confirm the ownership of any patents issued or licensed to us or to determine the scope and validity of third party proprietary rights. If our competitors claim technology also claimed by us and prepare and file patent applications in the United States, we may have to participate in interference proceedings declared by the U.S. Patent and Trademark Office or a foreign patent office to determine priority of invention, which could result in substantial costs to and diversion of effort, even if the eventual outcome is favorable to us.

Any such litigation or interference proceeding, regardless of outcome, could be expensive and time consuming. We may incur substantial legal costs as a result of the University of Pittsburgh lawsuit, and our president Marc Hedrick is a named individual defendant in that lawsuit because he is one of the inventors identified on the patent.

In addition to patents, which alone may not be able to protect the fundamentals of our regenerative cell and bioresorbable businesses, we also rely on unpatented trade secrets and proprietary technological expertise. We rely, in part, on confidentiality agreements with our partners, employees, advisors, vendors and consultants to protect our trade secrets and proprietary technological expertise. There can be no guarantee that these agreements will not be breached, or that we will have adequate remedies for any breach, or that our unpatented trade secrets and proprietary technological expertise will not otherwise become known or be independently discovered by competitors.

Failure to obtain or maintain patent protection, or protect trade secrets, for any reason (third party claims against our patents, trade secrets or proprietary rights, or our involvement in disputes over our patents, trade secrets or proprietary rights, including involvement in litigation), could have a substantial negative effect on the results of our operations and financial condition.

We may not be able to protect our intellectual property in countries outside the United States

Intellectual property law outside the United States is uncertain and in many countries is currently undergoing review and revisions. The laws of some countries do not protect our patent and other intellectual property rights to the same extent as United States laws. We currently have pending patent applications in Europe, Australia, Japan, Canada, China, Korea, and Singapore, among

others.

We are, and Olympus-Cytori, Inc. will be, subject to intensive FDA regulation

As newly developed medical devices, ours as well as Olympus-Cytori's regenerative cell harvesting, isolation and delivery devices and our bioresorbable implants must receive regulatory clearances or approvals from the FDA and, in many instances, from non-U.S. and state governments, prior to their sale. Ours as well as Olympus-Cytori's current and future regenerative cell harvesting, isolation and delivery devices and bioresorbable implants are subject to stringent government regulation in the United States by the FDA under the Federal Food, Drug and Cosmetic Act. The FDA regulates the design/development process, clinical testing, manufacture, safety, labeling, sale, distribution and promotion of medical devices and drugs. Included among these regulations are pre-market clearance and pre-market approval requirements, design control requirements, and the Quality System Regulations / Good Manufacturing Practices. Other statutory and regulatory requirements govern, among other things, establishment registration and inspection, medical device listing, prohibitions against misbranding and adulteration, labeling and post market reporting.

The regulatory process can be lengthy, expensive and uncertain. Before any new medical device may be introduced to the United States market, the manufacturer generally must obtain FDA clearance or approval through either the 510(k) pre-market notification process or the lengthier pre-market approval application "PMA" process. It generally takes from three to 12 months from submission to obtain 510(k) pre-market clearance, although it may take longer. Approval of a PMA could take four or more years from the time the process is initiated. The 510(k) and PMA processes can be expensive, uncertain and lengthy, and there is no guarantee of ultimate clearance or approval. We expect that some of our future products under development as well as Olympus-Cytori's will be subject to the lengthier PMA process. Securing FDA clearances and approvals may require the submission of extensive clinical data and supporting information to the FDA, and there can be no guarantee of ultimate clearance or approval. Failure to comply with applicable requirements can result in application integrity proceedings, fines, recalls or seizures of products, injunctions, civil penalties, total or partial suspensions of production, withdrawals of existing product approvals or clearances, refusals to approve or clear new applications or notifications and criminal prosecution.

Medical devices are also subject to post-market reporting requirements for deaths or serious injuries when the device may have caused or contributed to the death or serious injury, and for certain device malfunctions that would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. If safety or effectiveness problems occur after the product reaches the market, the FDA may take steps to prevent or limit further marketing of the product. Additionally, the FDA actively enforces regulations prohibiting marketing and promotion of devices for indications or uses that have not been cleared or approved by the FDA.

Our current medical implants are at different stages of FDA review. We currently have 510(k) clearances for a wide variety of bioresorbable surgical implant products and we are constantly engaged in the process of obtaining additional clearances for new and existing products. There can be no guarantee that we will be able to obtain the necessary 510(k) clearances or PMA approvals to market and manufacture our other products in the United States for their intended use on a timely basis, if at all. The FDA approval process may be particularly problematic for ours as well as Olympus-Cytori's regenerative cell technology products in view of the novel nature of the technology. Delays in receipt of or failure to receive such clearances or approvals, the loss of previously received clearances or approvals, or failure to comply with existing or future regulatory requirements could have a substantial negative effect on the results of our operations and financial condition.

To sell in international markets, we will be subject to intensive regulation in foreign countries

In cooperation with our distribution partners, we intend to market our current and future products both domestically and in many foreign markets. A number of risks are inherent in international transactions. In order for us to market our products in Europe, Canada, Japan and certain other non-U.S. jurisdictions, we need to obtain and maintain required regulatory approvals or clearances and must comply with extensive regulations regarding safety, manufacturing processes and quality. For example, we still have not obtained regulatory approval for our Thin Film products in Japan. These regulations, including the requirements for approvals or clearances to market, may differ from the FDA regulatory scheme. International sales also may be limited or disrupted by political instability, price controls, trade restrictions and changes in tariffs. Additionally, fluctuations in currency exchange rates may adversely affect demand for our products by increasing the price of our products in the currency of the countries in which the products are sold.

There can be no assurance that we will obtain regulatory approvals or clearances in all of the countries where we intend to market our products, or that we will not incur significant costs in obtaining or maintaining foreign regulatory approvals or clearances, or that we will be able to successfully commercialize current or future products in various foreign markets. Delays in receipt of approvals or clearances to market our products in foreign countries, failure to receive such approvals or clearances or the future loss of previously received approvals or clearances could have a substantial negative effect on the results of our operations and financial condition.

We depend on a few key officers

Our performance is substantially dependent on the performance of our executive officers and other key scientific staff, including Christopher J. Calhoun, our Chief Executive Officer, and Marc Hedrick, MD, our President. We rely upon them for strategic business decisions and guidance. We believe that our future success in developing marketable products and achieving a competitive position will depend in large part upon whether we can attract and retain additional qualified management and scientific personnel. Competition for such personnel is intense, and there can be no assurance that we will be able to continue to attract and retain such personnel. The loss of the services of one or more of our executive officers or key scientific staff or the inability to attract and retain additional personnel and develop expertise as needed could have a substantial negative effect on our results of operations and financial condition.

We may not have enough product liability insurance

The testing, manufacturing, marketing and sale of our regenerative cell and bioresorbable implant products involve an inherent risk that product liability claims will be asserted against us, our distribution partners or licensees. There can be no guarantee that our clinical trial and commercial product liability insurance is adequate or will continue to be available in sufficient amounts or at an acceptable cost, if at all. A product liability claim, product recall or other claim, as well as any claims for uninsured liabilities or in excess of insured liabilities, could have a substantial negative effect on the results of our operations and financial condition. Also, well-publicized claims could cause our stock to fall sharply, even before the merits of the claims are decided by a court.

Our charter documents contain anti-takeover provisions and we have adopted a Stockholder Rights Plan to prevent hostile takeovers

Our Amended and Restated Certificate of Incorporation and Bylaws contain certain provisions that could prevent or delay the acquisition of the Company by means of a tender offer, proxy contest or otherwise. It could discourage a third party from attempting to acquire control of the Company, even if such events would be beneficial to the interests of our stockholders. Such provisions may have the effect of delaying, deferring or preventing a change of control of the Company and consequently could adversely affect the market price of our shares. Also, in 2003 we adopted a Stockholder Rights Plan, of the kind often referred to as a poison pill. The purpose of the Stockholder Rights Plan is to prevent coercive takeover tactics that may otherwise be utilized in takeover attempts. The existence of such a rights plan may also prevent or delay the change in control of the Company which could adversely affect the market price of our shares.

We pay no dividends

We currently do not intend to pay any cash dividends for the foreseeable future.

Item 1B. Unresolved Staff Comments

Not applicable.

Item 2. Property

On May 24, 2005, we entered into a new lease for 91,000 square feet located at 3020 and 3030 Callan Road, San Diego, California. We intend to continue to move the majority of our operations to this new facility by the second quarter of 2006. The agreement bears rent at a rate of $1.15 per square foot, with annual increases of 3%. The lease term is 57 months, commencing on October 1, 2005 and expiring on June 30, 2010. In addition, we are committed to providing a minimum of $837,000 in improvements to the facility. As of December 31, 2005, we have made $1,386,000 in improvements to the facility.

We also have a facility located at 6740 Top Gun Street, San Diego, California. We currently lease approximately 27,000 square feet of space at this location of which approximately 6,000 square feet is laboratory space, 12,000 square feet is office space and 9,000 square feet is manufacturing space. Our lease has a five-year term, expiring in 2008. We also lease:

- 14,000 square feet, of which approximately 4,000 square feet is for research and development and 10,000 square feet is office space, at 6749 Top Gun Street, San Diego, California for a five-year term expiring in April 2006. We currently sublease 6,000 square feet of this office and warehouse space at the rate charged per square foot in our current lease agreement. We sublease approximate 5,000 square feet to MAST and the remainder to another unrelated party.
- 16,000 additional square feet for research and development activities located at 6749 Top Gun Street, San Diego, California for a five-year term expiring 2008.
- 4,027 square feet of office space located at 9-3 Otsuka 2-chome, Bunkyo-ku, Tokyo, Japan. The agreement bears rent at a rate of $3.66 per square foot, for a term of two years expiring on November 30, 2007.

On the properties stated above, we paid an aggregate of approximately $75,000 in rent per month in 2005. The aggregate sublease amount is $6,000 per month. Lease payments on the Callan Rd. location do not commence until June 2006.

Item 3. Legal Matters

From time to time, we have been involved in routine litigation incidental to the conduct of our business. As of December 31, 2005, we were not a party to any material legal proceeding.

Item 4. Submission of Matters to a Vote of Security Holders

None

PART II

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters

Market Prices

Since our initial public offering in Germany in August 2000, our common stock has been quoted on the Frankfurt Stock Exchange under the symbol "XMPA" (formerly XMP). Until December 19, 2005, the Frankfurt Stock Exchange had served as the primary market for our securities. Effective December 19, 2005, we began trading on the NASDAQ Capital Market under the symbol "CYTX," and we have since transferred to the NASDAQ Global Market effective February 14, 2006. The following table shows the high and low sales prices for our common stock for the periods indicated, as reported by the Frankfurt Stock Exchange and the NASDAQ Capital Markets. These prices do not include retail markups, markdowns or commissions.

Frankfurt Stock Exchange (XETRA)

	High Euro	High U.S.	Low Euro	Low U.S.
2004				
Quarter ended March 31, 2004	€ 3.45	$ 4.30	€ 2.00	$ 2.58
Quarter ended June 30, 2004	€ 3.80	$ 4.61	€ 3.02	$ 3.67
Quarter ended September 30, 2004	€ 3.60	$ 4.40	€ 1.93	$ 2.38
Quarter ended December 31, 2004	€ 2.73	$ 3.37	€ 1.77	$ 2.43

2005							
Quarter ended March 31, 2005	€	2.13	$	2.78	€	2.00	$ 2.61
Quarter ended June 30, 2005	€	2.55	$	3.08	€	2.50	$ 3.02
Quarter ended September 30, 2005	€	4.49	$	5.41	€	4.21	$ 5.07
Quarter ended December 31, 2005	€	6.85	$	8.13	€	6.47	$ 7.68

NASDAQ Stock Exchange

	High U.S.	Low U.S.
2005		
Quarter ended December 31, 2005	$ 8.30	$ 7.60

In preparation for our NASDAQ listing, we changed depository agents from Clearstream Banking AG, Frankfurt, Germany, to the Depository Trust & Clearing Corporation, U.S (“DTCC”). All of our outstanding shares have been deposited with DTCC since December 9, 2005.

Dividends

We have never declared or paid any dividends and do not currently anticipate paying any cash dividends on our outstanding shares of common stock in the foreseeable future.

German Securities Laws

As a United States company with securities trading on a German stock exchange, we are subject to various laws and regulations in both jurisdictions. Some of these laws and regulations, in turn, can affect the ability of holders of some of our securities to transfer or sell those securities.

There are no limitations imposed by German law or our certificate of incorporation or bylaws on the right of owners to hold or vote the shares.

Recent Sales of Unregistered Securities

None

Equity Compensation Plan Information

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders	4,792,000	$ 4.06	444,000
Equity compensation plans not approved by security holders(1)	993,000	$ 4.44	2,266,000
Total	5,785,000	$ 4.12	2,710,000

(1) The maximum number of shares shall be cumulatively increased on the first January 1 after the Effective Date, August 24, 2004, and each January 1 thereafter for 9 more years, by a number of shares equal to the lesser of (a) 2% of the number of shares issued and outstanding on the immediately preceding December 31, and (b) a number of shares set by the Board.

Item 6. Selected Consolidated Financial Data

The selected data presented below under the captions “Statements of Operations Data,” “Statements of Cash Flows Data” and “Balance Sheet Data” for, and as of the end of, each of the years in the five-year period ended December 31, 2005, are derived from our audited financial statements. The consolidated balance sheets as of December 31, 2005 and 2004, and the related consolidated statements of operations and comprehensive loss, stockholders’ equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 2005, which have been audited by KPMG LLP, an independent registered public accounting firm, and their report thereon, are included elsewhere in this annual report. The consolidated balance sheets as of December 31, 2003 and 2002, and the related consolidated statements of operations and comprehensive loss, stockholders’ equity (deficit), and cash flows for the year ended December 31, 2002, which were also audited by KPMG LLP, are included with our annual report previously filed. The balance sheet as of December 31, 2001 and the related statement of operations and comprehensive loss, stockholders’ equity and cash flow for the year ended December 31, 2001, which have been audited by Arthur Andersen LLP, independent auditors, are included with our annual report previously filed with the Securities and Exchange Commission.

The information contained in this table should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the financial statements and related notes thereto included elsewhere in this report (in thousands except share and per share data):

	2005	2004	2003	2002	2001
Statements of Operations Data:					
Product revenues:					
Sales to related party	$ 5,634	$ 4,085	$ 12,893	$ 8,605	$ 5,547

Sales to third parties	—	2,237	1,186	561	101
	5,634	6,322	14,079	9,166	5,648
Cost of product revenues	3,154	3,384	4,244	4,564	4,151
Gross profit	2,480	2,938	9,835	4,602	1,497
Development revenues:					
Research grants	312	328	—	—	—
Development and other	59	168	9	—	—
	371	496	9	—	—
Operating expenses:					
Research and development	15,271	10,352	8,694	5,378	5,338
Sales and marketing	1,434	2,391	4,417	3,987	4,493
General and administrative	10,096	6,480	4,958	4,179	3,727
Stock based compensation	404	125	985	1,287	1,123
Change in fair value of option liabilities	3,645	—	—	—	—
Restructuring charge	—	107	451	—	—
Equipment impairment charge	—	42	—	370	—
In-process research and development	—	—	—	2,296	—
Total operating expenses	30,850	19,497	19,505	17,497	14,681
Other income (expense):					
Gain on sale of assets	5,526	—	—	—	—
Gain on the sale of assets, related party	—	13,883	—	—	—
Interest income	299	252	417	1,037	2,249
Interest expense	(137)	(177)	(126)	(241)	(100)
Other income (expense)	(55)	15	87	(22)	(68)
Equity loss in investments	(4,172)	—	—	(882)	(104)
Net loss	$ (26,538)	$ (2,090)	$ (9,283)	$ (13,003)	$ (11,207)
Basic and diluted net loss per share	$ (1.80)	$ (0.15)	$ (0.64)	$ (0.91)	$ (0.75)
Basic and diluted weighted average common shares	14,704,281	13,932,390	14,555,047	14,274,254	14,926,107
Statements of Cash Flows Data:					
Net cash used in operating activities	$ (1,101)	$ (12,574)	$ (7,245)	$ (6,886)	$ (8,322)
Net cash provided by investing activities	911	13,425	5,954	17,265	2,263
Net cash provided by (used in) financing activities	5,357	(831)	(997)	(7,971)	1,283
Net increase (decrease) in cash	5,167	20	(2,288)	2,408	(4,776)
Cash and cash equivalents at beginning of year	2,840	2,820	5,108	2,700	7,476
Cash and cash equivalents at end of year	$ 8,007	$ 2,840	$ 2,820	$ 5,108	$ 2,700
Balance Sheet Data:					
Cash, cash equivalents and short-term investments	$ 15,845	$ 13,419	$ 14,268	$ 24,983	$ 33,951
Working capital	10,459	12,458	12,432	25,283	35,119
Total assets	28,166	25,470	28,089	39,319	43,143
Deferred revenues, related party	17,311	—	—	—	—
Option liabilities	5,331	—	—	—	—
Deferred revenues	2,541	2,592	—	—	—
Deferred gain on sale of assets	—	5,650	—	—	—
Deferred gain on sale of assets, related party	—	—	7,539	9,623	—
Long-term deferred rent	573	80	—	—	—
Long-term obligations, less current portion	1,558	1,128	1,157	770	1,791
Total stockholders' equity (deficit)	$ (6,229)	$ 12,833	$ 14,909	$ 25,995	$ 38,486

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This report contains certain statements that may be deemed "forward-looking statements" within the meaning of United States securities laws. All statements, other than statements of historical fact, that address activities, events or developments that we intend, expect, project, believe or anticipate will 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. The forward-looking statements included in this report are also subject to a number of material risks and uncertainties, including but not limited to the risks described under the "Risk Factors" section in this Management's Discussion and Analysis of Financial Conditions and Results of Operations. We encourage you to read those descriptions 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.

Overview

In 2005, we continued to invest in the preclinical development of our adipose stem and regenerative cell therapies, with the aim of advancing them into and through clinical trials. The indications we are focused on include cardiovascular disease, gastrointestinal disorders, spine and orthopedic repair, and

aesthetic and reconstructive surgery.

To facilitate the processing and delivery of adipose stem and regenerative cells, we developed a proprietary point-of-care system, Celution™, to isolate and concentrate a patient's own stem and regenerative cells in real-time. Our goal is that the Celution™ System will be the commercial vehicle for our investigational cell therapies across multiple therapeutic applications. The commercialization

model will be based on the sale of Celution™ devices and related single-use consumables.

On November 4, 2005, we entered into a strategic development and manufacturing joint venture agreement and among other agreements ("JV Agreements") with Olympus Corporation ("Olympus"). As part of the terms of the JV Agreements, we formed a joint venture, Olympus-Cytori, Inc. (the "Joint Venture"), to develop and manufacture future generation devices based on our Celution™ System.

The key provisions of the JV Agreements are as follows:

- Olympus licensed its device-related technology to the Joint Venture and paid $30 million to the Joint Venture for its 50% interest therein;
- We exclusively licensed our cell processing device technology, including the Celution™ System and certain related intellectual property, to the Joint Venture and received an initial $11 million payment and a 50% interest in the Joint Venture. We also agreed to perform various pre-clinical, clinical, regulatory, and product development activities on behalf of the joint venture;
- Upon our receipt of a CE mark for the first generation Celution™ System in January 2006, we became entitled to and subsequently received a second $11 million development milestone payment from the Joint Venture;
- The Joint Venture obtained exclusive rights to develop, manufacture, and supply the devices for all therapeutic applications solely to us at a formula-based transfer price and we will maintain marketing rights to the devices for all therapeutic applications of adipose stem and regenerative cells.

In a separate agreement entered into on February 22, 2006, we granted Olympus an exclusive right to negotiate a commercialization collaboration for the use of adipose stem and regenerative cells for a specific therapeutic area outside of cardiovascular disease. In exchange for this right, we will receive a $1.5 million payment from Olympus, which is non-refundable but may be applied towards any definitive commercial collaboration in the future. As part of this agreement, Olympus will conduct market research and pilot clinical studies in collaboration with us over a 12 to 18 month period for the therapeutic area.

In addition to forming the Joint Venture and entering into the negotiating rights agreement, we executed a definitive Common Stock Purchase Agreement with Olympus in May 2005. As part of that agreement, under which Olympus paid us $11 million at the time of signing, Olympus purchased 1.1 million shares, representing 7.2% of our outstanding common stock as of December 31, 2005, and received an option to purchase up to 2.2 million additional shares at $10.00 per share through December 2006. If Olympus chooses to exercise that option, it would hold up to a 19% ownership interest in our outstanding common stock. Additionally, Olympus has a right, which it has not yet exercised, to designate a director to serve on our Board of Directors.

In August 2005, we announced the completion of the development of the first generation Celution™ system. We have since submitted and received the CE Mark granting us regulatory clearance for the system in Europe. We expect to continue submitting regulatory applications for this system in Japan and in the United States in 2006.

Before we begin to realize appreciable product revenues from the Celution™ system, and ultimately achieve consistent profitability on a quarterly and annual basis, we believe we will first need to successfully conduct controlled, randomized clinical trials in specific therapeutic areas to demonstrate the benefits of using adipose stem and regenerative cells. In 2006, we intend to initiate clinical safety studies for our investigational adipose stem and regenerative cell therapies for treatment of ischemic heart disease in Europe, which may include myocardial infarction and/or congestive heart failure, as well as for applications in reconstructive surgery in Japan. Additionally, we continue to support preclinical research in indications both within and outside these areas.

Beyond our existing arrangements with Olympus, we are seeking additional co-development partnerships with pharmaceutical, medical device or biotechnology companies. Moreover, we are searching for partners who can help identify drugs, proteins or genes that when combined with adipose stem and regenerative cells, enhance or stimulate certain select properties. For example, we may seek to identify a drug that when mixed with adipose stem and regenerative cells, directs specific cells to turn more quickly and efficiently into blood vessels.

We currently derive the majority of our revenue from our MacroPore Biosurgery unit, which develops and manufactures innovative bioresorbable surgical implants. Potential cash flows, if any, from MacroPore Biosurgery may be used to support our development of adipose stem and regenerative cell therapies.

MacroPore Biosurgery manufactures the HYDROSORB™ family of FDA-cleared bioresorbable spine and orthopedic implants, which are distributed worldwide exclusively through Medtronic, Inc. ("Medtronic"). This product line generated $5,634,000 in

revenue in 2005. The vast majority of these revenues were related to initial stocking orders that Medtronic placed for the most recent addition to this product line, the MYSTIQUE™ radiographically identifiable cervical graft containment plate, which Medtronic began to market in the third quarter of 2005. We continued to fill MYSTIQUE™ stocking orders through the fourth quarter of 2005. At present, we do not have sufficient visibility of potential orders by Medtronic in 2006 for the HYDROSORB™ product line, including MYSTIQUE™, to provide an accurate range of revenue projections for 2006. Due

primarily to Medtronic's reduced orders for non-MYSTIQUE™ products in the HYDROSORB™ family, we recorded an inventory provision of $280,000 for the year ended December 31, 2005. The prospects for this business are uncertain and rest largely upon Medtronic's efforts and intentions.

Additionally, MacroPore Biosurgery is developing Thin Film bioresorbable implants exclusively for Senko Medical Trading Co. ("Senko"), which owns distribution rights exclusively for Japan. In 2004, we disposed of all our Thin Film rights for all territories except Japan. This product line is currently under regulatory review by the Japanese Ministry of Health, Labour and Welfare. Accordingly, there have not been any sales of Thin Film product to Senko as yet.

The research and development of our adipose stem and regenerative cell therapies has been and will continue to be very costly. We anticipate expanding our research and development expenses to fund clinical trials costs (which we will be initiating for the first time in 2006), preclinical research, and general and administrative activities. As a result, we expect to continue incurring losses for the foreseeable future.

Our research and development expenses, excluding stock based compensation expense, of $15,271,000 in 2005 consisted primarily of salaries and payroll-related expenses for research and development personnel, contract research organizations, research supplies and materials, laboratory equipment, consultants and licensing fees. The majority of these expenses were related to our research and development of applications of adipose stem and regenerative cells for cardiovascular disease. Also included in research and development are costs incurred to support research grant reimbursement and costs incurred in connection with our development arrangements with Senko and Olympus.

We believe our research and development expenses will continue to increase should we advance more products into and through clinical trials. We plan to fund this anticipated research and development from the following:

- Existing cash reserves;
- Cash from the November 2005 joint venture transaction with Olympus;
- Potential issuances of our equity, including Olympus' option to purchase up to 2.2 million shares of our common stock at $10.00 per share;
- Potential cash flows from MacroPore Biosurgery product sales;
- Potential research grants; and
- Payments, if any, related to potential partnerships or product line divestitures.

As of December 31, 2005, we have an accumulated deficit of $78,013,000.

Transactions with Olympus

During the 2005 year, we entered into a variety of strategic and collaboration arrangements with Olympus .

For instance, in the second quarter of 2005, Olympus purchased 1,100,000 shares of our common stock. In addition, we granted Olympus an option to purchase up to 2,200,000 additional shares of common stock at $10.00 per share; this option expires December 31, 2006. Olympus was also given a right to nominate one of our Directors, but has not yet exercised this right. We received $11 million from Olympus upon signing this agreement.

On November 4, 2005, we formed a joint venture with Olympus called Olympus-Cytori, Inc. The joint venture will develop and manufacture future generation devices (based on our existing Celution™ System) that will process and purify adult stem and regenerative cells residing in adipose tissue, also known as fat.

This joint venture alliance creates synergies between two companies that share the same vision for regenerative medicine. Olympus, as a worldwide leader in the development of innovative medical products, will contribute its expertise in engineering, manufacturing and servicing of sophisticated devices. In parallel, Cytori will increase its focus on the development of therapeutic applications for adipose stem and regenerative cells for multiple large markets. Together, this alignment enables the creation of a premier brand of devices for regenerative medicine to be sold by Cytori.

As a result of the various arrangements with Olympus, we received $22,000,000 in cash during 2005. We also received an additional $11,000,000 milestone payment in January 2006 after obtaining a CE Mark for the first generation Celution™ System. We may possibly receive even more cash proceeds if Olympus decides to exercise its option to purchase 2,200,000 shares of our common stock at a fixed price of $10.00 per share.

We plan to use this cash to fund the development activities that are necessary to support the commercialization of future

generation devices based on our Celution™ System. These development activities include performing preclinical and clinical trials, seeking regulatory approval, and performing product development related to therapeutic applications for adipose stem and regenerative cells for multiple large markets.

The joint venture arrangement with Olympus provides Cytori with a source of revenue in near- and medium- term. As of November 4, 2005, $17,311,000 in cash proceeds has been recorded on the consolidated balance sheet as deferred revenues, related party, a liability account. As noted above, we also received an additional $11,000,000 in January 2006, which will be reported as deferred revenues, related party in the first quarter of 2006.

We determined that the $17,311,000 received to date was designed to compensate us for future services that we have agreed to perform on behalf of the joint venture. As and when we complete each of our future service obligations, we will recognize the relative fair value of each service provided as income (and reduce the deferred revenues, related party account). Specifically, we expect to recognize the $17,311,000 of deferred revenues, related party account in income from 2006 through 2009. The exact timing of when amounts will be reported in income will depend on internal factors (for instance, our ability to complete the service obligations we have agreed to perform) as well as external considerations, including obtaining the necessary regulatory approvals for various therapeutic applications related to our Celution™ System.

As part of the various agreements with Olympus, we will be required, following commercialization of the Celution™ System, to provide monthly forecasts to the Joint Venture specifying the quantities of each category of devices that we intend to purchase over a rolling six-month period. Although we are not subject to any minimum purchase requirements, we are obliged to buy a minimum percentage of the products forecasted by us in such reports. Since we can effectively control the number of devices we will agree to purchase and because no commercial devices have yet been developed to trigger the

forecast requirement, we estimate that the fair value of this guarantee will be de minimis as of December 31, 2005 and therefore no amounts related to this guarantee are reflected on the statement of financial position.

In certain specified circumstances of insolvency or if we experience a change in control, Olympus will have the rights to (i) repurchase our interests in the joint venture at the fair value of such interests or (ii) sell its own interests in the joint venture to Cytori at the higher of (a) $22,000,000 or (b) their fair value (the "Put"). These put and call rights are contingent on events that are unlikely to occur. Nonetheless, accepted valuation techniques suggest that the put right has a value of approximately $1,600,000 at December 31, 2005. This value has been recorded as a component of Option liabilities in our balance sheet. Note that the put right is perpetual and, thus, has no expiration date. Accordingly, we will continue to recognize a liability for the Put and mark it to market each quarter until it is exercised or until the arrangements with Olympus are amended.

We determined that the joint venture is a variable interest entity ("VIE") under FASB Interpretation No. 46 (revised 2003), "Consolidation of Variable Interest Entities - An Interpretation of ARB No. 51" ("FIN 46R"), but that we are not the joint venture's primary beneficiary. Accordingly, we have accounted for our interests in the joint venture using the equity method of accounting, since we can exert significant influence over the joint venture's operations.

Disposition of Product Lines and Related Agreements

Sale of Thin Film Product Line

In May 2004, we sold most, but not all, of our intellectual property rights and tangible assets related to our Thin Film product line to MAST and one of its subsidiaries for approximately $7,000,000 in cash. We retained the rights for the territory of Japan.

As part of the Thin Film disposition agreement, and for a period of up to one year, we were required to provide training to MAST representatives in all aspects of the manufacturing process related to the transferred Thin Film product line, and to act in the capacity of a back-up supplier to MAST. Under the back-up supply agreement, we agreed in nearly all cases to supply product ordered by MAST at our manufacturing cost.

Because of these and other additional performance requirements, we did not initially recognize any gain on sale of the Thin Film assets in our statement of operations. Instead, we initially recorded approximately $6,450,000 as deferred gain on sale in the balance sheet.

However, in 2004 we did recognize $772,000 of the deferred gain as revenues related to the sale of Thin Film products to MAST under the back-up supply agreement at cost. The recognition of the deferred gain was necessary in 2004 in order to state revenues at fair value of products sold, based on historical selling prices of similar products, over our manufacturing cost. No deferred gain was recognized as revenue in 2005 based on the back-up supply agreement because there were no shipments of product to MAST.

Under the Thin Film sale agreement, we were potentially entitled to the following additional consideration (beyond the $7,000,000 cash payment received at closing), none of which was recognized in our financial statements:

- $200,000, payable only upon receipt of 510(k) clearance from the U.S. Food and Drug Administration ("FDA") for a hernia wrap product (thin film combined product); and
- $2,000,000 on or before the earlier of (i) May 31, 2005, known as the "Settlement Date," or (ii) 15 days after the date upon which MAST has hired a Chief Executive Officer ("CEO"), provided the CEO held that position for at least four months and met other requirements specified in the sale agreement. Note that clause (ii) effectively means that we would not have received payment of $2,000,000 before May 31, 2005 unless MAST had hired a CEO on or before January 31, 2005 (four months prior to the Settlement Date). Moreover, in the event that MAST had not hired a CEO on or before January 31, 2005, MAST may have (at its sole option and subject to the requirements of the sale agreement), alternatively provided us with a 19% equity interest in the MAST business that is managing the Thin Film assets at May 31, 2005 in lieu of making the $2,000,000 cash payment.

MAST did not remit to us the contingent $2,000,000 payment noted above.

Accordingly, on June 14, 2005, we initiated arbitration proceedings against MAST, asserting that MAST was in breach of the Asset Purchase Agreement by failing to pay the final $2,000,000 in purchase price (among other issues). MAST responded asserting its own claims in the arbitration, including but not limited to allegations that we: (i) inadequately transferred know-how to MAST, (ii) misrepresented the state of the distribution network, (iii) provided inadequate product instructions to users, and (iv) failed to adequately train various distributors. In August 2005, the parties settled the arbitration proceedings and gave mutual releases of all claims, excepting those related to the territory of Japan, and agreed to contractual compromises. These contractual compromises, the most significant of which is that we have waived the obligation for MAST to either pay the final cash purchase installment of $2,000,000 or to deliver 19% of its shares, include the following: If MAST exercises its Purchase Right (described in the section below) and Thin Film products are ultimately marketed in Japan, MAST would no longer be obliged to share gross profits and royalties with us, as originally contemplated in the MAST agreements.

In exchange, MAST agreed to supply, at no cost to us, all required product for any necessary clinical study for the territory of Japan and would cooperate in the planning of such study. However, if MAST exercises the Purchase Right or we enter into a supply agreement with MAST related to the territory of Japan, we would be obligated to reimburse MAST for any Thin Film product supplied in connection with the Japan study at a cost of $50 per sheet.

As a result of the settlement agreement described above, we recognized the remaining deferred gain as gain on sale of assets of $5,650,000, less $124,000 of related deferred costs in 2005.

Sale of Craniomaxillofacial ("CMF") Product Line

In September 2002, we entered into an Asset Purchase Agreement (the "Agreement") to sell assets related to our CMF implant and accessory product line to Medtronic for what resulted in total net consideration of $15,500,000. In accordance with the terms of the Agreement, we received an initial payment of $13,000,000 from Medtronic and a first milestone payment of $1,000,000 in the fourth quarter of 2002. A final milestone payment of $1,500,000 was received in 2004.

The Agreement requires us not to market in the craniomaxillofacial field, for five years, any products that compete with the acquired product line. Additionally, during the technology transfer transition period, we agreed to be a back-up supplier of CMF products to Medtronic at a price equal to our cost of manufacture.

The Agreement also allowed us to receive up to $5,000,000 if and when we completed successful clinical evaluations for a new faster-resorbing polymer product, as defined in the Agreement. In January 2004, after we completed the successful clinical evaluations, we received a $5,000,000 milestone payment from Medtronic and it was recognized as gain on sale of assets, related party, in the statement of operations.

In a separate, but simultaneous, 2002 transaction, we paid Medtronic $4,000,000 in cash to amend an existing Development and Supply Agreement (the "Amended Development Agreement", and collectively with the Asset Purchase Agreement, the "Agreements") to remove a preexisting contractual right of first offer for distributorship by Medtronic of our bioresorbable Thin Film products for use in various types of soft tissue surgical applications. Medtronic will retain its right of first offer for distributorship of our other bioresorbable products in all fields, as well as to our bioresorbable thin film products for use in the spinal application field. In addition, the term of the Amended Development Agreement with Medtronic was extended to September 30, 2012.

We accounted for the net proceeds of the Agreements as deferred gain on sale of assets, related party. This gain was recognized only as certain events occurred. For instance, we recognized a portion of the deferred gain upon the sale of the CMF products to Medtronic under our back-up supply arrangement, which provided for sales of the CMF products to Medtronic at cost. The amount of the deferred gain recognized was equal to the excess of the fair value of products sold, based on historical selling prices of similar products, over our manufacturing cost. The remainder of the deferred gain was recognized in 2004 when the technology and know-

how transfer was completed pursuant to the contract terms.

Thin Film Japan Distribution Agreement

Even after consummation of the 2004 Thin Film asset sale to MAST, we retained all rights to Thin Film business in Japan (subject to a purchase option of MAST, as described later below), and we received back from MAST a license of all rights to Thin Film technologies in the:

- Spinal field, exclusive at least until 2012, and
- Field of regenerative medicine, non-exclusive on a perpetual basis.

In the third quarter of 2004, we entered into a Distribution Agreement with Senko. Under this agreement, we granted to Senko an exclusive license to sell and distribute certain Thin Film products in Japan. Specifically, the license covers Thin Film products with the following indications:

- Anti-adhesion,
- Soft tissue support, and
- Minimization of the attachment of soft tissues throughout the body.

The Distribution Agreement with Senko commences upon "commercialization." In simplest terms, commercialization occurs when one or more Thin Film product registrations are completed with the Japanese Ministry of Health, Labour and Welfare ("MHLW").

Following commercialization, the Distribution Agreement has a duration of five years and is renewable for an additional five years after reaching mutually agreed minimum purchase guarantees.

We received a $1,500,000 upfront license fee from Senko. We have recorded the $1,500,000 received as a component of deferred revenues in the accompanying balance sheet. Half of the license fee is refundable if the parties agree commercialization is not achievable and a proportional amount is refundable if we terminate the arrangement, other than for material breach by Senko, before three years post-commercialization.

Under the Distribution Agreement, we will also be entitled to earn additional payments from Senko based on achieving defined milestones. On September 28, 2004, we notified Senko of completion of the initial regulatory application to the MHLW for the Thin Film product. As a result, we became entitled to a nonrefundable payment of $1,250,000, which we received in October 2004 and recorded as a component of deferred revenues.

Of the amounts deferred, we have recognized a total of $209,000 ($51,000 and $158,000 in 2005 and 2004, respectively) as development revenues. Refer to the *Critical Accounting Policies and Significant Estimates* section of this discussion for further details regarding our revenue recognition policies related to the Senko Distribution Agreement.

The previously described sale agreement granted MAST a "Purchase Right" to acquire at any time before May 31, 2007 our Thin Film-related interests and rights for Japan. If MAST chooses to exercise the Purchase Right between now and May 31, 2007, the exercise price of the Purchase Right will be equal to the fair market value of the Japanese business, but in no event will be less than $3,000,000. Moreover, until May 31, 2007, MAST has a right of first refusal to match the terms of any outside offer to buy our Japanese Thin Film business.

If MAST exercises the Purchase Right, we both may become obligated to reimburse each other for certain costs we have respectively incurred or will incur related to product development and protection of intellectual property rights in Japan.

Results of Operations

Years ended December 31, 2005 and 2004 compared to years ended December 31, 2004 and 2003, respectively.

Product revenues

Product revenues relate to our MacroPore Biosurgery segment and include revenues from our spine and orthopedic products, thin film products and CMF products. The following table summarizes the components for the years ended December 31, 2005, 2004, and 2003:

	Years ended		$ Differences		% Differences		
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Spine and orthopedics products	5,634,000	3,803,000	9,882,000	1,831,000	(6,079,000)	48.1%	(61.5)%
Thin film products:							
Product sales (non-MAST related)	—	559,000	1,186,000	(559,000)	(627,000)	—	(52.9)%
Product sales to MAST	—	906,000	—	(906,000)	906,000	—	—
Amortization of gain on sale (MAST)	—	772,000	—	(772,000)	772,000	—	—
	—	2,237,000	1,186,000	(2,237,000)	1,051,000	—	88.6%
CMF products:							
Product sales	—	126,000	964,000	(126,000)	(838,000)	—	(86.9)%
Amortization of gain on sale	—	156,000	2,047,000	(156,000)	(1,891,000)	—	(92.4)%
	—	282,000	3,011,000	(282,000)	(2,729,000)	—	(90.6)%
Total product revenues	5,634,000	6,322,000	14,079,000	(688,000)	(7,757,000)	(10.9)%	(55.1)%
% attributable to Medtronic	100%	64.6%	91.6%				

- Spine and orthopedic product revenues represent sales of bioresorbable implants used in spine and orthopedic surgical procedures. These revenues were dominated by stocking orders during the year ended December 31, 2005 for our radiographically identifiable Spine System products, marketed under the name MYSTIQUE™, which Medtronic, our sole distributor of spine and orthopedic products, launched in the third quarter of 2005. This product represents the latest design addition to our family of HYDROSORB™ products.

  In the second half of 2003 and first quarter of 2004, Medtronic placed initial stocking orders for other newly developed HYDROSORB™ products. We had anticipated that demand for these products from Medtronic's customers would draw down these inventories sufficiently to require Medtronic to buy substantial additional amounts. However, subsequent sales of these products to Medtronic have been well below our expectations. Medtronic also markets competing products, some of which generate a higher profit margin for Medtronic.

  Refer to "The future" discussion below for our expectations regarding the outlook for spine and orthopedic revenues. Note that Medtronic owns approximately 6.5% of our outstanding common stock as of December 31, 2005.

- Thin Film product revenues in 2004 represent sales of SurgiWrap™ bioresorbable Thin Film. We sold most, but not all, of our intellectual property rights and tangible assets related to our Thin Film product line to MAST in the second quarter of 2004. We were obliged by contract to act as a back-up supplier for these products and to sell them to MAST at our manufacturing costs. However, as MAST assumed the manufacturing process, domestic revenue from Thin Film products ended in 2004. No revenues from the Thin Film product line were recognized during the year ended December 31, 2005.

- The CMF product revenues represent sales of the CMF product line used for trauma and reconstructive procedures in the mid-face and craniofacial skeleton (the head and skull). We sold this product line to Medtronic in 2002. As with the Thin Film products, we sold CMF products at cost in 2004 under a contractual back-up supply agreement with Medtronic. A portion of the deferred gain on sale of assets, related party was recognized as revenue in order to reflect the fair value of products sold, based on historical selling prices of similar products, over our manufacturing cost. During the third quarter of 2004, we completed all remaining performance obligations related to the 2002 sale of the CMF product line to Medtronic. Therefore, we did not earn any CMF product revenues during the year ended December 31, 2005 and will not generate revenue from this product line in the future.

The future: We sell our spine and orthopedic products exclusively to Medtronic at fixed selling prices that are subject to adjustment biannually (based on Medtronic's selling prices to its customers). Our revenue from this product line is dependent upon the market's adoption of our technology, which is largely dependent upon Medtronic's marketing efforts and pricing strategies. To increase our revenues from spine and orthopedic products, we depend largely on Medtronic's ability and commitment to build and expand HYDROSORB™ market share. We currently anticipate additional orders for the MYSTIQUE™ portion of the HYDROSORB™ product line in 2006. We have, however, been disappointed in the past by Medtronic's level of effort in marketing our HYDROSORB™ products with the exception of the MYSTIQUE™ line. It is unlikely that we will see significant sales of the current non-MYSTIQUE™ products in the future (indeed we recorded reserves of $280,000 against non-MYSTIQUE™ HYDROSORB™ products on hand during 2005), and our visibility of the size and timing of any further MYSTIQUE™ orders is limited.

We expect the currently high percentage of product revenues attributable to Medtronic to remain high now that domestic Thin Film revenues have ceased, although this may change when commercialization of the Thin Film products in Japan occurs and we begin Thin Film shipments to Senko.

Cost of product revenues

Cost of product revenues relates to our MacroPore Biosurgery segment and includes material, manufacturing labor, overhead

costs and an inventory provision. The following table summarizes the components of our cost of revenues for the years ended December 31, 2005, 2004, and 2003:

	Years ended		$ and % Differences		% Differences		
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003

Cost of product revenues:							
Cost of product revenues	$ 2,874,000	$ 3,142,000	$ 4,244,000	$ (268,000)	$ (1,102,000)	(8.5)%	(26.0)%
% of product revenues	51.0%	49.7%	30.1%	1.3%	19.6%	2.6%	65.1%
Inventory provision	280,000	242,000	—	38,000	242,000	15.7%	—
% of product revenues	5.0%	3.8%	—	1.2%	3.8%	31.6%	—
Total cost of product revenues	$ 3,154,000	$ 3,384,000	$ 4,244,000	$ (230,000)	$ (860,000)	(6.8)%	(20.3)%
Total cost of product revenues as % of Product revenues	56.0%	53.5%	30.1%				

MacroPore Biosurgery:

- As our product revenues are currently generated only through sales of bioresorbable products, cost of revenues is related only to our MacroPore Biosurgery segment.

- Cost of revenues, as a percent of revenues (excluding inventory provision amounts), increased by 2.6% and 65.1% for the years ended December 31, 2005 and 2004, respectively. The changes for the year ended December 31, 2005 as compared to the same period in 2004 as well as between 2004 and 2003 were due primarily to amounts of fixed labor and overhead costs as applied to product revenues in each period. As MacroPore revenues have declined, gross margins have been negatively affected by fixed costs.

- Excess manufacturing costs – that is, costs resulting from lower than “normal” production levels - expensed during the year ended December 31, 2005 were $934,000 as compared to $1,119,000 in the same period in 2004.

- During the fourth quarter ended December 31, 2005, we recorded a provision of $102,000, primarily for excess and slow-moving inventory. The inventory was produced in anticipation of stocking orders from Medtronic which have not materialized. We have determined it is probable that the inventory will not be recovered. The provision has been charged to cost of sales in the fourth quarter. Similar provisions for $132,000 and $46,000 were recorded in the third and second quarters of 2005, respectively, for a total inventory provision of $280,000 for the year ended December 31, 2005.

  The $242,000 inventory provision during 2004 related to excess inventory produced in consideration of our responsibility to be a back-up supplier for the CMF product line. We sold the assets related to this product line to a subsidiary of Medtronic in September 2002. In April of 2004, Medtronic indicated that it would no longer purchase CMF inventory from us under the back-up supply arrangement, leading to our determination that the remaining CMF inventory on hand would not be recoverable.

The future. Ceasing to manufacture the CMF product line and the non-Japan bioresorbable Thin Film product line, combined with the deterioration of Medtronic orders for HYDROSORB™ products other than MYSTIQUE™, deprives us of economies of scale and will negatively impact our margins until other sources of revenue grow large enough to compensate for the lost revenue. If demand for our MYSTIQUE™ products does not increase substantially in 2006, we will continue to incur excess manufacturing costs similar to amounts we have recorded in 2005 and this product line will remain unprofitable.

Because we have recorded provisions for most of our finished goods inventory on-hand at December 31, 2005, and we currently build to order rather than to stock, we do not anticipate any additional inventory provisions in 2006.

Development revenues

The following table summarizes the components of our development revenues for the years ended December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Regenerative cell technology:							
Research grant (NIH)	$ 312,000	$ 328,000	$ —	$ (16,000)	$ 328,000	(4.9)%	—
Regenerative cell storage services	8,000	10,000	9,000	(2,000)	1,000	(20.0)%	11.1%
Total regenerative cell technology	320,000	338,000	9,000	(18,000)	329,000	(5.3)%	3,655.6%
MacroPore Biosurgery:							
Development (Senko)	51,000	158,000	—	(107,000)	158,000	(67.7)%	—
Total development revenues	$ 371,000	$ 496,000	$ 9,000	$ (125,000)	$ 487,000	(25.2)%	5,411.1%

Regenerative cell technology:

- Although our primary focus is on discovery and development of new therapies for diseases and conditions using regenerative cell technologies, many of our development activities are still in a preclinical (or earlier) stage. Consequently, most of our revenue is currently generated by sales of bioresorbable products, as discussed in product revenues above. Also, see “the future” section below for expected trends associated with revenues from our regenerative cell technology segment.

- The research grant revenue relates to our agreement with the National Institutes of Health (“NIH”). Under this arrangement, the NIH reimburses us for “qualifying expenditures” related to research on Adipose-Derived Cell Therapy for Myocardial Infarction. To receive funds under the grant arrangement, we are required to (i) demonstrate that we incurred “qualifying expenses,” as defined in the grant agreement between the NIH and us, (ii) maintain a system of controls, whereby we can accurately track and report all expenditures related solely to research on Adipose-Derived Cell Therapy for Myocardial Infarction, and (iii) file appropriate forms and follow appropriate protocols established by the NIH.

Our policy is to recognize revenues under the NIH grant arrangement as the lesser of (i) qualifying costs incurred (and not previously recognized), plus our allowable grant fees for which we are entitled to funding or (ii) the amount determined by comparing the outputs generated to date versus the total outputs expected to be achieved under the research arrangement.

During the year ended December 31, 2005, we incurred $306,000 in qualifying expenditures. During the year ended December 31, 2004, we incurred $339,000 of costs, of which only $322,000 were qualified expenditures. We recorded a total of $312,000 and $328,000 in revenues for the years ended December 31, 2005 and 2004, respectively, which include allowable grant fees as well as cost reimbursements. There were no comparable revenues or expenditures in 2003.

MacroPore Biosurgery:

Under a Distribution Agreement with Senko we are entitled to earn payments based on achieving the following defined milestones:

- Upon notifying Senko of completion of the initial regulatory application to the MHLW for the Thin Film product, we were entitled to a nonrefundable payment of $1,250,000. We so notified Senko on September 28, 2004, received payment in October of 2004, and recorded deferred revenues. Of the amount deferred, we have recognized development revenues of $209,000 ($51,000 for the year ended December 31, 2005 and $158,000 for the year ended December 31, 2004);

- Under this agreement, we also received a $1,500,000 license fee that was recorded as a component of deferred revenues in the accompanying balance sheet. We are also entitled to a nonrefundable payment of $250,000 once we achieve commercialization. Because the $1,500,000 in license fees are potentially refundable, such amounts will not be recognized as revenues until the refund rights expire. Half of the license fee is refundable if the parties agree commercialization is not achievable and a proportional amount is refundable if we terminate the arrangement, other than for material breach by Senko, before three years post-commercialization.

The future: We expect that revenues from our regenerative cell technology segment will increase significantly in 2006. This is because in 2006, we expect to be able to recognize some portion of the deferred revenues, related party account associated with our arrangements with Olympus. Specifically, we anticipate completing four pre-clinical studies and certain phases of our product development performance obligations during 2006. If we are successful in completing these activities, we will recognize approximately $2,633,000 in revenues in 2006. The exact timing of when amounts will be reported in revenue will depend on internal factors (for instance, our ability to complete the service obligations we have agreed to perform) as well as external considerations, including obtaining the necessary regulatory approvals for various therapeutic applications related to our Celution™ System.

We are entitled to receive up to $850,000 in grants related to Adipose-Derived Cell Therapy for Myocardial Infarction as defined by the NIH grant agreement for Phase II research. To date, we have received and recognized $540,000 of such funding. We expect to incur additional “qualifying expenses” of $310,000 during 2006. Subject to satisfactory progress toward meeting the goals and objectives of our grant application, we expect to recognize any remaining grant revenues during 2006.

We will continue to recognize revenue from the development work we are performing on behalf of Senko, based on the relative fair value of the milestones completed to the total efforts expected to be necessary to obtain regulatory clearance with the MHLW. Obtaining regulatory clearance with the MHLW for initial commercialization is expected in 2006. Accordingly, we expect to

recognize approximately $1,291,000 (consisting of $1,041,000 in deferred revenues plus a non-refundable payment of $250,000 to be received upon commercialization) in revenues associated with this milestone arrangement in 2006. Moreover, we expect to recognize $500,000 per annum associated with deferred Senko license fees over a three-year period following commercialization as the refund rights associated with the license payment expire.

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 costs associated with initiating clinical studies. It excludes related stock-based compensation expense. The following table summarizes the components of our research and development expenses for the years ended December 31, 2005, 2004 and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Regenerative cell technology:							
Regenerative cell technology	$ 11,448,000	$ 6,910,000	$ 4,205,000	$ 4,538,000	$ 2,705,000	65.7%	64.3%
Development milestone-Joint Venture	1,176,000	—	—	1,176,000	—	—	—
Research grants (NIH)	306,000	339,000	—	(33,000)	339,000	(9.7)%	—
Total regenerative cell technology	12,930,000	7,249,000	4,205,000	5,681,000	3,044,000	78.4%	72.4%
MacroPore Biosurgery:							
Bioresorbable polymer implants	2,212,000	2,933,000	4,489,000	(721,000)	(1,556,000)	(24.6)%	(34.7)%
Development milestone-Senko	129,000	170,000	—	(41,000)	170,000	(24.1)%	—
Total MacroPore Biosurgery	2,341,000	3,103,000	4,489,000	(762,000)	(1,386,000)	(24.6)%	(30.9)%
Total research and development expenses	$ 15,271,000	$ 10,352,000	$ 8,694,000	$ 4,919,000	$ 1,658,000	47.5%	19.1%

Regenerative cell technology:

- Regenerative cell technology expenses relate to the development of a technology platform that involves using adipose (fat) tissue as a source for autologous regenerative cells for therapeutic applications. The increases in regenerative cell technology expenses from 2004 to 2005 resulted primarily from the hiring of additional researchers, engineers and support staff. We incurred an additional $2,209,000 in labor-related expenses, including benefits, during the year ended December 31, 2005 as compared with the same period in 2004. Preclinical studies expenses increased by $1,315,000 for the year ended December 31, 2005 as compared to the same period in 2004. Rent expense increased $736,000 in the year 2005 as compared to 2004, due to the addition of our new facility. The majority of the remainder of the increases as compared with 2004 related to increases in professional services, other supplies expense and miscellaneous expenses of $1,421,000 during the year ended December 31, 2005. The increase in

regenerative cell technology expenses from 2003 to 2004 was also due to increased labor costs, legal expenses, research supplies, consulting fees and facility expenses.

- Expenditures related to the Joint Venture with Olympus include costs that are necessary to support the commercialization of future generation devices based on our Celution™ System. These development activities include performing pre-clinical and clinical studies, seeking regulatory approval, and performing product development related to therapeutic applications for adipose stem and regenerative cells for multiple large markets. For the year ended December 31, 2005, costs associated with the development of the device were $1,176,000. There were no comparable expenditures in 2004.

- In 2004, we entered into an agreement with the NIH to reimburse us for up to $950,000 (Phase I $100,000 and Phase II $850,000) in "qualifying expenditures" related to research on Adipose-Derived Cell Therapy for Myocardial Infarction. For the year ended December 31, 2005, we incurred $306,000 of direct qualifying expenses relating entirely to Phase II. For the year ended December 31, 2004, we incurred $339,000 of direct expenses ($17,000 of which were not reimbursed) relating to both Phases I and II of the agreement. The decrease in expense from 2005 to 2004 was due to the fact that 2005 expenses related to only Phase II while 2004 expenses related to both Phases I and II.

MacroPore Biosurgery:

- Our bioresorbable polymer surgical implants platform technology is used for development of spine and orthopedic products. The decrease in research and development costs associated with bioresorbable polymer implants in 2005 as compared with 2004 and 2003 was a result of a strategic decision to strongly focus our research and development efforts on our regenerative cell technology. For example, labor and related benefits expense decreased by $282,000 (including $74,000 related to Senko labor and benefit costs) for the year ended December 31, 2005 as compared to the same period in 2004. This was due to a redistribution of labor resources from one segment to the other.

- Under a Distribution Agreement with Senko we are responsible for the completion of the initial regulatory application to the MHLW and commercialization of the Thin Film product line in Japan. Commercialization occurs when one or more Thin Film product registrations are completed with the MHLW. During the year ended December 31, 2005, we incurred $129,000 of expenses related to this regulatory and registration process. We had incurred $170,000 of expense in this regulatory and registration process for the year ended December 31, 2004.

The future. Our strategy is to continue to increase our research and development efforts in the regenerative cell field and we anticipate expenditures in this area of research to be approximately $20,000,000 to $22,000,000 for the year 2006. We are also researching therapies for spine and orthopedic conditions, gastrointestinal disorders and new approaches for aesthetic and reconstructive surgery. The expenditures will primarily relate to developing therapeutic applications and conducting preclinical and clinical studies on adipose-derived stem and regenerative cells.

We were successful with Phase I of the NIH research on Adipose-Derived Cell Therapy for Myocardial Infarction. Therefore, we were awarded Phase II of the NIH research grant. We expect approximately $310,000 of additional research expenses to be incurred related to Phase II of this project during 2006.

We expect that our current research and development expenditures in the bioresorbable platform technology will continue to be significantly less than our regenerative cell business expenditures. However, we will continue to invest in product development for biomaterial/polymer products to develop our pipeline of new and next generation spine and orthopedic products. We anticipate expenditures in this area of research to be approximately $1,000,000 for the year 2006.

Also, we expect to incur substantial additional legal expenses in connection with the University of Pittsburgh's 2004 lawsuit. Although we are not litigants and are not responsible for any settlement costs, if the University of Pittsburgh wins the lawsuit, our license rights to the patent in question could be nullified or rendered non-exclusive and our regenerative cell strategy could be significantly affected.

Sales and marketing expenses

Sales and marketing expenses include costs of marketing personnel, tradeshows, and promotional activities and materials. It excludes related stock based compensation expenses. Medtronic is responsible for the distribution, marketing and sales support of our spine and orthopedic devices. Our bioresorbable Thin Film product line (before the sale of the non-Japan Thin Film business to MAST in May 2004) was distributed domestically through a dedicated sales force, independent sales representatives and internationally through independent distributors. The following table summarizes the components of our sales and marketing expenses for the years ended December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Regenerative cell technology:							
International sales and marketing	$ 494,000	$ —	$ —	$ 494,000	$ —	—	—
Total regenerative cell technology	494,000	—	—	494,000	—	—	—
MacroPore Biosurgery:							
General corporate marketing	388,000	769,000	313,000	(381,000)	456,000	(49.5)%	145.7%
Domestic sales and marketing	—	846,000	3,145,000	(846,000)	(2,299,000)	—	(73.1)%
International sales and marketing	552,000	776,000	959,000	(224,000)	(183,000)	(28.9)%	(19.1)%
Total MacroPore Biosurgery	940,000	2,391,000	4,417,000	(1,451,000)	(2,026,000)	(60.7)%	(45.9)%
Total sales and marketing	$ 1,434,000	$ 2,391,000	$ 4,417,000	$ (957,000)	$ (2,026,000)	(40.0)%	(45.9)%

Regenerative Cell Technology:

- International sales and marketing expenditures for the year ended December 31, 2005, relate primarily to salaries expense for employees involved in business development. The main emphasis of these newly-formed functions is to seek strategic alliances and/or co-development partners for our regenerative cell technology, which we began to focus on in the third quarter of 2005.

MacroPore Biosurgery:

- General corporate marketing expenditures relate to expenditures for maintaining our corporate image and reputation within the research and surgical communities. The decrease in 2005 as compared to 2004 was due to one-time costs incurred for an educational program we created in 2004 to inform end-users and distributors of the benefits and surgical applications for our biomaterials products. Conversely, the increase in costs in 2004 as compared to 2003 was a result of costs related to the same

program. Additionally, in 2005 we allocated fewer personnel resources to general corporate marketing.

- Domestic sales and marketing expenditures relate to expenses associated with managing our domestic bioresorbable Thin Film product distribution, which included independent sales representatives and our domestic Thin Film sales consultants and marketing staff. The elimination of such expenses in 2005 and the sharp decrease in 2004 as compared to 2003 was due to the transfer of our sales force and marketing staff to MAST upon the sale of the Thin Film product line to MAST in May 2004.

- International sales and marketing expenditures relate to costs associated with developing an international bioresorbable Thin Film distributor and supporting a bioresorbable Thin Film sales office in Japan. The decreased spending in 2005 as compared to 2004 relates to a decrease in personnel resources currently dedicated to this marketing group. The decreased spending in 2004 as compared to 2003 related to the closure of our United Kingdom sales office.

*The future***.** We project that general corporate marketing as well as our MacroPore Biosurgery international sales and marketing expenditures will remain reasonably stable in 2006. We also expect sales and marketing expenditures related to the regenerative cell technology to increase as we continue to expand this business segment in support of our pursuit of strategic alliances and co-development partners.

General and administrative expenses

General and administrative expenses include costs for administrative personnel, legal and other professional expenses and general corporate expenses. Such expenses exclude related stock based compensation expenses. The following table summarizes the general and administrative expenses for the years ended December 31, 2005, 2004 and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
General and administrative expenses	$ 10,096,000	$ 6,480,000	$ 4,958,000	$ 3,616,000	$ 1,522,000	55.8%	30.7%

- Salary and related benefit expense increased by $981,000 during the year ended December 31, 2005, with respect to the same period in 2004. This increase was primarily caused by the addition of seven managerial employees. Legal expenses increased by $1,444,000 for the year ended December 31, 2005, as compared with 2004, primarily due to legal expenses incurred in connection with the University of Pittsburgh's lawsuit challenging inventorship of our licensor's U.S. patent relating to adult stem cells isolated from adipose tissue. Additional professional services costs of $460,000 as well as larger travel expenditures of $229,000 for the year ended December 31, 2005, also contributed to the increase in general and administrative expense. The remaining increase of $502,000 for the same period resulted from increased rent expense and various other miscellaneous expenses.

- The primary reason for the increase in 2004 as compared to 2003 was the result of salary, administrative and professional services expenses rising due to the hiring and retaining of a qualified management team to implement and manage our strategic plan. In particular, the increase in 2004 as compared to 2003 resulted primarily from salary and bonus increases of $1,004,000 and professional services and other general overall corporate expenditure increases of $518,000.

The future. We expect general and administrative expenses to increase slightly as we expand our business activities and require more support systems for those activities. We anticipate expenditures related to general and administrative costs to be approximately $9,000,000 to $10,000,000 in 2006.

Stock based compensation expenses

Stock based compensation expenses include charges related to options issued to employees, directors and non-employees. The stock based compensation expenditures connected to options granted to employees and directors (in their capacity as board members) is the difference between the exercise price of the stock based awards and the market value of our underlying common stock on the date of the grant. Unearned employee stock based compensation is amortized over the remaining vesting periods of the options, which generally vest over a four-year period from the date of grant. The stock based compensation expenditures connected to options granted to non-employees initially is the fair value of the underlying common stock on the initial date of grant, but such amount is updated over the vesting period until the non-employee has met the performance commitment. Stock based compensation expense related to common stock granted to non-employees is the fair value of the stock on the date of grant, even if such stock contains sales restrictions. The following table summarizes the components of our stock based compensation expenses (excluding cost of revenues stock based compensation), for the years ended December 31, 2005, 2003, and 2002:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Regenerative cell technology:							
Research and development related	$ 67,000	$ —	$ —	$ 67,000	$ —	—	—
MacroPore Biosurgery:							

Research and development related	112,000	32,000	78,000	80,000	(46,000)	250.0%	(59.0)%
Sales and marketing related	113,000	22,000	70,000	91,000	(48,000)	413.6%	(68.6)%
Total MacroPore Biosurgery	225,000	54,000	148,000	171,000	(94,000)	316.7%	(63.5)%
General and administrative related	112,000	71,000	837,000	41,000	(766,000)	57.7%	(91.5)%
Total stock based compensation expense	$ 404,000	$ 125,000	$ 985,000	$ 279,000	$ (860,000)	223.2%	(87.3)%

Regenerative cell technology:

- In the second quarter of 2005, we granted 20,000 shares of restricted common stock to a non-employee scientific advisor. Because the shares granted are not subject to additional future vesting or service requirements, the stock based compensation expense of $63,000 recorded in the second quarter of 2005 constitutes the entire expense related to this grant, and no future period charges will be reported. The stock is restricted only in that it cannot be sold for a specified period of time. There are no vesting requirements. This scientific advisor will also be receiving cash consideration as services are performed.

MacroPore Biosurgery:

- In August 2005, our Chief Operating Officer (“COO”), ceased employment with us. We agreed to pay the former COO a lump sum cash severance payment of $155,164 and extended the exercise period for two years on 253,743 vested stock options. The incremental value of the options due to the modification was $337,000. We recorded an expense in the third quarter of 2005 to reflect the lump sum cash severance payment and the value of the vested stock options, which constitutes the entire expense related to these options, and no future period charges will be required. This $337,000 was allocated in the table above in equal portions among three departmental categories, consistent with previous allocations of the former COO’s compensation expense.

- All unearned stock based compensation was fully expensed by the end of 2004 (prior to 2004, all such stock based compensation was granted to personnel associated with our MacroPore Biosurgery segment).

- Decreases in 2004 as compared to 2003 result from the normal amortization of the stock based compensation expenses over the remaining vesting period, except for stock based compensation relating to research and development. In the second quarter of 2004, we charged $32,000 to research and development for 100% vested options granted to a consultant for services fully rendered.

General and Administrative:

- During 2003, $234,000 of general and administrative stock based compensation expense was due to the modification of certain options granted to the former Chief Financial Officer as a result of his separation agreement. The remainder of the decrease in general and administrative related stock based compensation expense was due primarily to the normal amortization in 2003 and 2004 of such expenses over the remaining vesting periods of the underlying awards.

The future. In December 2004, the FASB issued SFAS No. 123 (revised 2004), “Share-based Payment” (“SFAS 123R”). As affected by Securities and Exchange Commission Release No. 33-8586,”Amendment to Rule 4-01(a) of Regulation S-X Regarding the Compliance Date for Statement of Financial Accounting Standards No. 123 (Revised 2004), Share-Based Payment,” SFAS 123R is effective for annual periods beginning after June 15, 2005 (January 1, 2006 for us). Upon adoption, SFAS 123R will require us to measure all share-based payment transactions, including those with employees, at fair value. Moreover, the fair value of share-based payment awards (including employee stock option grants) will be recognized as expense in the statements of operations over the requisite service period of each award. Employee stock options granted prior to the effective date of SFAS 123R will, to the extent they vest after December 31, 2005, result in stock-based compensation expense charges beginning in 2006. SFAS 123R also changes the manner in which deferred taxes are recognized on share-based payment awards, as well as the accounting for award modifications. Subsequent to the adoption of SFAS 123R we plan to continue to grant options (which will result in an expense) to our employees and as appropriate, to non-employee service providers. The adoption of SFAS 123R will have a material impact on our results of operations. As of December 31, 2005, we estimate that our 2006 expense related to the fair value of share-based payment transactions will approximate the amount of SFAS 123 expense that we reported for 2005, as disclosed in footnote 2 to our consolidated financial statements. The full impact of the adoption of SFAS 123R in 2006 will depend on the level and terms of share-based payment transactions in 2006 as well as changes in our

stock price and the assumptions used to determine the fair value of such transactions. We plan to adopt SFAS 123R using the modified prospective method of transition.

Change in fair value of option liabilities

The following is a table summarizing the change in fair value of option liabilities for the years ended December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Change in fair value of option liability.	$ 3,545,000	$ —	$ —	$ 3,545,000	$ —	—	—
Change in fair value of put option liability	100,000	—	—	100,000	—	—	—
Total change in fair value of option liabilities.	$ 3,645,000	$ —	$ —	$ 3,645,000	$ —	—	—

- We granted Olympus an option to acquire 2,200,000 shares of our common stock which expires December 31, 2006. The exercise price of the option shares is $10 per share. We have accounted for this grant as a liability because upon the exercise of the option, we will be required to deliver listed shares of our common stock to settle the option shares. In accordance with EITF 00-19, the fair value of this option has been re-measured at the end of the fourth quarter, using the Black-Scholes option pricing model, with the movement in fair value reported in the statement of operations as a change in fair value of option liabilities. The upward movement was caused primarily by our increasing public market stock price. At December 31, 2005, the contractual term, interest rate and volatility assumptions under the Black-Scholes option pricing model were 1.0 year, 4.38% and 65.1%, respectively.

- In reference to the Joint Venture, the Shareholders' Agreement between Cytori and Olympus provides that in certain specified circumstances of insolvency or if we experience a change in control, Olympus will have the rights to (i) repurchase our interests in the Joint Venture at the fair value of such interests or (ii) sell its own interests in the Joint Venture to Cytori at the higher of (a) $22,000,000 or (b) their fair value (the "Put"). The Put value has been classified as a liability.

  The valuations of the Put were completed by an independent valuation firm using an option pricing theory based simulation analysis (i.e., a Monte Carlo simulation). The valuations are based on assumptions as of the valuation date with regard to the market value of Cytori and the estimated fair value of the Joint Venture, the expected correlation between the values of Cytori and the Joint Venture, the expected volatility of Cytori and the Joint Venture, the bankruptcy recovery rate for Cytori, the bankruptcy threshold for Cytori, the probability of a change of control event for Cytori, and the risk free rate.

  The following assumptions were employed in estimating the value of the Put at December 31, 2005 (these assumptions were not materially different from those used in valuing the Put as of November 4, 2005):

  - The expected volatilities of Cytori and the Joint Venture were assumed to be 63.2% and 69.1%, respectively,
  - The bankruptcy recovery rate for Cytori was assumed to be 21%,
  - The bankruptcy threshold for Cytori was assumed to be $10.78 million,
  - The probability of a change of control event for Cytori was assumed to be 3.04%,
  - The expected correlation between the fair values of Cytori and the Joint Venture in the future was assumed to be 99%, and
  - The risk free rate was assumed to be 4.39%.

  The future. Until exercise or expiration (on December 31, 2006), the fair value of the 2,200,000 share option will continue to be re-measured at the end of each reporting period, with movements in fair value reported in the statements of operations as changes in the fair value of option liabilities. Note that if the market price of our common stock increases, the option will become more valuable, resulting in an additional charge in our statements of operations.

  The Put is perpetual and, thus, has no expiration date. Accordingly, we will continue to recognize a liability for the Put until it is exercised or until the arrangements with Olympus are amended.

Restructuring charges

The following table summarizes the restructuring charges for the years ended December 31, 2005, 2004 and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Restructuring charge	$ —	$ 107,000	$ 451,000	$ (107,000)	$ (344,000)	—	(76.3)%

- In September 2003, we closed an administrative office in Königstein, Germany in an effort to reduce costs and consolidate operations in the United States. The office was rented under an operating lease and in connection with the termination of the lease, we incurred $169,000. We also incurred restructuring charges of $282,000 relating to the involuntary termination of three employees, including our previous CFO.

- A restructuring charge of $107,000 was recorded in 2004 as a result of a negotiated settlement related to our remaining lease obligation for the property.

The future. It is possible that we may incur a restructuring charge related to our lease obligations at our Top Gun facilities when the majority of our operations relocate to our main facility. However, it is not determinable at this time. We will continue analysis of this contingency each quarter.

Equipment impairment charges

The following table summarizes the components of equipment impairment charges for the years ended December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Equipment impairment charge	$ —	$ 42,000	$ —	$ (42,000)	$ 42,000	—	—

During the fourth quarter of 2004, as a result of our normal periodic fixed asset review, we determined that certain production assets were impaired. We recorded an impairment charge that represented the excess of the net book value over the estimated fair value of the assets; as the production assets are held for sale, fair value was based on the estimated net proceeds we expect to receive upon the sale of these assets, net of selling costs.

Other income

The following is a table summarizing the gain on the sale of assets and the gain on the sale of assets, related party for the years ended December 31, 2005, 2004 and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Gain on the sale of assets	$ 5,526,000	$ —	$ —	$ 5,526,000	$ —	—	—
Gain on the sale of assets, related party	—	13,883,000	—	(13,883,000)	13,883,000	—	—
Total	$ 5,526,000	$ 13,883,000	$ —	$ (8,357,000)	$ 13,883,000	60.2%	—

- The $5,526,000 gain on sale of assets recorded in the third quarter of 2005 was related to the sale of the majority of our Thin Film product line in May 2004 to MAST. As part of the disposal arrangement, we agreed to complete certain performance obligations which prevented us from recognizing the gain on sale of assets when the cash was initially received. In August 2005, following the settlement of arbitration proceedings related to the sale agreement, we were able to recognize the gain on sale of assets of $5,650,000, less $124,000 of related deferred costs, in the statement of operations.

- The gain on sale of assets, related party related to the initial payment as well as milestone payments from Medtronic for the disposition of our CMF product line in 2002. Specifically, as part of the disposal arrangement, we agreed to complete clinical research regarding Faster Resorbable Polymer, an area that directly relates to the CMF product line we transferred to Medtronic. In January 2004, we received the $5,000,000 payment after fulfilling the research requirements set out in the CMF sale agreement. We were also obliged to transfer certain “know-how,” including manufacturing processes, patents, and other intellectual property, to Medtronic. This obligation was fulfilled and in the third quarter of 2004 we received $1,500,000 from Medtronic. These milestones represented the last of all remaining performance obligations and therefore, we were able to recognize the remaining deferred gain on the sale of assets, related party, of $7,383,000, in the statement of operations.

Financing items

The following table summarizes interest income, interest expense, and other income and expenses for the years ended December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Interest income	$ 299,000	$ 252,000	$ 417,000	$ 47,000	$ (165,000)	18.7%	(39.6)%
Interest expense	(137,000)	(177,000)	(126,000)	40,000	(51,000)	(22.6)%	40.5%
Other income (expense)	(55,000)	15,000	87,000	(70,000)	(72,000)	(466.7)%	(82.8)%
Total	$ 107,000	$ 90,000	$ 378,000	$ 17,000	$ (288,000)	18.9%	(76.2)%

- Interest income increased from 2004 to 2005 due to a larger balance of funds available for investment, which was a result of the transactions with Olympus, as well as higher returns on investments. Interest expense decreased due to lower principal balances on our long-term borrowings as compared with the preceding year. Our newest promissory note, with approximately $1,380,000 in principal, was not executed until late in 2005.

- Interest income decreased in 2004 as compared to the same period in 2003, respectively, because of a decrease in funds available for investment as well as lower interest rates.

- The changes in other income (expense) in 2005, 2004 and 2003 resulted primarily from changes in foreign currency exchange rates.

The future. Interest income earned in 2006 will be dependent on our levels of funds available for investment as well as general economic conditions. Interest expense will increase in 2006 due to the additional promissory note executed late in 2005.

Equity loss from investment in Joint Venture

The following table summarizes equity loss from investment in joint venture for the years ended December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Equity loss from investment in Joint Venture	$ 4,172,000	$ —	$ —	$ 4,172,000	$ —	—	—

- The loss in 2005 related entirely to our 50% equity interest in the Joint Venture, which we accounted for using the equity method of accounting.

- As the carrying value of our investment in the Joint Venture is presently $0, we do not expect to recognize significant losses from the activities of the Joint Venture in the foreseeable future. Over the next two to three years, the JV is expected to incur only modest general and administrative expenses, which we will likely (but have no obligation to) fund jointly with Olympus.

Liquidity and Capital Resources

Short-term and long-term liquidity

The following is a summary of our key liquidity measures at December 31, 2005, 2004, and 2003:

	Years ended			$ Differences		% Differences	
	2005	2004	2003	2005 to 2004	2004 to 2003	2005 to 2004	2004 to 2003
Cash and cash equivalents	$ 8,007,000	$ 2,840,000	$ 2,820,000	$ 5,167,000	$ 20,000	181.9%	0.7%
Short-term investments, available for sale	7,838,000	10,579,000	11,448,000	(2,741,000)	(869,000)	(25.9)%	(7.6)%
Total cash and cash equivalents and short-term investments, available for sale	$ 15,845,000	$ 13,419,000	$ 14,268,000	$ 2,426,000	$ (849,000)	18.1%	(6.0)%
Current assets	$ 17,540,000	$ 15,645,000	$ 16,916,000	$ 1,895,000	$ (1,271,000)	12.1%	(7.5)%
Current liabilities	7,081,000	3,187,000	4,484,000	3,894,000	(1,297,000)	122.2%	(28.9)%
Working capital	$ 10,459,000	$ 12,458,000	$ 12,432,000	$ (1,999,000)	$ (26,000)	(16.0)%	(0.2)%

We believe that existing funds, cash generated by operations, and existing and accessible sources of financing are adequate to satisfy our working capital, capital expenditures, debt service and other financial commitments at least through December 31, 2006. However, in order to provide greater financial flexibility and liquidity, and in view of the substantial cash needs of our regenerative cell business during its development stage, we will need to raise additional capital (notwithstanding the proceeds received from the Olympus collaboration agreements, which were entered into in November 2005).

From inception to December 31, 2005, we have financed our operations primarily by:

- Issuing our stock,
- Generating revenues,
- Selling the CMF product line in September 2002,
- Selling the Thin Film product line (except for the territory of Japan), in May 2004,
- Entering into a Distribution Agreement for the distribution rights to Thin Film in Japan, in which we received an upfront license fee in July 2004 and an initial development milestone payment in October 2004,
- Obtaining a modest amount of capital equipment long-term financing,
- Closing a Stock Purchase Agreement with Olympus in May 2005,and
- Entering into a collaborative arrangement with Olympus in November 2005, including the formation of a joint venture called Olympus-Cytori, Inc.

We increased our cash position by $11,000,000 in May 2005 through a common stock purchase agreement we entered into with Olympus in April 2005. This agreement covers the sale of 1.1 million shares of our common stock to Olympus at $10.00 per share. Also as part of the agreement, we granted Olympus an option that expires December 31, 2006 to purchase an additional 2,200,000 shares of common stock at $10.00 per share.

Furthermore, we entered into a strategic development and manufacturing joint venture as well as other agreements with Olympus in November 2005. Under the collaborative arrangements, we formed a joint venture with Olympus, Olympus-Cytori, Inc., to develop and manufacture future generation devices based on our Celution™ System. Pursuant to the terms of the agreements, we received upon closing $11 million in cash in the fourth quarter of 2005; this cash is incremental to the proceeds received under the Olympus equity investment described above.

In January 2006, we also received an additional $11 million upon our receipt of a CE mark for the first generation Celution™ System and will receive an additional $1.5 million in early 2006 in exchange for the grant to Olympus of an exclusive right to negotiate a commercialization collaboration for the use of adipose stem and regenerative cells for a specific therapeutic area outside of cardiovascular disease. We may receive more proceeds if Olympus decides to exercise its option to purchase 2,200,000 shares of our common stock at a fixed price of $10.00 per share.

To fund 2006 expected capital expenditures of $2,500,000, primarily related to initial leasehold improvements at our new corporate headquarters, we intend to use available working capital and if available, borrow under our Amended Master Security Agreement.

Any excess funds will be invested in short-term available-for-sale investments. We believe that it is necessary to maintain a large amount of cash and short-term available-for-sale investments on hand to ensure that we have adequate resources to fund future research and development, and to manage legal and regulatory risks and challenges to our business model.

Our capital requirements for 2006 and beyond will depend on numerous factors, including the resources we devote to developing and supporting our investigational cell therapy products, market acceptance of our developed products, regulatory approvals and other factors. We have positioned ourselves to expand our cash position through actively pursuing co-development and marketing agreements, research grants, and licensing agreements related to our technology platforms. Moreover, we are committed to increasing revenues from our bioresorbable products. The revenue generated from our non-Thin Film bioresorbable products will depend in large part on the success of Medtronic’s (our sole distributor of spine and orthopedics implants) marketing efforts in the bioresorbable spine and orthopedics arena. Revenue from Thin Film products can begin when Japanese regulatory approval is obtained and thereafter will depend largely on Senko’s marketing efforts.

We expect to incur research and development expenses, well beyond our current levels, in our regenerative cell platform for an extended period of time. This will occur whether or not our biomaterials business reaches profitability. We will continue to seek collaborations and new sources of financing, beyond those entered into with Olympus, in order to fund operations, satisfy financial

obligations, and achieve our research and development objectives.

The following summarizes our contractual obligations and other commitments at December 31, 2005, and the effect such obligations could have on our liquidity and cash flow in future periods:

	Payments due by period				
Contractual Obligations	Total	Less than 1 year	1 – 3 years	3 – 5 years	More than 5 years
Long-term obligations	$ 2,510,000	$ 952,000	$ 1,558,000	$ —	$ —
Interest commitment on long-term obligations	366,000	198,000	168,000	—	—
Operating lease obligations	7,304,000	1,572,000	5,025,000	707,000	—
Research study obligations	2,101,000	2,101,000	—	—	—
Total	$ 12,281,000	$ 4,823,000	$ 6,751,000	$ 707,000	$ —

Cash provided by (used in) operating, investing and financing activities for the years ended December 31, 2005, 2004, and 2003 is summarized as follows:

	Years Ended		
	2005	2004	2003
Net cash used in operating activities	$ (1,101,000)	$ (12,574,000)	$ (7,245,000)
Net cash provided by investing activities	911,000	13,425,000	5,954,000
Net cash provided by (used in) financing activities	5,357,000	(831,000)	(997,000)

Operating activities

Net cash used in operating activities for the year ended December 31, 2005 resulted from our $26,538,000 net loss, adjusted for the $17,311,000 we have received from Olympus as noted above. Other adjustments include material non-cash activities, such as the gain on sale of assets, depreciation and amortization, changes in the fair value of the Olympus option liabilities, stock based compensation expense, equity loss from investment in Joint Venture, as well as for changes in working capital due to the timing of product shipments (accounts receivable) and payment of liabilities.

Net cash used in operating activities in the year ended 2004 resulted from our adjusted net loss (as adjusted for the $13,883,000 gain on sale of assets, related party) and changes in working capital due to the timing of product shipments and payment of liabilities. The net cash used in operations was partially offset by the $1,500,000 upfront license fee and $1,250,000 development milestone payment received from Senko in 2004.

In 2003, net cash used in operating activities primarily resulted from our net loss as adjusted for $2,046,000 of non-cash amortization of gain on the sale of CMF assets to Medtronic. Other adjustments include non-cash stock based compensation expense and changes in working capital.

Operating losses in all periods resulted largely from expenses related to our regenerative medicine research and development efforts.

Investing activities

Net cash provided by investing activities for the year ended December 31, 2005 resulted primarily from net proceeds from the sale of short-term investments, offset in part by short-term investment purchases. The proceeds were used to fund operating and financing activities during 2005.

Net cash provided by investing activities for the year ended December 31, 2004 resulted in part from the receipt of a non-recurring payment of $6,500,000 for the completion of the CMF Faster Resorbable Polymer clinical research and the transfer of the know-how related to the 2002 sale of the CMF Product Line to Medtronic. In addition, we received net proceeds of $6,931,000 from the sale of our Thin Film product line (except for the territory of Japan) to MAST.

The net cash provided by investing activities in the year ended 2003 primarily related to net proceeds from the sale of short-term investments, which was offset by the purchase of fewer short-term investments (i.e.- we cashed in short-term investments to fund our operating and financing activities).

Capital spending is essential to our product innovation initiatives and to maintain our operational capabilities. For the years ended December 31, 2005, 2004 and 2003, we used cash to purchase $1,846,000, $789,000, and $1,743,000, respectively, of property and equipment to support manufacturing of our bioresorbable implants and for the research and development of the regenerative cell

technology platform. The increase in 2005 capital spending was caused primarily by expenditures for leasehold improvements made to our new facilities. The decrease in 2004 capital spending was caused by a decrease in the purchase of bioresorbable research and development equipment, in response to lower sales demand.

Financing Activities

The net cash provided by financing activities for the year ended December 31, 2005 related mainly to the proceeds received from Olympus as noted above. Sale proceeds were recorded as including $3,003,000 for the sale of common stock and $1,686,000 for the issuance of options.

The net cash used in financing activities for the year ended December 31, 2004 related to the repurchase of 290,252 shares of our common stock for $1,052,000 as well as the payment of $847,000 on our long term obligations.

Net cash used in financing activities in 2004 was offset by proceeds from an Amended Master Security Agreement we entered in September 2003 to provide financing for equipment purchases. In connection with this agreement, we issued promissory notes with principal amounts totaling approximately $1,039,000 for the year ended December 31, 2004.

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. These are our policies that require us to make our most significant judgments and, as a result, could have the greatest impact on our future financial results.

Revenue Recognition

We derive our revenue from a number of different sources, including but not limited to:

- Product sales,
- Payments under license or distribution agreements, and
- Fees for achieving certain defined milestones under research and/or development arrangements.

Many of our revenue generating arrangements are relatively simple in nature, meaning that there is little judgment necessary with regard to the timing of when we recognize revenues or how such revenues are presented in the financial statements.

However, we have also entered into more complex arrangements, including but not limited to our contracts with Olympus, Senko, and the NIH. Moreover, some of our non-recurring transactions, such as our disposition of the majority of our Thin Film business to MAST or our sale of our CMF product line to Medtronic, contain elements that relate to our core revenue producing activities.

As a result, some of our most critical accounting judgments relate to the identification, timing, and presentation of revenue related activities. These critical judgments are discussed further in the paragraphs that follow.

Multiple-elements

Some of our revenue generating arrangements contain a number of distinct revenue streams, known as “elements.” For example, our Distribution Agreement with Senko contains direct or indirect future revenue streams related to:

- A distribution license fee (which was paid at the outset of the arrangement),
- Milestone payments for achieving commercialization of the Thin Film product line in Japan,
- Training for representatives of Senko,
- Sales of Thin Film products to Senko, and
- Payments in the nature of royalties on future product sales made by Senko to its end customers.

Emerging Issues Task Force Issue 00-21, “Revenue Arrangements with Multiple Deliverables” (“EITF 00-21”), governs whether

each of the above elements in the arrangement should be accounted for individually, or whether the entire contract should be treated as a single unit of accounting.

EITF 00-21 indicates that individual elements may be separately accounted for only when:

- The delivered element has stand alone value to the customer,
- There is objective evidence of the fair value of the remaining undelivered elements, and
- If the arrangement contains a general right of return related to any products delivered, delivery of the remaining goods and services is probable and within the complete control of the seller.

In the case of the Senko Distribution Agreement, we determined that (a) the milestones payments for achieving commercialization and (b) the future sale of Thin Film products to Senko were “separable” elements. That is, each of these elements, upon delivery, will have stand alone value to Senko and there will be objective evidence of the fair value of any remaining undelivered elements at that time. The arrangement does not contain any general right of return, and so this point is not relevant to our analysis.

On the other hand, we concluded that (a) the upfront distribution license fee, (b) the revenues from training for representatives of Senko, and (c) the payments in the nature of royalties on future product sales are not separable elements under EITF 00-21.

In arriving at our conclusions, we had to consider whether our customer, Senko, would receive stand alone value from each delivered element. We also, in some cases, had to look to third party evidence to support the fair value of certain undelivered elements – notably, training – since we as a company do not

routinely deliver this service on a stand alone basis. Finally, we had to make assumptions about how the non-separable elements of the arrangement are earned, particularly the estimated period over which Senko will benefit from the arrangement (refer to the "Recognition" discussion below for further background).

We also agreed to perform multiple services under the November 4, 2005 agreements we signed with Olympus, including:

- Granting the Joint Venture (which Olympus controls) an exclusive and perpetual license to our therapeutic device technology, including the Celution™ System and certain related intellectual property; and
- Performing development activities in relation to certain therapeutic applications associated with our Celution™ System, including completing pre-clinical and clinical trials, seeking regulatory approval as appropriate, and assisting with product development.

Following commercialization of the Celution™ System, we will provide monthly forecasts, specifying the quantities of each category of devices that we intend to purchase from the Joint Venture, at formula-based prices, over a rolling six-month period. Although we are not subject to any minimum purchase requirements, we are obliged to buy a defined percentage of the products forecasted by us in such reports. Again, however, this guarantee will trigger only upon the development of a commercializable device by the Joint Venture. Moreover, we effectively control the number of devices we will agree to purchase, since the guaranteed quantities will be derived from monthly forecasts prepared by us.

In particular, we concluded that the license and development services must be accounted for as a single unit of accounting. In reaching this conclusion, we determined that the license would not have standalone value to the Joint Venture. This is because Cytori is the only party that could be reasonably expected to perform the development services- including pre-clinical and clinical studies, regulatory filings, and product development-necessary for the Join Venture to derive any value from the license.

Recognition

Besides determining whether to account separately for components of a multiple-element arrangement, we also use judgment in determining the appropriate accounting period in which to recognize revenues that we believe (a) have been earned and (b) are realizable. The following describes some of the recognition issues we have considered during the reporting period.

- Upfront License Fees/Milestones
  - As part of the Senko Distribution Agreement, we received an upfront license fee upon execution of the arrangement, which, as noted previously, was not separable under EITF 00-21. Accordingly, the license has been combined with the development (milestones) element, which was separable, to form a single accounting unit. This single element has been allocated $3,000,000 in fees, of which $1,500,000 are potentially refundable. We have recognized, and will continue to recognized the non-contingent fees allocated to this combined element as revenues as we complete each of performance obligations associated with the milestones component of this combined deliverable. Note that the timing of when we have recognized revenues to date does not correspond with the cash we received upon achieving certain milestones. For example, the first such milestone payment for $1,250,000 became payable to use when we

filed a commercialization application with the Japanese regulatory authorities. However, we determined that the payment received was not commensurate with the level of effort expended, particularly compared with other steps we believe are necessary to commercialize the Thin Film product line in Japan. Accordingly, we did not recognize the entire $1,250,000 received as revenues, but instead have recorded all but $209,000 of this amount as deferred revenues. The $209,000 ($51,000 in 2005 and $158,000 in 2004) was recognized as development revenues based on our estimates of the level of effort expended for completed milestones as compared with the total level of effort we expect to incur under the arrangement to successfully achieve regulatory approval of the Thin Film product line in Japan. These estimates were subject to judgment and there may be changes in estimates regarding the total level of effort as we continue to seek regulatory approval. In fact there can be no assurance that commercialization in Japan will ever be achieved, although our latest understanding is that regulatory approval will be received in 2006.

  - We also received upfront fees as part of the Olympus arrangements (although, unlike Senko, these fees were non-refundable). Specifically, in exchange for an upfront fee, we granted the Joint Venture an exclusive, perpetual license to certain of our intellectual property and agreed to perform additional development activities. This upfront fee has been recorded in the liability account entitled deferred revenues, related party, on our consolidated balance sheet. Similar to the Senko agreement, we have elected an accounting policy to recognize revenues from the combined license/development accounting unit as we perform the development services, as this represents our final obligation underlying the combined accounting unit. Specifically, we plan to recognize revenues from the license/development accounting unit using a "proportional performance" methodology, resulting in the de-recognition of amounts recorded in the deferred revenues, related party account as we complete various milestones underlying the development services. For instance, we plan to recognize some of the deferred revenues, related party as revenues, related party, when we complete a pre-clinical trial, or obtain regulatory approval in a specific jurisdiction. Determining what portion of the deferred revenues, related party balance to recognize as each milestone is completed involves substantial judgment. In allocating the balance of the deferred revenues, related party to various milestones, we had in-depth discussions with our operations personnel regarding the relative value of each milestone to the Joint Venture and Olympus. We also considered the cost of completing each milestone relative to the total costs we plan to incur in completing all of the development activities, since we believe that the relative cost of completing a milestone is a reasonable proxy for its fair value. Although we have yet to recognize any revenue from the Olympus agreement, the accounting policy described above could result in revenues being recorded in an earlier accounting period than had other judgments or assumptions been made by us.

- Government Grants
  - We are eligible to receive grants from the NIH related to our research on adipose derived cell therapy to treat myocardial infarctions. There are no specific standards under U.S. GAAP that prescribe the recognition or classification of these grants in the statement of operations. Absent such guidance, we have established an accounting policy to recognize NIH grant revenues at the lesser of:

- Qualifying costs incurred (and not previously recognized), plus any allowable grant fees, for which Cytori is entitled to grant funding; or,

- The amount determined by comparing the research outputs generated to date versus the total outputs that are expected to be achieved under the entire arrangement.

- Our accounting policy could theoretically defer revenue recognition beyond the period in which we have earned the rights to such fees. However, we selected this accounting policy to counteract the possibility of recognizing revenues from the NIH arrangement too early. For instance, if our policy permitted revenues to be recognized solely as qualifying costs were incurred, we could alter the amount of revenue recognized by incurring more or less cost in a given period, irrespective of whether these costs correlate to the research outputs generated. On the other hand, if revenue recognition were based on output measures alone, it would be possible to recognize revenue in excess of costs actually incurred; this is not appropriate since qualifying costs remain the basis of our funding under the NIH grant. The application of our accounting policy, nonetheless, involves significant judgment, particularly in estimating the percentage of outputs realized to date versus the total outputs expected to be achieved under the grant arrangement.

- Back-up Supply Arrangements

  - We agreed to serve as a back-up supplier of products in connection with our dispositions of both:

    - The CMF product line to Medtronic; and,
    - Specific Thin Film assets to MAST.

Specifically, we agreed to supply CMF or Thin Film product to Medtronic and MAST, respectively, at our cost for a defined period of time. When we actually delivered products under the back-up supply arrangements, however, we recognized revenues in the financial statements at the estimated selling price which we would receive in the marketplace. We used judgment, based on historical data and expectations about future market trends, in determining the estimated market selling price of products subject to the back-up supply arrangements. The amount of the deferred gain recognized as revenue is equal to the excess of the fair value of products sold, based on historical selling prices of similar products, over our manufacturing cost.

Presentation

We have presented amounts earned under our NIH research arrangement as research grant revenue. We believe that the activities underlying the NIH agreement constitute a portion of our ongoing major or central operations. Moreover, the government obtains rights under the arrangement, in the same manner (but perhaps not to the same extent) as a commercial customer that similarly contracts with us to perform research activities. For instance, the government and any authorized third parties may use our federally funded research and/or inventions without payment of royalties to us.

Warranty Provisions

At the time of sale, we grant customers the right to a full refund if (and only if) the purchased medical device does not meet all of the agreed upon specifications and expectations. Accordingly, we establish a liability for the estimated cost of honoring this warranty at the same time we record revenues from the sale of the related medical device.

We believe the accounting estimate related to our warranty liability is a “critical accounting estimate” because changes in the related warranty provision can materially affect our operating results. Moreover, because of our limited history and our continual development of new products, estimating our expected warranty costs requires significant judgment.

In the past, our warranty provision was based primarily on actual history of warranty claims submitted by our customers. Before the third quarter of 2003, we had de minimis warranty claims despite recognizing approximately $27 million in cumulative sales of medical devices. Accordingly, we had no warranty reserves before the third quarter of 2003.

In the third quarter of 2003, we determined that some of the products we sold did not meet certain customer expectations, based on criteria previously communicated to our customer (Medtronic). After detecting this matter, we elected to replace all lots of affected inventory that were on hand at the customer, and we subsequently modified our procedures to seek to prevent similar occurrences in the future.

As a result, we recorded a warranty charge of $243,000 in the third quarter of 2003. We have incorporated this new historical warranty data into our determination of appropriate warranty reserves to record prospectively and will continue to evaluate the adequacy and accuracy of our warranty obligations on a quarterly basis. There have been no material warranty claims since the third quarter of 2003.

Goodwill Impairment Testing

In late 2002, we purchased StemSource and recognized over $4,600,000 in goodwill associated with the acquisition, of which $4,387,000 remains on our balance sheet as of December 31, 2005. As required by Statement of Financial Accounting Standard No. 142, “Goodwill and Other Intangible Assets” (“SFAS 142”), we must test this goodwill at least annually for impairment as well as when an event occurs or circumstances change such that it is reasonable possible that impairment may exist. Moreover, this testing must be performed at a level of the organization known as the reporting unit. A reporting unit is at least the same level as a company’s operating segments, and sometimes even one level lower.

Specifically, the process for testing goodwill for impairment under SFAS 142 involves the following steps:

- Company assets and liabilities, including goodwill, are allocated to each reporting unit for purposes of completing the goodwill impairment test.
- The carrying value of each reporting unit – that is, the sum of all of the net assets allocated to the reporting unit – is then compared to its fair value.
- If the fair value of the reporting unit is lower than its carrying amount, goodwill may be impaired – additional testing is required.

When we last completed our goodwill impairment testing in 2005, the fair values of our two reporting units each exceeded their respective carrying values. Accordingly, we determined that none of our reported goodwill was impaired.

The application of the goodwill impairment test involves a substantial amount of judgment. For instance, SFAS 142 requires that assets and liabilities be assigned to a reporting unit if both of the following criteria are met:

- The asset will be employed in or the liability relates to the operations of a reporting unit.
- The asset or liability will be considered in determining the fair value of the reporting unit.

We developed mechanisms to assign company-wide assets like shared property and equipment, as well as company-wide obligations such as borrowings under our GE Loan Facility, to our two reporting units. In some cases, certain assets were not allocable to either reporting unit and were left unassigned.

The most complex and challenging asset to assign to each reporting unit was our acquired goodwill. As noted previously, all of our recorded goodwill was generated in connection with our acquisition of StemSource in 2002. All of the StemSource assets and liabilities still on hand at our 2004 testing date were allocated to our regenerative cell reporting unit. However, when we first acquired StemSource, we determined that a portion of the goodwill related to the MacroPore Biosurgery reporting unit. The amount of goodwill allocated represented our best estimate of the synergies (notably future cost savings from shared research and development activities) that the MacroPore Biosurgery reporting unit would obtain by virtue of the acquisition.

Finally, with the consultation and assistance of a third party, we estimated the fair value of our reporting units by using various estimation techniques. In particular, we estimated the fair value of our MacroPore Biosurgery reporting unit based on an equal weighting of the market values of comparable enterprises and discounted projections of estimated future cash flows. Clearly, identifying comparable companies and estimating future cash flows as well as appropriate discount rates involves judgment. On the contrary, we estimated the fair value of our regenerative cell reporting unit solely using an income approach, as we believe there are no comparable enterprises on which to base a valuation. The assumptions underlying this valuation method involve a substantial amount of judgment, particularly since our regenerative cell business has yet to generate any revenues and does not have a commercially viable product.

Again, the manner in which we assigned assets, liabilities, and goodwill to our reporting units, as well as how we determined the fair value of such reporting units, involves significant uncertainties and estimates. The judgments employed may have an effect on whether a goodwill impairment loss is recognized.

Dispositions

In 2002, we sold our CMF (skull and face) bone fixation implant and accessory product line to Medtronic.

Moreover, in 2004, we sold most of the assets and intellectual property rights in our (non-Japan) Thin Film business to MAST.

As is common in the life sciences industry, the sale agreements contained provisions beyond the simple transfer of net assets to the acquiring enterprises for a fixed price. Specifically, as part of the arrangement, we also agreed to perform the following services:

- Provide training to Medtronic or MAST personnel on production and other aspects of the CMF and Thin Film product lines, respectively.
- Provide a back-up supply of CMF product to Medtronic and Thin Film products to MAST, at cost, for a specified period of time,
- In the case of Medtronic, perform clinical evaluations for a new faster-resorbing polymer product.

Disposing assets and product lines is not one of our core ongoing or central activities. Accordingly, determining the appropriate accounting for these transactions involved some of our most difficult, subjective and complex judgments. In particular, we made assumptions around the appropriate manner and timing in which to recognize the gain on disposal for each transaction in the statement of operations. Moreover, we considered whether the dispositions should be reflected as discontinued operations in accordance with Statement of Financial Accounting Standard No. 144, “Accounting for the Impairment or Disposal of Long-Lived Assets.”

For instance, upon the closing of the CMF sale agreement on September 30, 2002, we received net cash of $9,000,000, and transferred assets to Medtronic with a net carrying value of $476,000. The net difference of $8,524,000 was recorded as part of a deferred gain on sale of assets, related party on our balance sheet. We deferred recognition of the majority of this gain until Medtronic accepted the transferred net assets, which was demonstrated only when Medtronic had:

- Stopped relying on us to provide product under the back-up supply agreement,
- Integrated the acquired CMF manufacturing equipment into its operations, and
- Permitted us to deliver training to Medtronic personnel on production and other aspects of the CMF product line.

Until those events occurred, we had not believed that we had transferred all risk and rewards related to the CMF product line to

Medtronic and, accordingly, recognition of the deferred gain in earnings would have been inappropriate.

The risks and rewards of ownership related to the CMF product line ultimately passed to Medtronic in August 2004. The remainder of the deferred gain was recognized in the third quarter of 2004 when the technology and know-how transfer was completed pursuant to the contract terms.

We also initially deferred recognition of the gain related to our disposition of certain Thin Film assets, which occurred in May 2004. Again, the Asset Purchase Agreement governing the Thin Film sale obligated us to perform certain actions for the benefit of the buyer – MAST – for a defined period of time, such as serving as a back-up supplier. We concluded, due to the arbitration proceedings settled in August 2005, that we have completed our remaining performance obligations during the third quarter of 2005. Accordingly, we have recognized the remaining deferred gain on sale of assets as gain on sale of assets.

We also recognized a portion of the deferred gain when we sold products to Medtronic and MAST under the respective back-up supply agreements. Refer to the "Revenue Recognition" section of this Critical Accounting Policies and Significant Estimates discussion for further details.

Variable Interest Entity (Olympus-Cytori Joint Venture)

FASB Interpretation No. 46 (revised 2003), "Consolidation of Variable Interest Entities - An Interpretation of ARB No. 51" ("FIN 46R") requires a variable interest entity ("VIE") to be consolidated by its primary beneficiary. Evaluating whether an entity is a VIE and determining its primary beneficiary involves significant judgment.

In concluding that the Joint Venture was a VIE, we considered the following factors:

- Under FIN 46R, an entity is a VIE if it has insufficient equity to finance its activities. We believe that the initial cash contributed to the Joint Venture formed by Olympus and Cytori ($30,000,000) will be completely utilized by early 2006. Moreover, it is highly unlikely that the Joint Venture would be able to obtain the necessary financing from third party lenders without additional subordinated financial support – such as personal guarantees by one or both of the Joint Venture stockholders. Accordingly, the joint venture will require additional financial support from Olympus and Cytori to finance its ongoing operations, indicating that the Joint Venture is a VIE.

- Moreover, Olympus has a contingent put option that would, in specified circumstances, require Cytori to purchase Olympus's interests in the Joint Venture for a fixed amount of $22,000,000. Accordingly, Olympus is protected in some circumstances from absorbing all expected losses in the Joint Venture. Under FIN 46R, this means that Olympus may not be an "at-risk" equity holder, although Olympus clearly has decision rights over the operations of the Joint Venture.

Because the Joint Venture is undercapitalized, and because one of the Joint Venture's decision makers may be protected from losses, we have determined that the joint venture is a VIE under FIN 46R. Because of the complexities in applying FIN 46R, it is reasonable to expect that others may reach a different conclusion.

As noted previously, a VIE is consolidated by its primary beneficiary. The primary beneficiary is defined in FIN 46R as the entity that would absorb the majority of the VIE's expected losses or be entitled to receive the majority of the VIE's residual returns (or both).

Significant judgment was involved in determining the primary beneficiary of the Joint Venture. Under FIN 46R, we believe that Olympus and Cytori are "de facto agents" and, together, we will absorb more than 50% of the Joint Venture's expected losses and residual returns. Ultimately, we concluded that Olympus, and not Cytori, was the party most closely related with the joint venture and, hence, its primary beneficiary. Our conclusion was based on the following factors:

- The business operations of the Joint Venture will be most closely aligned to those of Olympus (i.e., the manufacture of devices).

- Olympus controls the Board of Directors, as well as the day-to-day operations of the Joint Venture.

The application of FIN 46R involves substantial judgment, and others may arrive at a conclusion that Cytori should consolidate the Joint Venture. Had we consolidated the Joint Venture, though, there would be no effect on our net income or shareholders' equity at December 31, 2005 or for the year then ended. However, certain balance sheet and income statement captions would have been presented in a different manner. For instance, we would not have presented a single line item entitled investment in joint venture in our balance sheet but, instead, would have performed a line by line consolidation of each of the Joint Venture's accounts into our financial statements.

Net Operating Loss and Tax Credit Carryforwards

We have established a valuation allowance against our net deferred tax asset due to the uncertainty surrounding the realization of such assets. We periodically evaluate the recoverability of the deferred tax asset. At such time as it is determined that it is more likely than not that deferred assets are realizable, the valuation allowance will be reduced. We have recorded a valuation allowance of $27,830,000 as of December 31, 2005 to reflect the estimated amount of deferred tax assets that may not be realized. We increased our valuation allowance by approximately $8,213,000 during the year ended December 31, 2005. The valuation allowance includes approximately $579,000 related to stock option deductions, the benefit of which will eventually be credited to equity and not to income.

At December 31, 2005, we had federal and state tax loss carryforwards of approximately $42,987,000 and $33,681,000 respectively. The federal and state net operating loss carryfowards begin to expire in 2019 and 2007 respectively, if unused. At December 31, 2005, we had federal and state tax credit carryforwards of approximately $1,127,000 and $1,093,000 respectively. The federal credits will begin to expire in 2017, if unused, and the state credits will begin to expire in 2009 if unused. In addition, we had a foreign tax loss carryforward of $1,031,000 in Japan.

The Internal Revenue Code limits the future availability of net operating loss and tax credit carryforwards that arose prior to certain cumulative changes in a corporation's ownership resulting in a change of control of Cytori. Due to prior ownership changes as defined in IRC Section 382, a portion of our net operating loss and tax credit carryforwards are limited in their annual utilization. In September 1999, we experienced an ownership change for purposes of the IRC Section 382 limitation. At December 31, 2005, the remaining 1999 pre-change federal net operating loss carryforward of $973,000 is subject to an annual limitation of approximately $573,000. It is estimated that these pre-change net operating losses and credits will be fully available by 2007.

Additionally, in 2002 when we purchased StemSource, we acquired federal and state net operating loss carryforwards of approximately $2,700,000 and $2,700,000 respectively. This event triggered an ownership change for purposes of IRC Section 382. As of December 31, 2005, the remaining pre-change federal and state net operating loss carryforward of $960,000 is subject to an annual limitation of approximately $460,000. It is estimated that the pre-change net operating losses and credits will be fully available by 2008.

We have not updated our analysis for the tax year ended December 31, 2005. The extent of any additional limitation, if any, on the availability to use net operating losses and credits, is not known at this time.

Unearned Compensation

We record unearned compensation for options granted to employees as the difference between the exercise price of options granted and the fair market value of our common stock on the date of grant. Unearned compensation is amortized to stock based compensation expense and reflected as such in the Statements of Operations and Comprehensive Loss. As of December 31, 2005 there was no outstanding amount related to unearned compensation.

Recent Accounting Pronouncements

In November 2004, the FASB issued SFAS No. 151, “Inventory Costs — An Amendment of ARB No. 43, Chapter 4” (“SFAS 151”). SFAS 151 clarifies that abnormal amounts of idle facility expense, freight, handling costs and spoilage should be expensed as incurred and not included in overhead. Further, SFAS 151 requires that allocation of fixed and production facilities overhead to conversion costs should be based on normal capacity of the production facilities. The provisions in SFAS 151 are effective for inventory costs incurred during fiscal years beginning after June 15, 2005. We do not believe that the adoption of SFAS 151 will have a significant effect on our financial statements.

In December 2004, the FASB issued SFAS No. 153, “Exchanges of Nonmonetary Assets — An Amendment of APB Opinion No. 29” (“SFAS 153”). The provisions of this statement are effective for non-monetary asset exchanges occurring in fiscal periods beginning after June 15, 2005. This statement eliminates the exception in previous generally accepted accounting principles that precluded the recognition of exchanges of similar productive assets at fair value. Instead, SFAS 153 provides for a general exception to the fair value principle for exchange transactions that do not have commercial substance — that is, transactions that are not expected to result in significant changes in the cash flows of the reporting entity. The adoption of SFAS 153 has not had a significant effect on our financial statements.

In December 2004, the FASB issued SFAS No. 123 (revised 2004), “Share-based Payment” (“SFAS 123R”). As affected by Securities and Exchange Commission Release No. 33-8568, “Amendment to Rule 4-01(a) of Regulation S-X Regarding the Compliance Date for Statement of Financial Accounting Standards No. 123 (Revised 2004), Share-Based Payment”, SFAS 123R is effective on January 1, 2006 and will have a material effect on our results of operations. Upon adoption, SFAS 123R will require us to measure all share-based payment transactions, including those with employees, at fair value (most notably, this includes employee stock option grants, even where the exercise price is equal to the grant date fair market value). Moreover, the fair value of share-based payment awards will be recognized as expense in the statements of operations over the requisite service period of each award. FSAS 123R also changes the manner in which deferred taxes are recognized on share-based payment awards, as well as the accounting for award modifications. Our net loss will increase (or our net income will be reduced) each period as a result of adopting SFAS 123R.

See the “Stock Based Compensation” section of this note above.

In May 2005, the FASB issued SFAS No. 154, “Accounting Changes and Error Corrections” (“SFAS 154”). This new standard replaces APB Opinion No. 20, “Accounting Changes”, and SFAS No. 3, “Reporting Accounting Changes in Interim Financial Statements”. Among other changes, SFAS 154 requires that a voluntary change in accounting principle be applied retrospectively with all prior period financial statements presented on the new accounting principle, unless it is impracticable to do so. SFAS 154 also provides that (1) a change in method of depreciating or amortizing a long-lived nonfinancial asset be accounted for as a change in estimate (prospectively) that was effected by a change in accounting principle, and (2) correction of errors in previously issued financial statements should be termed a “restatement.” The new standard is effective for accounting changes and correction of errors made in fiscal years beginning after December 15, 2005. We do not believe that the adoption of SFAS 154 will have a significant effect on our financial statements.

In October 2005, the FASB issued Staff Position (“FSP”) FAS 13-1, “Accounting for Rental Costs Incurred during a Construction Period” (“FSP 13-1”). The FASB concludes in this FSP that rental costs associated with ground or building operating leases that are incurred during a construction period should be expensed. FASB Technical Bulletin (“FTB”) No. 88-1, “Issues Relating to Accounting for Leases”, requires that rental costs associated with operating leases be allocated on a straight-line basis in accordance with FASB Statement No. 13, “Accounting for Leases”, and FTB 85-3, “Accounting for Operating Leases with Scheduled Rent Increases”, starting with the beginning of the lease term. The FASB believes there is no distinction between the right to use a leased asset during the construction period and the right to use that asset after the construction period. Companies are required to apply the guidance in FSP 13-1 to the first reporting period beginning after December 15, 2005. We do not believe that the adoption of FSP 13-1 will have a significant effect on our financial statements.

In November 2005, the FASB issued Staff Position (“FSP”) FIN 45-3, “Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Granted to a Business or Its Owners”. The FSP revises FASB Interpretation No. 45 to explicitly indicate that FIN 45 applies to a guarantee granted to a business that the revenue of the business (or a specific portion of the business) for a specified period of time will be at least a specified amount. Although we may enter into such guarantees in the future (see note 6 to the consolidated financial statements), no minimum revenue guarantees have been provided by us for any periods covered by these consolidated financial statements.

Item 7A. 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.

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. These short-term investments, reported at an aggregate fair market value of $7,838,000 as of December 31, 2005, consist primarily of investments in debt instruments of financial institutions and corporations with strong credit ratings and United States government

obligations. These securities are subject to market rate risk as their fair value will fall if market interest rates increase. If market interest rates were to increase immediately and uniformly by 100 basis points from the levels prevailing at December 31, 2005, for example, and assuming average investment duration of seven months, the fair value of the portfolio would not decline by a material amount. We do not use derivative financial instruments to mitigate the risk inherent in these securities. However, we do attempt to reduce such risks by generally limiting the maturity date of such securities, diversifying our investments and limiting the amount of credit exposure with any one issuer. While we do not always have the intent, we do currently have the ability to hold these investments until maturity and, therefore, believe that reductions in the value of such securities attributable to short-term fluctuations in interest rates would not materially affect our financial position, results of operations or cash flows. Changes in interest rates would, of course, affect the interest income we earn on our cash balances after re-investment.

Foreign Currency Exchange Rate Exposure

Our exposure to market risk due to fluctuations in foreign currency exchange rates relates primarily to our cash balances in Europe and Japan. Although we transacted business in various foreign countries before the May 2004 sale of our non-Japan Thin Film business to MAST, settlements were usually based on the U.S. dollar. Transaction gains or losses resulting from cash balances and revenues have not been significant in the past and we are not 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 year ended December 31, 2005, 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.

Under our Japanese Thin Film agreement with Senko, we would receive payments in the nature of royalties based on Senko's net sales, which would be Yen denominated. We expect such sales or royalties to begin in 2006.

Item 8. Consolidated Financial Statements and Supplementary Data

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Cytori Therapeutics, Inc.:

We have audited the accompanying consolidated balance sheets of Cytori Therapeutics, Inc. and subsidiaries (the Company) as of December 31, 2005 and 2004, and the related consolidated statements of operations and comprehensive loss, stockholders' equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 2005. In connection with our audits of the consolidated financial statements, we have also audited the financial statement schedule for each of the years in the three-year period ended December 31, 2005. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

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

As discussed in note 1 to the consolidated financial statements, the Company derives a substantial portion of its revenues from a related party.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Cytori Therapeutics, Inc. and subsidiaries as of December 31, 2005 and 2004, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2005, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule for each of the years in the three-year period ended December 31, 2005, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ KPMG LLP

San Diego, California
March 24, 2006

CYTORI THERAPEUTICS, INC.
CONSOLIDATED BALANCE SHEETS

	As of December 31, 2005	As of December 31, 2004
Assets		
Current assets:		
Cash and cash equivalents	$ 8,007,000	$ 2,840,000
Short-term investments, available-for-sale	7,838,000	10,579,000
Accounts receivable, net of allowance for doubtful accounts of $9,000 and $8,000 in 2005 and 2004, respectively	816,000	863,000
Inventories, net	258,000	379,000
Other current assets	621,000	984,000
Total current assets	17,540,000	15,645,000
Property and equipment, net	4,260,000	3,080,000
Other assets	458,000	236,000
Intangibles, net	1,521,000	2,122,000
Goodwill	4,387,000	4,387,000
Total assets	$ 28,166,000	$ 25,470,000
Liabilities and Stockholders' Equity (Deficit)		
Current liabilities:		
Accounts payable and accrued expenses	$ 6,129,000	$ 2,249,000
Current portion of long-term obligations	952,000	938,000
Total current liabilities	7,081,000	3,187,000
Deferred revenues, related party	17,311,000	—
Option liabilities	5,331,000	—
Deferred revenues	2,541,000	2,592,000
Deferred gain on sale of assets	—	5,650,000
Long-term deferred rent	573,000	80,000
Long-term obligations, less current portion	1,558,000	1,128,000
Total liabilities	34,395,000	12,637,000
Commitments and contingencies		
Stockholders' equity (deficit):		
Preferred stock, $0.001 par value; 5,000,000 shares authorized; -0- shares issued and outstanding in 2005 and 2004	—	—
Common stock, $0.001 par value; 95,000,000 shares authorized; 18,194,283 and 16,820,018 shares issued and 15,321,449 and 13,947,184 shares outstanding in 2005 and 2004, respectively	18,000	17,000
Additional paid-in capital	82,196,000	74,737,000
Accumulated deficit	(78,013,000)	(51,475,000)
Treasury stock, at cost	(10,414,000)	(10,414,000)
Accumulated other comprehensive loss	(16,000)	(32,000)
Total stockholders' equity (deficit)	(6,229,000)	12,833,000
Total liabilities and stockholders' equity (deficit)	$ 28,166,000	$ 25,470,000

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE CONSOLIDATED FINANCIAL STATEMENTS

CYTORI THERAPEUTICS, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS

	For the Years Ended December 31,		
	2005	2004	2003
Product revenues:			
Sales to related party	$ 5,634,000	$ 4,085,000	$ 12,893,000
Sales to third parties	—	2,237,000	1,186,000
	5,634,000	6,322,000	14,079,000
Cost of product revenues, including stock based compensation expense of $0, $3,000 and $12,000 for the years ended December 31, 2005, 2004, and 2003, respectively	3,154,000	3,384,000	4,244,000
Gross profit	2,480,000	2,938,000	9,835,000
Development revenues:			
Research grants	312,000	328,000	—
Development and other	59,000	168,000	9,000
	371,000	496,000	9,000
Operating expenses:			
Research and development, excluding stock based compensation expense of $179,000, $32,000, and $78,000 for the years ended December 31, 2005, 2004, and 2003, respectively	15,271,000	10,352,000	8,694,000
Sales and marketing, excluding stock based compensation expense of $113,000, $22,000, and $70,000 for the years ended December 31, 2005, 2004, and 2003, respectively	1,434,000	2,391,000	4,417,000
General and administrative, excluding stock based compensation expense of $112,000, $71,000, and $837,000 for the years ended December 31, 2005, 2004, and 2003, respectively	10,096,000	6,480,000	4,958,000
Stock based compensation (excluding cost of revenues stock based compensation)	404,000	125,000	985,000
Change in fair value of option liabilities	3,645,000	—	—
Restructuring charge	—	107,000	451,000
Equipment impairment charge	—	42,000	—
Total operating expenses	30,850,000	19,497,000	19,505,000
Operating loss	(27,999,000)	(16,063,000)	(9,661,000)
Other income (expense):			
Gain on sale of assets	5,526,000	—	—
Gain on sale of assets, related party	—	13,883,000	—
Interest income	299,000	252,000	417,000
Interest expense	(137,000)	(177,000)	(126,000)
Other income (expense), net	(55,000)	15,000	87,000
Equity loss from investment in joint venture	(4,172,000)	—	—
Total other income (expense)	1,461,000	13,973,000	378,000
Net loss	(26,538,000)	(2,090,000)	(9,283,000)
Other comprehensive income (loss) - unrealized holding income (loss)	16,000	(58,000)	(133,000)
Comprehensive loss	$ (26,522,000)	$ (2,148,000)	$ (9,416,000)
Basic and diluted net loss per common share	$ (1.80)	$ (0.15)	$ (0.64)
Basic and diluted weighted average common shares	14,704,281	13,932,390	14,555,047

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE CONSOLIDATED FINANCIAL STATEMENTS

CYTORI THERAPEUTICS, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
FOR THE YEARS ENDED DECEMBER 31, 2005, 2004 AND 2003

	Common Stock		Additional Paid-in Capital	Unearned Compensation	Accumulated Deficit	Treasury Stock		Treasury Stock Receivable	Accumulated Other Comprehensive Income (Loss)	Total
	Shares	Amount				Shares	Amount			
Balance at December 31, 2002	16,646,664	$ 17,000	$ 74,730,000	$ (1,057,000)	$ (40,102,000)	2,118,983	$ (7,752,000)	$ —	$ 159,000	$ 25,995,000
Issuance of	130,980	—	33,000	—	—	—	—	—	—	33,000

common stock under stock option plan										
Compensatory stock options	—	—	49,000	948,000	—	—	—	—	—	997,000
Purchase of treasury stock	—	—	—	—	—	614,099	(2,266,000)	—	—	(2,266,000)
Sale of treasury stock	—	—	(10,000)	—	—	(150,500)	552,000	—	—	542,000
Treasury stock receivable	—	—	—	—	—	—	—	(976,000)	—	(976,000)
Exchange of unlisted common stock for listed common stock held in treasury	—	—	(104,000)	—	—	—	104,000	—	—	—
Unrealized loss on investments	—	—	—	—	—	—	—	—	(133,000)	(133,000)
Net loss for the year ended December 31, 2003	—	—	—	—	(9,283,000)	—	—	—	—	(9,283,000)
Balance at December 31, 2003	16,777,644	17,000	74,698,000	(109,000)	(49,385,000)	2,582,582	(9,362,000)	(976,000)	26,000	14,909,000
Issuance of common stock under stock option plan	42,374	—	29,000	—	—	—	—	—	—	29,000
Compensatory stock options	—	—	10,000	109,000	—	—	—	—	—	119,000
Purchase of treasury stock	—	—	—	—	—	27,650	(76,000)	—	—	(76,000)
Treasury stock receivable	—	—	—	—	—	262,602	(976,000)	976,000	—	—
Unrealized loss on investments	—	—	—	—	—	—	—	—	(58,000)	(58,000)
Net loss for the year ended December 31, 2004	—	—	—	—	(2,090,000)	—	—	—	—	(2,090,000)
Balance at December 31, 2004	16,820,018	17,000	74,737,000	—	(51,475,000)	2,872,834	(10,414,000)	—	(32,000)	12,833,000
Issuance of common stock under stock option plan	232,042	—	174,000	—	—	—	—	—	—	174,000
Issuance of common stock under stock warrant agreement	22,223	—	50,000	—	—	—	—	—	—	50,000
Compensatory stock options	—	—	341,000	—	—	—	—	—	—	341,000
Compensatory common stock awards	20,000	—	63,000	—	—	—	—	—	—	63,000
Issuance of common stock to Olympus	1,100,000	1,000	3,002,000	—	—	—	—	—	—	3,003,000
Accretion of interests in joint venture	—	—	3,829,000	—	—	—	—	—	—	3,829,000
Unrealized gain on investments	—	—	—	—	—	—	—	—	16,000	16,000
Net loss for the year ended December 31, 2005	—	—	—	—	(26,538,000)	—	—	—	—	(26,538,000)
Balance at December 31, 2005	18,194,283	$ 18,000	$ 82,196,000	$ —	$ (78,013,000)	2,872,834	$ (10,414,000)	$ —	$ (16,000)	$ (6,229,000)

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE CONSOLIDATED FINANCIAL STATEMENTS

CYTORI THERAPEUTICS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

	For the Years Ended December 31,		
	2005	2004	2003
Cash flows from operating activities:			
Net loss	$ (26,538,000)	$ (2,090,000)	$ (9,283,000)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	1,724,000	1,752,000	1,657,000
Inventory provision	280,000	242,000	—
Warranty provision	53,000	86,000	267,000
Increase (reduction) in allowance for doubtful accounts	1,000	(44,000)	—
Change in fair value of option liabilities	3,645,000	—	—
Loss on disposal of assets	—	3,000	14,000
Equipment impairment charge	—	42,000	—
Restructuring charge	—	—	153,000
Amortization of gain on sale of assets	—	(772,000)	—
Amortization of gain on sale of assets, related party	—	(156,000)	(2,046,000)
Gain on sale of assets	(5,526,000)	—	—

Gain on sale of assets, related party	—	(13,883,000)	—
Stock based compensation	404,000	119,000	997,000
Equity loss from investment in joint venture	4,172,000	—	—
Increases (decreases) in cash caused by changes in operating assets and liabilities:			
Accounts receivable	46,000	472,000	(53,000)
Inventories	(159,000)	33,000	319,000
Other current assets	363,000	(458,000)	317,000
Other assets	(346,000)	8,000	76,000
Accounts payable and accrued expenses	3,027,000	(527,000)	264,000
Deferred revenues, related party	17,311,000	—	—
Deferred revenues	(51,000)	2,592,000	—
Long-term deferred rent	493,000	7,000	73,000
Net cash used in operating activities	(1,101,000)	(12,574,000)	(7,245,000)
Cash flows from investing activities:			
Proceeds from the sale and maturity of short-term investments	56,819,000	51,132,000	49,561,000
Purchases of short-term investments	(54,062,000)	(50,321,000)	(41,267,000)
Proceeds from the sale of assets, net	—	6,931,000	—
Proceeds from sale of assets, related party	—	6,500,000	—
Cost of sale of assets, related party	—	—	(38,000)
Purchases of property and equipment	(1,846,000)	(789,000)	(1,743,000)
Acquisition costs	—	(28,000)	(654,000)
Proceeds from the sale of impaired assets	—	—	95,000
Net cash provided by investing activities	911,000	13,425,000	5,954,000
Cash flows from financing activities:			
Principal payments on long-term obligations	(936,000)	(847,000)	(426,000)
Proceeds from long-term obligations	1,380,000	1,039,000	1,120,000
Proceeds from exercise of employee stock options and warrants	224,000	29,000	33,000
Proceeds from sale of common stock	3,003,000	—	—
Proceeds from issuance of options, related party	1,686,000	—	—
Purchase of treasury stock	—	(1,052,000)	(2,266,000)
Proceeds from sale of treasury stock	—	—	542,000
Net cash provided by (used in) financing activities	5,357,000	(831,000)	(997,000)
Net increase (decrease) in cash and cash equivalents	5,167,000	20,000	(2,288,000)
Cash and cash equivalents at beginning of year	2,840,000	2,820,000	5,108,000
Cash and cash equivalents at end of year	$ 8,007,000	$ 2,840,000	$ 2,820,000

	For the Years Ended December 31,		
	2005	2004	2003
Supplemental disclosure of cash flows information:			
Cash paid during period for:			
Interest	$ 135,000	$ 176,000	$ 127,000
Taxes	13,000	7,000	12,000
Supplemental schedule of non-cash investing and financing activities:			
Transfer of intangible assets to joint venture (note 6)	$ 343,000	$ —	$ —
Accretion of interest in joint venture (note 6)	3,829,000	—	—
Additions to leasehold improvements included in accounts payable and accrued expenses	800,000	—	—
Increase in cost of acquisition (goodwill)	—	—	371,000
Share repurchase payable (note 19)	—	—	976,000

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE CONSOLIDATED FINANCIAL STATEMENTS

CYTORI THERAPEUTICS, INC.,
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

FOR THE YEARS ENDED DECEMBER 31, 2005, 2004 AND 2003

1. Organization and Operations

The Company

Cytori Therapeutics, Inc., is a biotechnology company that specializes in the discovery and development of regenerative medicine therapies. Our primary focus is to advance adipose stem and regenerative cell therapies into and through clinical trials and ultimately commercialize these therapies through an innovative cell processing device. The therapeutic indications we are focused on are cardiovascular disease, chronic wounds, spinal disc repair, and aesthetic and reconstructive surgery. To facilitate the processing and delivery of adipose stem and regenerative cells, we have designed the proprietary point-of-care Celution™ System, to isolate and concentrate a patient's own stem and regenerative cells in real-time.

We also have a business unit that operates under the name MacroPore Biosurgery. This business consists of two product families. Our HYDROSORB™ family of bioresorbable spine and orthopedic implants is distributed worldwide exclusively by Medtronic, Inc. ("Medtronic"). As of December 31, 2005, Medtronic owned 1.0 million shares of our outstanding common stock, or 6.5%. As discussed in note 18, Medtronic is a related party. Our Thin Film product line will be marketed exclusively in Japan by Senko Medical Trading Co. ("Senko") following approval of the product in Japan.

Principles of Consolidation

The consolidated financial statements include our accounts and those of our subsidiaries. All significant intercompany transactions and balances have been eliminated. Management evaluates its investments on an individual basis for purposes of determining whether or not consolidation is appropriate. In instances where we do not demonstrate control through decision-making ability and/or a greater than 50% ownership interest, we account for the related investments under the cost or equity method, depending upon management's evaluation of our ability to exercise and retain significant influence over the investee. Our investment in the Olympus-Cytori, Inc. joint venture has been accounted for under the equity method of accounting (see note 6 for further details).

Certain Risks and Uncertainties

We have a limited operating history and our prospects are subject to the risks and uncertainties frequently encountered by companies in the early stages of development and commercialization, especially those companies in rapidly evolving and technologically advanced industries such as the biotech/medical device field. Our future viability largely depends on the ability to complete development of new products and receive regulatory approvals for those products. No assurance can be given that our new products will be successfully developed, regulatory approvals will be granted, or acceptance of these products will be achieved. The development of medical devices for specific therapeutic applications is subject to a number of risks, including research, regulatory and marketing risks. There can be no assurance that our development stage products will overcome these hurdles and become commercially viable and/or gain commercial acceptance.

We currently purchase the high molecular weight, medical grade, lactic acid copolymer used in manufacturing most of our products, from a single qualified source, B.I. Chemicals, Inc. ("B.I. Chemicals"). Although we have a contract with B.I. Chemicals that guarantees continuation of supply through August 15, 2007, we cannot provide any assurances that B.I. Chemicals will elect to continue the contract beyond that date, or that B.I. Chemicals will not elect to discontinue the manufacture of the material. B.I. Chemicals has agreed that if they discontinue manufacturing they will either find a replacement supplier, or provide us with the necessary technology to self-manufacture the material, either of which could mean a substantial increase in material costs. Although we believe that we would be able to obtain the material from at least one other source in the event of a failure of supply, there can be no assurance that we will be able to obtain adequate quantities, at the necessary high quality, within a reasonable period of time or at commercially reasonable rates.

For the years ended December 31, 2005, 2004 and 2003, we recorded bioresorbable product revenue from Medtronic of $5,634,000, $4,085,000 and $12,893,000, respectively, which represented 93.8%, 59.9% and 91.5% of total product and development revenues, respectively. Our future revenue generated from our bioresorbable products will continue to depend to a significant extent on Medtronic's (our sole distributor of spine and orthopedics implants) efforts in the bioresorbable spine and orthopedics arena.

Capital Availability

We have a limited operating history and recorded the first sale of our products in 1999. We incurred losses of $26,538,000,

$2,090,000, and $9,283,000 for the years ended December 31, 2005, 2004 and 2003, respectively, and have an accumulated deficit of $78,013,000 as of December 31, 2005. Additionally, we have used net cash of $1,101,000, $12,574,000, and $7,245,000 to fund our operating activities for the years ended December 31, 2005, 2004 and 2003, respectively.

Management recognizes the need to generate positive cash flows in future periods and/or to acquire additional capital from various sources. We believe we currently have adequate cash, cash equivalent and short-term investment balances to fund operations at least through December 31, 2006. However, in the continued absence of positive cash flows from operations, no assurance can be given that we can generate sufficient revenue to cover operating costs or that additional financing will be available to us and, if available, on terms acceptable to us in the future.

2. Summary of Significant Accounting Policies

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States 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. Actual results could differ from these estimates. Estimates and assumptions are reviewed periodically, and the effects of revisions are reflected in the consolidated financial statements in the periods they are determined to be necessary.

Our most significant estimates and critical accounting policies involve revenue recognition, establishing the warranty provision, evaluating goodwill for impairment, accounting for product line dispositions, and assessing how to report our investment in Olympus-Cytori, Inc.

Presentation

Certain prior period amounts have been reclassified to conform to current period presentation.

Concentration of Credit Risk

Financial instruments which potentially subject us to concentrations of credit risk consist of short-term available-for-sale investments and accounts receivable. Substantially all of our accounts receivable is due from Medtronic (see note 18).

Cash and Cash Equivalents

We consider all highly liquid investments with maturities of three months or less at the time of purchase to be cash equivalents. Investments with original maturities of three months or less that were included with and classified as cash and cash equivalents totaled $6,415,000 and $2,010,000 as of December 31, 2005 and 2004, respectively.

Short-term Investments

We invest excess cash in highly liquid debt instruments of financial institutions and corporations with strong credit ratings and in United States government obligations. We have established guidelines relative to diversification and maturities that maintain safety and liquidity. These guidelines are periodically reviewed and modified to take advantage of trends in yields and interest rates.

We evaluate our investments in accordance with the provisions of Statement of Financial Standards ("SFAS") No. 115, "Accounting for Certain Investments in Debt and Equity Securities." Based on our intent, our investment policies and our ability to liquidate debt securities, we classify short-term investment securities within current assets. Available-for-sale securities are carried at fair value, with unrealized gains and losses reported as accumulated other comprehensive income (loss) within stockholders' equity. The amortized cost basis of debt securities is periodically adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization is included as a component of interest income or interest expense. The amortized cost basis of securities sold is based on the specific identification method and all such realized gains and losses are recorded as a component within other income (expense). Based on such evaluation, our management has determined that all investment securities (other than those classified as cash equivalents) are properly classified as available-for-sale.

We review the carrying values of our investments and write down such investments to estimated fair value by a charge to the statements of operations when the severity and duration of a decline in the value of an investment is considered to be other than temporary. The cost of securities sold or purchased is recorded on the settlement date.

At December 31, 2005, the excess of carrying cost over the fair value of our short-term investments is immaterial.

Fair Value of Financial Instruments

The carrying amounts of our cash and cash equivalents, accounts receivable, accounts payable and accrued expenses approximate their fair value due to the short-term nature of these balances. The carrying amounts of our current portion of long-term obligations and long-term obligations approximate fair value as the terms and rates of interest for these instruments approximate terms and market rates of interest currently available to us for similar instruments. The carrying amounts for our option liabilities approximate fair value based on established option pricing theory and assumptions (note 6). Our short-term investments are already reported at fair value in the financial statements.

Inventories

Inventories include the cost of material, labor and overhead, and are stated at the lower of average cost, determined on the first-in, first-out (FIFO) method, or market. We periodically evaluate our on-hand stock and make appropriate provisions for any stock deemed as excess or obsolete.

During the year ended December 31, 2005, we recorded a provision of $280,000, for excess and slow-moving inventory. The inventory was produced in anticipation of stocking orders from Medtronic which have not materialized. The provision has been charged to cost of sales.

During the first quarter of 2004, we recorded a provision of approximately $242,000 for excess inventory. Such excess inventory was produced in consideration of our responsibility to be a back-up supplier for the craniomaxillofacial ("CMF") product line. We sold the assets related to this product line to an affiliate of Medtronic on September 30, 2002. In April of 2004, Medtronic indicated that it would no longer purchase CMF inventory from us under the back-up supply arrangement, leading to the determination that the remaining CMF inventory on hand would not be recoverable.

Property and Equipment

Property and equipment is stated at cost, net of accumulated depreciation. Depreciation expense, which includes the amortization of assets recorded under capital leases, is provided for on a straight-line basis over the estimated useful lives of the assets, or the life of the lease, whichever is shorter, and range from three to seven years. When assets are sold or otherwise disposed of, the cost and related accumulated depreciation are removed from the accounts and the resulting gain or loss is included in operations. Leasehold improvements are amortized on a straight-line basis over the shorter of the estimated useful life of the asset or the lease term. Maintenance and repairs are charged to operations as incurred.

Long-Lived Assets

In accordance with SFAS No. 144, "Accounting for Impairment or Disposal of Long-Lived Assets," we assess certain of our long-lived assets, such as property and equipment and intangible assets other than goodwill, for potential impairment when there is a change in circumstances that indicates carrying values of assets may not be recoverable. Such long-lived assets are deemed to be impaired when the undiscounted cash flows expected to be generated by the asset (or asset group) are less than the asset's carrying amount. Any required impairment loss would be measured as the amount by

which the asset's carrying value exceeds its fair value, and would be recorded as a reduction in the carrying value of the related asset and a charge to operating expense.

Impairment

During the year ended December 31, 2004, we recorded an equipment impairment charge of $42,000 related to production assets which were used in multiple product lines. The impairment charge represented the excess of the net book value over the estimated net proceeds we expected we would receive upon sale of the assets.

Assets held for sale

At December 31, 2003, we classified certain assets as held for sale, including certain tangible assets related to our Thin Film product line (note 4), as well as certain tangible assets associated with a foreign facility whose lease was terminated in September 2003.

These assets were disposed of during 2004 at an amount net of estimated selling cost, which exceeded the respective carrying values.

Goodwill and Intangibles

SFAS No. 142, "Goodwill and Other Intangible Assets," establishes financial accounting and reporting standards for acquired goodwill and other intangible assets. Under SFAS No. 142, goodwill and indefinite-lived intangible assets are not amortized but are reviewed at least annually for impairment. Separable intangible assets that have finite useful lives will continue to be amortized over their respective useful lives.

SFAS No. 142 requires that goodwill be tested for impairment on at least an annual basis or whenever events or changes in circumstances indicate that the carrying value of goodwill may not be recoverable. We last completed this testing as of November 30, 2005 and concluded that no impairment existed.

Intangibles, consisting of patents and core technology purchased in the acquisition of StemSource, Inc. in 2002, are being amortized on a straight-line basis over their expected lives of ten years.

In the year ended December 31, 2005 we licensed a portion of our patents and core technology to a joint venture which we formed with Olympus Corporation ("Olympus"), named Olympus-Cytori, Inc. (the "Joint Venture"). Of the $1,735,000 previously allocated to patents and core technology, $343,000 (net of accumulated amortization of $136,000), was transferred to the Joint Venture (see note 6).

The changes in the carrying amounts of other indefinite and finite-life intangible assets and goodwill for the years ended December 31, 2005 and 2004 are as follows:

	December 31, 2005		
	Regenerative Cell Technology	MacroPore Biosurgery	Total
Other intangibles, net:			
Beginning balance	$ 2,122,000	$ —	$ 2,122,000
Amortization	(258,000)	—	(258,000)
Subtotal	1,864,000	—	1,864,000
Patents and core technology transferred to Joint Venture (note 6)	(479,000)	—	(479,000)
Accumulated amortization related to above	136,000	—	136,000
Patents and core technology transferred to Joint Venture, net	(343,000)	—	(343,000)
Ending balance	1,521,000	—	1,521,000
Goodwill, net:			
Beginning balance	3,922,000	465,000	4,387,000
Disposal of assets	—	—	—
Ending balance	3,922,000	465,000	4,387,000
Total goodwill and other intangibles, net	$ 5,443,000	$ 465,000	$ 5,908,000
Cumulative amount of amortization charged against intangible assets	$ 695,000	$ —	$ 695,000

	December 31, 2004		
	Regenerative Cell Technology	MacroPore Biosurgery	Total
Other intangibles, net:			
Beginning balance	$ 2,392,000	$ —	$ 2,392,000
Amortization	(270,000)	—	(270,000)
Subtotal	2,122,000	—	2,122,000
Patents and core technology transferred to Joint Venture (note 6)	—	—	—
Accumulated amortization related to above	—	—	—
Patents and core technology transferred to Joint Venture,	—	—	—

net			
Ending balance	2,122,000	—	2,122,000
Goodwill, net:			
Beginning balance	3,922,000	705,000	4,627,000
Disposal of assets	—	(240,000)	(240,000)
Ending balance	3,922,000	465,000	4,387,000
Total goodwill and other intangibles, net	$ 6,044,000	$ 465,000	$ 6,509,000
Cumulative amount of amortization charged against intangible assets	$ 573,000	$ —	$ 573,000

As of December 31, 2005, future estimated amortization expense for these other intangible assets is expected to be as follows:

2006	$ 222,000
2007	222,000
2008	222,000
2009	222,000
Thereafter	633,000
	$ 1,521,000

Revenue Recognition

Product Sales

We sell our MacroPore Biosurgery products to distributors and, prior to the sale of our Thin Film product line in May 2004 (see note 4), also sold products directly to hospitals. We recognize revenue on product sales to distributors only after both (a) the receipt of a purchase order from a distributor and (b) shipment of ordered products to that distributor, as title and risk of loss pass upon shipment. Before the sale of the Thin Film product line in May 2004, revenue from sales to hospitals was recognized upon delivery of the product.

On occasion, we offer extended payment terms to customers. We do not recognize revenues under these arrangements until the payment becomes due or is received, if that occurs earlier. Moreover, we warrant that our products are free from manufacturing defects at the time of shipment to our customers. We have recorded a reserve for the estimated costs we may incur under our warranty program (see “Warranty” section of this Summary of Significant Accounting Policies note below).

The majority of our product sales are to Medtronic, under a Distribution Agreement dated January 5, 2000 and amended December 22, 2000 and October 8, 2002, as well as a Development and Supply Agreement dated January 5, 2000 and amended December 22, 2000 and September 30, 2002. These revenues are classified as sales to related party in our statements of operations.

In September 2002, we entered into various agreements with Medtronic and a subsidiary of Medtronic for the sale of our CMF product line. Moreover, in May 2004, we sold most, but not all, of our intellectual property rights and tangible assets related to our Thin Film product line to MAST Biosurgery AG, a Swiss corporation (“MAST”) and a subsidiary of MAST. In both cases, the net proceeds received initially were recorded as deferred gain on sale of assets (see notes 3 and 4).

As part of the sale agreements, we agreed to act as a back-up supplier to Medtronic and MAST until those respective parties could integrate the acquired assets into their own manufacturing operations. Specifically, the back-up supply agreements required us to sell products ordered by Medtronic and MAST at our manufacturing cost. Accordingly, we recognized a portion of the deferred gains as revenues upon the sale of products to Medtronic and MAST under the back-up supply arrangements. The amount of the deferred gain recognized as revenues was equal to the excess of (a) the fair value of products sold, based on historical selling prices of similar products, over (b) our manufacturing cost. In the case of Medtronic, we recognized $156,000 of the deferred gain as revenues in 2004 and $2,047,000 of the deferred gain as revenues in 2003. In the case of MAST, we recognized $722,000 of the deferred gain as revenues in 2004.

License/Distribution Fees

If separable under Emerging Issues Task Force Issue 00-21, “Revenue Arrangements with Multiple Deliverables” (“EITF 00-21”), we recognize any upfront payments received from license/distribution agreements as revenues ratably over the period in which the customer benefits from the license/distribution agreement.

To date, we have not received any upfront license payments that are separable under EITF 00-21. Accordingly, such license revenues have been combined with other elements, such as research and development activities, for purposes of revenue recognition. For instance, we account for the license fees and milestone payments under the Distribution Agreement with Senko as a single unit of accounting. Similarly, we have attributed the upfront fees received under the Olympus arrangements to a combined unit of accounting comprising a license we granted to Olympus-Cytori, Inc. as well as development services we agreed to perform for this entity.

Research and Development

We earn revenue for performing tasks under research and development agreements with both commercial enterprises, such as Olympus and Senko, and governmental agencies like the National Institutes of Health (“NIH”). Revenue earned under development agreements is classified as either “research grant” or “development” revenues in our statements of operations, depending on the nature of the arrangement. The costs associated with earning these revenues are typically recorded as research and development expense.

We have received a total of $22,000,000 from Olympus and the Joint Venture during 2005 in two separate but related transactions (see note 6). Approximately $4,689,000 of this amount related to common stock that we issued, as well as two

options we granted, to Olympus (see note 6 for further details). In addition to the $4,689,000, we recorded upfront fees totaling $17,311,000 as deferred revenues. In exchange for these proceeds, we agreed to (a) provide Olympus-Cytori, Inc. an exclusive and perpetual license to our therapeutic device technology, including the Celution™ System and certain related intellectual property, and (b) perform future development services related to commercializing the Celution™ System (see note 6). As noted above, the license and development services are not separable under EITF 00-21. Accordingly, we will recognize a portion of the $17,311,000 allocated to deferred revenues, related party, using a proportional performance methodology- that is, as we complete substantive milestones related to the development component of the combined accounting unit. During the year ended December 31, 2005, we did not complete any of our performance obligations and did not recognize any revenues associated with Olympus fees received. However, all costs are expensed as incurred.

In the third quarter of 2004, we entered into a Distribution Agreement with Senko. Under this agreement, we granted to Senko an exclusive license to sell and distribute certain Thin Film products in Japan. We have also earned or will be entitled to earn additional payments under the Distribution Agreement based on achieving the following defined research and development milestones:

- In 2004, we received a nonrefundable payment of $1,250,000 from Senko after filing an initial regulatory application with the MHLW related to the Thin Film product line. We initially recorded this payment as deferred revenues of $1,250,000.

- Upon the achievement of commercialization (i.e. regulatory approval by the MHLW), we will be entitled to an additional nonrefundable payment of $250,000.

Of the amounts received and deferred, we recognized development revenues of $51,000 in 2005 and $158,000 in 2004, representing the fair value of the completed milestones relative to the fair value of the total efforts expected to be necessary to achieve regulatory approval by the Japanese Ministry of Health, Labor and Welfare (“MHLW”). As noted above, the license and the milestone components of the Senko Distribution Agreement are accounted for as a single unit of accounting. This single element has been allocated $3,000,000 in fees, of which $1,500,000 are potentially refundable. We have recognized, and will continue to recognize, the non-contingent fees allocated to this combined deliverable as we complete performance obligations under the Distribution Agreement with Senko. We will not recognize the potentially refundable portion of the fees until the right of refund expires. See note 5 for further details.

Under our agreement with the NIH, we are reimbursed for “qualifying expenditures” related to research on adipose-derived cell therapy for myocardial infarction. To receive funds under the grant arrangement, we are required to (i) demonstrate that we incurred “qualifying expenses,” as defined in the grant agreement between the NIH and us, (ii) maintain a system of controls, whereby we can accurately track and report all expenditures related solely to research on Adipose-Derived Cell Therapy for Myocardial Infarction, and (iii) file appropriate forms and follow appropriate protocols established by the NIH. When we are reimbursed for costs incurred under grant arrangements with the NIH, we recognize revenues for the lesser of:

- Qualifying costs incurred (and not previously recognized) to date, plus any allowable grant fees for which we are entitled to funding from the NIH; or,

- The outputs generated to date versus the total outputs expected to be achieved under the research arrangement.

In 2005, we recognized NIH grant revenue of $312,000 and incurred qualifying costs of $306,000. In 2004, we recognized NIH grant revenue of $328,000 and incurred qualifying costs of $339,000.

Warranty

We provide a limited warranty under our agreements with our customers for products that fail to comply with product specifications. We have recorded a reserve for estimated costs we may incur under our warranty program.

The following summarizes the movements in our warranty reserve, which is subcategorized under accounts payable and accrued expenses, at December 31, 2005 and 2004:

	As of January 1,	Additions-charges to expenses	Claims	As of December 31,
2005:				
Warranty reserve	$ 102,000	$ 53,000	$ —	$ 155,000
2004:				
Warranty reserve	$ 267,000	$ 86,000	$ (251,000)	$ 102,000

In August 2003, as part of our ongoing product monitoring process, we determined that some of the products sold to Medtronic did not meet certain expectations, based on criteria we previously communicated to Medtronic. We agreed to a “no charge”

replacement of the affected inventory in the possession of Medtronic. In the first half of 2004, we incurred claims of $251,000 related to the replacement of this product. There were no similar claims made in 2005.

Research and Development

Research and development expenditures, which are charged to operations in the period incurred, include costs associated with the design, development, testing and enhancement of our products, regulatory fees, the purchase of laboratory supplies, pre-clinical and future clinical studies. Also included in research and development are costs incurred to support research grant reimbursement and costs incurred in connection with our development arrangements with Senko and Olympus.

Our agreement with the NIH entitles us to qualifying expenditures of up to $950,000 for Phase I and Phase II related to research on Adipose-Derived Cell Therapy for Myocardial Infarction. We incurred $306,000 and $339,000 ($17,000 of which were not reimbursed) of direct expenses for the years ended December 31, 2005 and 2004, respectively. There were no comparable expenditures in 2003.

Under a Distribution Agreement with Senko we are responsible for the completion of the initial regulatory application to the MHLW and commercialization of the Thin Film product line in Japan. During the years ended December 31, 2005 and 2004, we incurred $129,000 and $170,000, respectively, of expenses related to this regulatory and registration process. There were no comparable expenditures in 2003.

Expenditures related to the Joint Venture with Olympus include costs that are necessary to support the commercialization of future generation devices based on our Celution™ System. These development activities include performing preclinical and clinical trials, seeking regulatory approval, and performing product development related to therapeutic applications for adipose stem and regenerative cells for multiple large markets. For the year ended December 31, 2005, costs associated with the development of the device were $1,176,000. There were no comparable expenditures in 2004 and 2003.

Income Taxes

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carry forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income (loss) in the years in which those temporary differences are expected to be recovered or settled. Due to our current loss position, a full valuation allowance was recognized against deferred tax assets.

Stock Based Compensation

We apply the intrinsic value-based method of accounting as prescribed by Accounting Principles Board (APB) Opinion No. 25, “Accounting for Stock Issued to Employees,” and related interpretations including Financial Accounting Standards Board (“FASB”) Interpretation No. 44, “Accounting for Certain Transactions Involving Stock Compensation-An Interpretation of APB Opinion No. 25” to account for our employee stock option plans. Under the intrinsic value method, compensation expense is recognized only if the current market price of the underlying stock exceeds the exercise price as of the measurement date (typically the date of grant). Any resulting expense is recorded on a straight-line basis over the applicable vesting period. Statement of Financial Accounting Standards (“SFAS”) No. 123, “Accounting for Stock-Based Compensation,” established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans. As permitted by SFAS No. 123, we have elected to continue to apply the intrinsic value-based method of accounting described above, and have adopted the disclosure requirements of SFAS No. 123, as amended by SFAS No. 148, “Accounting for Stock-Based Compensation—Transition and Disclosure.”

The fair value of the stock-options were estimated at the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions:

	Years ended December 31,		
	2005	2004	2003
Expected term	8 years	6 years	7 years
Risk free interest rate	3.9-4.4%	3.3 - 4.4%	2.8 - 3.9%
Volatility	80%	85%	91%
Dividends	—	—	—
Resulting average grant date fair value	$ 3.25	$ 3.26	$ 3.54

Had compensation expense been recognized for stock-based compensation plans in accordance with SFAS No. 123, we would have recorded the following net loss and net loss per share amounts:

	Years ended December 31,		
	2005	2004	2003
Net loss:			
As reported	$ (26,538,000)	$ (2,090,000)	$ (9,283,000)
Add: Employee stock based compensation expense included in reported net loss, net of related tax effects	341,000	96,000	997,000
Deduct: Total employee stock based compensation expense determined under the fair value method for all awards, net of related tax effects	(2,675,000)	(2,586,000)	(4,367,000)
Pro forma	$ (28,872,000)	$ (4,580,000)	$ (12,653,000)
Basic and diluted loss per common share:			
As reported	$ (1.80)	$ (0.15)	$ (0.64)
Pro forma	$ (1.96)	$ (0.33)	$ (0.87)

The pro forma compensation expense may not be representative of such expense in future years.

In December 2004, the FASB issued SFAS No. 123 (revised 2004), "Share-based Payment" ("SFAS 123R"). As affected by Securities and Exchange Commission Release No. 33-8568, "Amendment to Rule 4-01(a) of Regulation S-X Regarding the Compliance Date for Statement of Financial Accounting Standards No. 123 (Revised 2004), Share-Based Payment", SFAS 123R is effective for annual periods beginning after June 15, 2005 (January 1, 2006 for us). See the Recent Accounting Pronouncements section of this note below.

We will adopt SFAS 123R using the modified prospective transition method. The adoption of SFAS 123R will have a material effect on our results of operations. Based on pro forma amounts for historical periods presented earlier in this note, our reported net loss will increase (or our net income will be reduced) each quarterly period once SFAS 123R has been adopted. The full impact of the adoption of SFAS 123R in 2006 will depend on the level and terms of share-based payment transactions in 2006 as well as changes in our stock price and the assumptions used to determine the fair value of such transactions.

Other Comprehensive Income (Loss)

Comprehensive income (loss) is the total of net income (loss) and all other non-owner changes in equity. Other comprehensive income (loss) refers to these revenues, expenses, gains, and losses that, under generally accepted accounting principles, are included in comprehensive income (loss) but excluded from net income (loss).

During the years ended December 31, 2005, 2004 and 2003 our only element of other comprehensive income (loss) resulted from unrealized gains (losses) on available-for-sale investments, which are reflected in the statements of changes in stockholders' equity as accumulated other comprehensive loss.

Segment Information

On July 11, 2005, we announced the reorganization of our business based on two distinct operating segments – (a) Regenerative cell technology and (b) MacroPore Biosurgery, which manufactures bioresorbable implants. In the past, our resources were managed on a consolidated basis. However, in an effort to better reflect our focus and significant progress in the development of regenerative therapies, we are now evaluating and therefore reporting our financial results in two segments.

Our regenerative cell technology segment is focused on the discovery and development of cell-based therapies for cardiovascular disease, spine and orthopedic conditions, gastrointestinal disorders and new approaches for aesthetic and reconstructive surgery using regenerative cells from adipose tissue, also known as fat tissue. Our MacroPore Biosurgery unit manufactures and distributes the HYDROSORB™ family of FDA-cleared bioresorbable spine and orthopedic implants; it also develops the Thin Film bioresorbable implants for Senko, which has exclusive distribution rights to these products in Japan.

We measure the success of each operating segment based on operating results and, additionally, in the case of the regenerative cell technology segment, the achievement of key research objectives. In arriving at operating loss for each segment, we used the same accounting policies as those used for our consolidated company and as described throughout this note. However, segment operating results exclude allocations of company-wide general and administrative costs, changes in fair value of our option liabilities, and any restructuring charges.

Prior year results presented below have been developed on the same basis as the current year figures. For all periods presented, we did not have any intersegment transactions.

The following tables provide information regarding the performance and assets of our operating segments:

	Year ended December 31,		
	2005	2004	2003
Revenues:			
Regenerative cell technology	$ 320,000	$ 338,000	$ 9,000
MacroPore Biosurgery	5,685,000	6,480,000	14,079,000
Total Revenues	$ 6,005,000	$ 6,818,000	$ 14,088,000
Segment losses:			
Regenerative cell technology	$ (13,171,000)	$ (6,964,000)	$ (4,410,000)
MacroPore Biosurgery	(975,000)	(2,441,000)	995,000
General and administrative expenses	(10,208,000)	(6,551,000)	(5,795,000)
Changes in fair value of option liabilities	(3,645,000)	—	—
Restructuring charge	—	(107,000)	(451,000)
Total operating loss	$ (27,999,000)	$ (16,063,000)	$ (9,661,000)

	As of December 31, 2005	As of December 31, 2004
Assets:		
Regenerative cell technology	$ 9,152,000	$ 7,799,000
MacroPore Biosurgery	2,206,000	3,458,000
Corporate assets	16,808,000	14,213,000
Total assets	$ 28,166,000	$ 25,470,000

We derived our revenues from the following products, research grants, development and service activities:

	Years ended December 31,		
	2004	2004	2003
Regenerative cell technology:			
Development revenues:			

Research grant (NIH)	$ 312,000	$ 328,000	$ —
Regenerative cell storage services	8,000	10,000	9,000
Total regenerative cell technology	320,000	338,000	9,000
MacroPore Biosurgery:			
Product revenues:			
Spine & orthopedics products	5,634,000	3,803,000	9,882,000
Thin Film products:			
Product sales (non-MAST-related)	—	559,000	1,186,000
Product sales to MAST	—	906,000	—
Amortization of gain on sale (MAST)	—	772,000	—
	—	2,237,000	1,186,000
Craniomaxillofacial (CMF) products:			
Product sales	—	126,000	964,000
Amortization of gain on sale	—	156,000	2,047,000
	—	282,000	3,011,000
Development revenues	51,000	158,000	—
Total MacroPore Biosurgery	5,685,000	6,480,000	14,079,000
Total Revenues	$ 6,005,000	$ 6,818,000	$ 14,088,000

The following table provides geographical information regarding our sales to external customers:

For the Years Ended:	U.S. Revenues	Non-U.S. Revenues	Total Revenues
December 31, 2005	$ 6,005,000	$ —	$ 6,005,000
December 31, 2004	$ 6,602,000	$ 216,000	$ 6,818,000
December 31, 2003	$ 13,727,000	$ 361,000	$ 14,088,000

At December 31, 2005 and 2004, our long-lived assets, excluding goodwill and intangibles, are located in the following jurisdictions:

As of:	U.S. Domiciled	Non-U.S. Domiciled	Total
December 31, 2005	$ 4,539,000	$ 179,000	$ 4,718,000
December 31, 2004	$ 3,311,000	$ 5,000	$ 3,316,000

Loss Per Share

We compute loss per share based on the provisions of SFAS No. 128, “Earnings Per Share.” Basic per share data is computed by dividing income or loss available 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 available 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 share equivalents that would have been outstanding if potential common shares had been issued using the treasury stock method. Potential common shares were related entirely to outstanding but unexercised option awards and warrants for all periods presented.

We have excluded all potentially dilutive securities from the calculation of diluted loss per share attributable to common stockholders for the years ended December 31, 2005, 2004 and 2003, as their inclusion would be antidilutive. Potentially dilutive common shares excluded from the calculations of diluted loss per share were 4,464,722, 2,189,414 and 2,585,420 for the years ended December 31, 2005, 2004 and 2003, respectively.

Additionally, potential common shares excluded from per share calculations due to exercise prices that exceeded average market values were 3,520,019, 2,834,382 and 2,262,580 for the years ended December 31, 2005, 2004 and 2003, respectively. Potential common shares in 2005 include an option to purchase 2,200,000 shares related to the Olympus equity agreement (see note 6).

Recent Accounting Pronouncements

In November 2004, the FASB issued SFAS No. 151, “Inventory Costs — An Amendment of ARB No. 43, Chapter 4” (“SFAS 151”). SFAS 151 clarifies that abnormal amounts of idle facility expense, freight, handling costs and spoilage should be expensed as incurred and not included in overhead. Further, SFAS 151 requires that allocation of fixed and production facilities overhead to conversion costs should be based on normal capacity of the production facilities. The provisions in SFAS 151 are effective for inventory costs incurred during fiscal years beginning after June 15, 2005. We do not believe that the adoption of SFAS 151 will have a significant effect on our financial statements.

In December 2004, the FASB issued SFAS No. 153, “Exchanges of Nonmonetary Assets — An Amendment of APB Opinion No. 29” (“SFAS 153”). The provisions of this statement are effective for non-monetary asset exchanges occurring in fiscal periods beginning after June 15, 2005. This statement eliminates the exception in previous generally accepted accounting principles that precluded the recognition of exchanges of similar productive assets at fair value. Instead, SFAS 153 provides for a general exception to the fair value principle for exchange transactions that do not have commercial substance — that is, transactions that are not expected to result in significant changes in the cash flows of the reporting entity. The adoption of SFAS 153 has not had a significant effect on our financial statements.

In December 2004, the FASB issued SFAS No. 123 (revised 2004), “Share-based Payment” (“SFAS 123R”). As affected by Securities and Exchange Commission Release No. 33-8568, “Amendment to Rule 4-01(a) of Regulation S-X Regarding the Compliance Date for Statement of Financial Accounting Standards No. 123 (Revised 2004), Share-Based Payment”, SFAS 123R is effective on January 1, 2006 and will have a material effect on our results of operations. Upon adoption, SFAS 123R will require us to measure all share-based payment transactions, including those with employees, at fair value (most notably, this includes employee stock option grants, even where the exercise price is equal to the grant date fair market value).

Moreover, the fair value of share-based payment awards will be recognized as expense in the statements of operations over the requisite service period of each award. SFAS 123R also changes the manner in which deferred taxes are recognized on share-based payment awards, as well as the accounting for award modifications. See the "Stock Based Compensation" section of this note above.

In May 2005, the FASB issued SFAS No. 154, "Accounting Changes and Error Corrections" ("SFAS 154"). This new standard replaces APB Opinion No. 20, "Accounting Changes", and SFAS No. 3, "Reporting Accounting Changes in Interim Financial Statements". Among other changes, SFAS 154 requires that a voluntary change in accounting principle be applied retrospectively with all prior period financial statements presented on the new accounting principle, unless it is impracticable to do so. SFAS 154 also provides that (1) a change in method of depreciating or amortizing a long-lived nonfinancial asset be accounted for as a change in estimate (prospectively) that was effected by a change in accounting principle, and (2) correction of errors in previously issued financial statements should be termed a "restatement." The new standard is effective for accounting changes and correction of errors made in fiscal years beginning after December 15, 2005. We do not believe that the adoption of SFAS 154 will have a significant effect on our financial statements.

In October 2005, the FASB issued Staff Position 13-1, "Accounting for Rental Costs Incurred during a Construction Period" ("FSP 13-1"). The FASB concludes in this FSP that rental costs associated with ground or building operating leases that are incurred during a construction period should be expensed. FASB Technical Bulletin ("FTB") No. 88-1, "Issues Relating to Accounting for Leases", requires that rental costs associated with operating leases be allocated on a straight-line basis in accordance with FASB Statement No. 13, "Accounting for Leases", and FTB 85-3, "Accounting for Operating Leases with Scheduled Rent Increases", starting with the beginning of the lease term. The FASB believes there is no distinction between the right to use a leased asset during the construction period and the right to use that asset after the construction period. Companies are required to apply the guidance in FSP 13-1 to the first reporting period beginning after December 15, 2005. We do not believe that the adoption of FSP 13-1 will have a significant effect on our financial statements.

In November 2005, the FASB issued Staff Position ("FSP") FIN 45-3, "Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Granted to a Business or Its Owners". The FSP revises FASB Interpretation No. 45 to explicitly indicate that FIN 45 applies to a guarantee granted to a business that the revenue of the business (or a specific portion of the business) for a specified period of time will be at least a specified amount. Although we may enter into such guarantees in the future (see note 6), no minimum revenue guarantees have been provided by us for any periods covered by these consolidated financial statements.

3. Gain on Sale of Assets, Related Party

In January 2004, we received a $5,000,000 milestone payment from Medtronic relating to the 2002 disposition of our CMF product line. As part of the disposition arrangement, we had agreed to complete clinical research regarding Faster Resorbable Polymers, an area that directly relates to the CMF product line transferred to Medtronic. We became entitled to the $5,000,000 payment after fulfilling the research requirements set out in the CMF sale agreement. The $5,000,000 payment was recognized during the first half of 2004 as gain on sale of assets, related party in the accompanying statement of operations.

During the third quarter of 2004, we completed all remaining performance obligations related to the 2002 sale of the CMF product line to Medtronic. Accordingly, we recorded $7,383,000 as a component of gain on sale of assets, related party, representing the remaining balance that had theretofore been reported as deferred gain on sale of assets, related party.

Pursuant to the sale of the CMF product line, we were obliged to transfer certain "know-how," including manufacturing processes, patents, and other intellectual property, to Medtronic. If such know-how was transferred within a certain time frame defined in the CMF Asset Purchase Agreement dated September 30, 2002 (the "APA"), we would become entitled to a $2,000,000 milestone payment.

In the second quarter of 2004, we provided notice to Medtronic that the requisite know-how associated with the transferred CMF product line had been transferred, pursuant to the terms of, and within the timeframe specified by, the APA. Medtronic did not agree that know-how transfer had been completed and asserted that, in any case, that the maximum payment due to us was $1,000,000 rather than $2,000,000.

To avoid the risk and expense of arbitration, in the third quarter of 2004 we agreed to accept a negotiated settlement with Medtronic in the amount of $1,500,000 related to the know-how transfer. The $1,500,000 payment was recognized as gain on sale of assets, related party in 2004.

As noted above, the total gain on sale of assets, related party, recognized in 2004 was $13,883,000.

4. Gain on Sale of Assets, Thin Film Product Line

In May 2004, we sold most, but not all, of our intellectual property rights and tangible assets related to our Thin Film product line to MAST (see note 5). The carrying value of the assets transferred to MAST prior to disposition totaled $634,000, and was comprised of the following:

- Finished goods inventory of $177,000,
- Manufacturing and development equipment of $217,000, and
- Goodwill of $240,000.

Under this agreement we were contractually entitled to the following additional consideration (none of this consideration has been recognized in the financial statements):

- $200,000, payable only upon receipt of 510(k) clearance from the U.S. Food and Drug Administration ("FDA") for a hernia wrap product (thin film combined product); and
- $2,000,000 on or before the earlier of (i) May 31, 2005, known as the "Settlement Date," or (ii) 15 days after the date upon which MAST has hired a Chief Executive Officer ("CEO"), provided the CEO held that position for at least four months and met other requirements specified in the sale agreement. Note that clause (ii) effectively means that we would not have received payment of $2,000,000 before May 31, 2005 unless MAST had hired a CEO on or before January 31, 2005 (four months prior to the Settlement Date). Moreover, in the event that MAST had not hired a CEO on

or before January 31, 2005, MAST may have (at its sole option and subject to the requirements of the sale agreement) alternatively provided us with a 19% equity interest in the MAST business that is managing the Thin Film assets at May 31, 2005 in lieu of making the $2,000,000 payment. Our contention was that MAST did in fact hire a CEO on or before January 31, 2005 and, thus, we were entitled to a $2,000,000 cash payment on or before May 31, 2005.

MAST did not make the payments specified above. Therefore, on June 14, 2005, we initiated arbitration proceedings against

MAST, asserting that MAST was in breach of the Asset Purchase Agreement by failing to pay the final $2,000,000 in purchase price (among other issues). MAST responded asserting its own claims on or about June 23, 2005. MAST's claims included but were not limited to the following allegations: (i) we inadequately transferred know-how to MAST, (ii) we misrepresented the state of the distribution network, (iii) we provided inadequate product instructions to users, and (iv) we failed to adequately train various distributors.

In August 2005, the parties settled the arbitration proceedings and gave mutual releases of all claims, excepting those related to the territory of Japan, and agreed to contractual compromises, the most significant of which is our waiving of the obligation for MAST to either pay the final cash purchase installment of $2,000,000 or to deliver 19% of its shares. Moreover, if MAST exercises its Purchase Right (see note 5) and Thin Film products are marketed in Japan, MAST would no longer be obliged to share certain gross profits and royalties with us.

In exchange, MAST agreed to supply - at no cost to us- all required product for any necessary clinical study for the territory of Japan and to cooperate in the planning of such study. However, if MAST exercises its Purchase Right or if we enter into a supply agreement with MAST for the territory of Japan, we would be obliged to reimburse MAST for any Thin Film product supplied in connection with the Japanese study at a cost of $50 per sheet.

As a result of the arbitration settlement, we recognized the remaining deferred gain on sale of assets of $5,650,000, less $124,000 of related deferred costs, in the statement of operations in 2005. The $5,526,000 gain on sale of assets recorded in the third quarter of 2005 was related to the sale of the majority of our Thin Film product line in May 2004 to MAST. As part of the disposal arrangements, we agreed to complete certain performance obligations which prevented us from recognizing the gain on sale of assets when the cash was initially received.

5. Thin Film Japan Distribution Agreement

In the third quarter of 2004, we entered into a Distribution Agreement with Senko. Under this agreement, we granted to Senko an exclusive license to sell and distribute certain Thin Film products in Japan. Specifically, the license covers Thin Film products with the following indications:

- Anti-adhesion,
- Soft tissue support, and
- Minimization of the attachment of soft tissues throughout the body.

The Distribution Agreement with Senko commences upon "commercialization". In simplest terms, commercialization occurs when one or more Thin Film product registrations are completed with the Japanese Ministry of Health, Labour and Welfare ("MHLW").

Following commercialization, the Distribution Agreement has a duration of five years and is renewable for an additional five years after reaching mutually agreed minimum purchase guarantees.

The Distribution Agreement also provides for us to supply certain products to Senko at fixed prices over the life of the agreement once we have received approval to market these products in Japan. In addition to the product price, Senko will also be obligated to make royalty payments to us of 5% of the sales value of any products Senko sells to its customers during the first three years post-commercialization.

At the inception of this arrangement, we received a $1,500,000 license fee which was recorded as deferred revenues in 2004. We have also received $1,250,000 in milestone payments from Senko. See "Revenue Recognition" under note 2 above for our policies with regard the timing of when these amounts will be recognized as revenues.

As part of the Thin Film sales agreement (see note 4), we granted MAST a right to acquire our Thin Film-related interest in Japan (the "Purchase Right") during the time period and according to the following terms:

- From May 31, 2005 to May 31, 2007, the exercise price of the Purchase Right will be equal to the fair market value of the Japanese business, but in no event will be less than $3,000,000.
- Moreover, between May 31, 2005 and May 31, 2007, MAST will have a right of first refusal to match the terms of any outside offer to buy our Japanese Thin Film business.

We have agreed to provide back-up supply of products to Senko subject to the terms of the Distribution Agreement in the event that (a) MAST exercises its Purchase Right and (b) MAST materially fails to deliver product to Senko. In this circumstance,

Senko would pay any amounts due for purchases of product, as well as make royalty payments directly to us. We would be obliged to remit 5% of the gross margin to MAST on any products sold to Senko. We believe that it is unlikely in practice that this contingency will materialize. Accordingly, we estimate the fair value of this guarantee to be de minimis as of the end of the current reporting period.

6. Transactions with Olympus Corporation

Initial Investment by Olympus Corporation in Cytori

In the second quarter of 2005, we entered into a Common Stock Purchase Agreement (the "Purchase Agreement") with Olympus Corporation ("Olympus") in which we received $11,000,000 in cash proceeds.

Under this agreement, we distributed 1,100,000 newly issued shares of common stock to Olympus. We reflect the common stock issued to Olympus in our financial statements at the market value of our common stock at the time of the Purchase Agreement ($2.73 per share, or $3,003,000 in the aggregate).

In addition, we also granted Olympus an immediately exercisable option to acquire 2,200,000 shares of our common stock on or before December 31, 2006 at $10 per share. We have accounted for this grant as a liability in accordance with Emerging Issues Task Force Issue No. 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock" because from the date of grant through the expiration, we are required to deliver listed common stock to settle the option shares upon exercise.

At the time we entered into the Purchase Agreement, we estimated the fair value of the option liability to be $186,000 based on the following assumptions:

- Contractual term of 1.67 years,
- Risk-free interest rate of 3.46%, and
- Estimated share-price volatility of 59.7%

As of December 31, 2005, we re-estimated the fair value of the option liability to be $3,731,000 based on the following assumptions:

- Contractual term of 1.00 year,
- Risk-free interest rate of 4.38%, and
- Estimated share-price volatility of 65.1%

The change in the fair value of $3,545,000 from the date the option was issued to December 31, 2005 was recorded in the statements of operations as change in fair value of option liabilities.

The $11,000,000 in total proceeds we received in the second quarter of 2005 exceeded the sum of (i) the market value of our stock as well as (ii) the fair value of the option at the time we entered into the share purchase agreement. The $7,811,000 difference between the proceeds received and the fair values of our common stock and option liability was recorded as a component of deferred revenues, related party in the accompanying balance sheet.

As of December 31, 2005, Olympus holds approximately 7.2% of our issued and outstanding shares. If Olympus had chosen to exercise its option on December 31, 2005 to purchase all 2,200,000 shares, it would have possessed 18.8% of our outstanding common stock as of December 31, 2005. Additionally, Olympus has a right, which it has not yet exercised, to designate a director to serve on our Board of Directors.

Formation of the Olympus-Cytori Joint Venture

As discussed in note 2 above, on November 4, 2005, we entered into a joint venture and other related agreements (the "Joint Venture Agreements") with Olympus. The Joint Venture is owned equally by Olympus and us.

Under the Joint Venture Agreements:

- Olympus paid $30,000,000 for its 50% interest in the Joint Venture. Moreover, Olympus simultaneously entered into a License/Joint Development Agreement with the Joint Venture and us to develop a second generation commercial therapeutic system and manufacturing capabilities.

- We licensed our therapeutic device technology, including the Celution™ System and certain related intellectual property, to the Joint Venture for use in future generation devices. These devices will process and purify adult stem and regenerative cells residing in adipose (fat) tissue for various therapeutic clinical applications. In exchange for this license, we received a 50% interest in the Joint Venture, as well as an initial $11,000,000 payment from the Joint Venture; the source of this payment was from the $30,000,000 contributed to the Joint Venture by Olympus. Moreover, upon receipt of a CE mark for the first generation Celution™ System we received an additional $11,000,000 development milestone payment from the Joint Venture in January 2006 (see note 20).

As a result of the $30 million cash contribution to the Joint Venture by Olympus, we realized an immediate appreciation in the carrying value of our interests in the Joint Venture. As a result, we reported accretion of interests in the Joint Venture of $3,829,000 as a credit directly to additional paid-in capital. This accounting treatment is required by Securities and Exchange Commissions Staff Accounting Bulletin No. 51, "Accounting for Sales of Stock by a Subsidiary," which prohibits gains from equity transactions (in this case, the non-cash accretion of the interests held in an investment issuing additional shares to another shareholder) when such entity is a "newly-formed, non-operating entity" or a "research and development stage company."

We have determined that the Joint Venture is a variable interest entity ("VIE") pursuant to FASB Interpretation No. 46 (revised 2003), "Consolidation of Variable Interest Entities - An Interpretation of ARB No. 51" ("FIN 46R"), but that Cytori is not the VIE's primary beneficiary. Accordingly, we have accounted for our interests in the Joint Venture using the equity method of accounting, since we can exert significant influence over the Joint Venture's operations. At December 31, 2005, the carrying value of our investment in the Joint Venture is $0, as our share of the Joint Venture's incurred losses reduced the investment balance to $0 (see Other Related Party Transactions section below of this footnote for further details). We are under no obligation to provide additional funding to the Joint Venture, but may choose to do so if supported by a good business case.

Put/Calls and Guarantees

The Shareholders' Agreement between Cytori and Olympus provides that in certain specified circumstances of insolvency or if we experience a change in control, Olympus will have the rights to (i) repurchase our interests in the Joint Venture at the fair value of such interests or (ii) sell its own interests in

the Joint Venture to Cytori at the higher of (a) $22,000,000 or (b) their fair value (the “Put”).

As of November 4, 2005, the fair value of the Put was determined to be $1,500,000. As of December 31, 2005, the fair value of the Put increased to $1,600,000 and has been recorded in the caption Option liabilities in the balance sheet. The change in the Put value was recorded in the statements of operations as a component of change in fair value of option liabilities.

The valuations of the Put were completed by an independent valuation firm using an option pricing theory based simulation analysis (i.e., a Monte Carlo simulation). The valuations are based on assumptions as of the valuation date with regard to the market value of Cytori and the estimated fair value of the Joint Venture, the expected correlation between the values of Cytori and the Joint Venture, the expected volatility of Cytori and the Joint Venture, the bankruptcy recovery rate for Cytori, the bankruptcy threshold for Cytori, the probability of a change of control event for Cytori, and the risk free rate.

The following assumptions were employed in estimating the value of the Put at December 31, 2005 (these assumptions were not materially different from those used in valuing the Put as of November 4, 2005):

- The expected volatilities of Cytori and the Joint Venture were assumed to be 63.2% and 69.1%, respectively,
- The bankruptcy recovery rate for Cytori was assumed to be 21%,
- The bankruptcy threshold for Cytori was assumed to be $10.78 million,
- The probability of a change of control event for Cytori was assumed to be 3.04%,
- The expected correlation between fair values of Cytori and the Joint Venture in the future was assumed to be 99%, and
- The risk free rate was assumed to be 4.39%.

The Put is perpetual and, thus, has no expiration date. Accordingly, we will continue to recognize a liability for the Put and mark it to market each quarter until it is exercised or until the arrangements with Olympus are amended.

The Joint Venture has exclusive access to our technology for the development, manufacture, and supply of the devices (second generation and beyond) for all therapeutic applications. Once a second generation Celution™ System is developed and approved by regulatory agencies, the Joint Venture may sell such systems exclusively to us at a formula-based transfer price; we have retained marketing rights to the second generation devices for all therapeutic applications of adipose stem and regenerative cells.

As part of the various agreements with Olympus, we will be required, following commercialization of the Celution™ System, to provide monthly forecasts to the Joint Venture specifying the quantities of each category of devices that we intend to purchase over a rolling six-month period. Although we are not subject to any minimum purchase requirements, we are obliged to buy a minimum percentage of the products forecasted by us in such reports. Since we can effectively control the number of devices we will agree to purchase and because no commercial devices have yet been developed to trigger the forecast requirement, we estimate that the fair value of this guarantee will be de minimis as of December 31, 2005, and therefore no amounts related to this guarantee are reflected on the statement of financial position.

Deferred revenues, related party

At December 31, 2005, the deferred revenues, related party account consists of the consideration we have received in exchange for future services that we have agreed to perform on behalf of Olympus and the Joint Venture. These services include completing preclinical and clinical studies, product development and seeking regulatory approval for the treatment of various therapeutic conditions with adult stem and regenerative cells residing in adipose (fat) tissue. These services also include providing an exclusive and perpetual license to our therapeutic device technology, including the Celution™ System and certain related intellectual property.

Pursuant to Emerging Issues Task Force Issue 00-21, *Revenue Arrangements with Multiple Deliverables*, we have concluded that the license and development services must be accounted for as a single unit of accounting. Refer to note 2 for a full description of our revenue recognition policy.

Other Related Party Transactions

As part of the formation of the Joint Venture and as discussed above, the Joint Venture agreed to purchase development services from Olympus. In December 2005, the Joint Venture paid to Olympus $8,000,000 as a payment for those services. The payment has been recognized in its entirety as an expense on the books and records of the Joint Venture as the expenditure represents a payment for research and development services that have no alternative future uses. Our share of this expense has been reflected within the account, Equity loss from investment in joint venture, within the consolidated statement of operations.

Condensed financial information for the Joint Venture

A summary of the unaudited condensed financial information for the Joint Venture as of December 31, 2005 and for the period from November 4, 2005 (inception) to December 31, 2005 is as follows:

Balance Sheet:		
Assets - cash	$	11,000,000
Stockholders’ equity	$	11,000,000
Statement of Operations:		
Net loss - research and development expense	$	(19,343,000)

7. Short-term Investments

As of December 31, 2005 and 2004, all short-term investments were classified as available-for-sale, which consisted of the following:

	December 31, 2005							
		Less than 12 months temporary impairment		Greater than 12 months temporary impairment		Total	
	Amortized Cost	Gross Unrealized Losses	Estimated Fair Value	Gross Unrealized Losses	Estimated Fair Value	Gross Unrealized Losses	Estimated Fair Value
Corporate notes and bonds	$ 1,984,000	$ (2,000)	$ 1,882,000	$ —	$ 100,000	$ (2,000)	$ 1,982,000
Agency securities	5,870,000	(14,000)	5,456,000	—	400,000	(14,000)	5,856,000
Total	$ 7,854,000	$ (16,000)	$ 7,338,000	$ —	$ 500,000	$ (16,000)	$ 7,838,000

	December 31, 2004						
		Less than 12 months temporary impairment		Greater than 12 months temporary impairment		Total	
	Amortized Cost	Gross Unrealized Losses	Estimated Fair Value	Gross Unrealized Losses	Estimated Fair Value	Gross Unrealized Losses	Estimated Fair Value
Corporate notes and bonds	$ 1,633,000	$ (5,000)	$ 1,628,000	$ —	$ —	$ (5,000)	$ 1,628,000
Agency securities	8,978,000	(27,000)	8,951,000	—	—	(27,000)	8,951,000
Total	$ 10,611,000	$ (32,000)	$ 10,579,000	$ —	$ —	$ (32,000)	$ 10,579,000

As of December 31, 2005 and 2004, investments available-for-sale had the following maturities:

	December 31, 2005		December 31, 2004	
	Amortized Cost	Estimated Fair Value	Amortized Cost	Estimated Fair Value
Corporate notes and bonds:				
with maturity of less than 1 year	$ 1,984,000	$ 1,982,000	$ 1,529,000	$ 1,524,000
with maturity of 1 to 2 years	—	—	104,000	104,000
Agency securities:				
with maturity of less than 1 year	5,870,000	5,856,000	7,898,000	7,877,000
with maturity of 1 to 2 years	—	—	1,080,000	1,074,000
	$ 7,854,000	$ 7,838,000	$ 10,611,000	$ 10,579,000

Proceeds from sales and maturity of short term investments for the year ended December 31, 2005, 2004 and 2003 were $56,819,000, $51,132,000, $49,561,000, respectively. Gross realized losses for such sales in 2005 were approximately $12,000. Gross realized gains on such sales for the years ended December 31, 2004 and 2003 were approximately $4,000, and $38,000, respectively.

Based on our ability and intent to hold the investments for a reasonable period of time sufficient for a forecasted recovery of fair value and the low severity of impairment, we do not consider these investments to be other-than-temporarily impaired as of December 31, 2005.

8. Composition of Certain Financial Statement Captions

Inventories, net

As of December 31, 2005 and 2004, inventories, net, was comprised of the following:

	As of December 31,	
	2005	2004
Raw materials	$ 232,000	$ 189,000
Finished goods	26,000	190,000
	$ 258,000	$ 379,000

Other Current Assets

As of December 31, 2005 and 2004, other current assets was comprised of the following:

	As of December 31,	
	2005	2004
Prepaid expenses	$ 506,000	$ 809,000
Accrued interest receivable	77,000	121,000
Other receivables	38,000	54,000
	$ 621,000	$ 984,000

Property and Equipment, net

As of December 31, 2005 and 2004, property and equipment, net, was comprised of the following:

	As of December 31,	
	2005	2004

Manufacturing and development equipment	$ 4,681,000	$ 3,928,000
Office and computer equipment	2,682,000	2,186,000
Leasehold improvements	3,359,000	1,963,000
	10,722,000	8,077,000
Less accumulated depreciation and amortization	(6,462,000)	(4,997,000)
	$ 4,260,000	$ 3,080,000

Accounts Payable and Accrued Expenses

As of December 31, 2005 and 2004, accounts payable and accrued expenses was comprised of the following:

	As of December 31,	
	2005	2004
Accounts payable	$ 933,000	$ 481,000
Accrued bonus	981,000	472,000
Accrued legal fees	975,000	27,000
Leasehold improvements	800,000	—
Accrued studies	712,000	6,000
Accrued vacation	680,000	579,000
Accrued expenses	556,000	437,000
Accrued accounting fees	199,000	135,000
Warranty reserve (note 2)	155,000	102,000
Deferred rent expense	138,000	10,000
	$ 6,129,000	$ 2,249,000

9. Commitments and Contingencies

We have contractual obligations to make payments on leases of office and manufacturing space as follows:

Years Ending December 31,	Operating Leases
2006	$ 1,572,000
2007	2,086,000
2008	1,556,000
2009	1,383,000
2010	707,000
Total	$ 7,304,000

Rent expense for the years ended December 31, 2005, 2004, and 2003 was $1,632,000, $801,000 and $931,000, respectively.

On May 24, 2005, we entered into a lease for 91,000 square feet of space located at 3020 and 3030 Callan Road, San Diego, California. We intend to complete the move of the majority of our operations to this new facility over the next year. The agreement bears rent at a rate of $1.15 per square foot, with annual increases of 3%. The lease term is 57 months, commencing on October 1, 2005 and expiring on June 30, 2010. In addition, we are committed to providing a minimum of $837,000 in agreed-upon leasehold improvements to the facility, which are not reflected in the table of contractual obligations shown above. As of December 31, 2005, we have made $1,383,000 in improvements to the facility as a part of our facility retrofits which, when completed, will total approximately $3,000,000.

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.

Refer to note 5 for a discussion of our commitments and contingencies related to our arrangements with MAST and Senko.

Refer to note 6 for a discussion of our commitments and contingencies related to our transactions with Olympus, including (a) our obligation to the Joint Venture in future periods and (b) certain put and call rights embedded in the arrangements with Olympus.

Refer to note 10 for a discussion of our commitments and contingencies related to our interactions with the University of California.

10. License Agreement

On October 16, 2001, StemSource entered into an exclusive worldwide license agreement with the Regents of the University of California (“UC”), licensing all of UC’s rights to certain pending patent applications under prosecution by UC and (in part) by the University of Pittsburgh (“U Pitt”), for the life of these patents, with the right of sublicense. The exclusive license currently relates to an issued patent and various pending applications relating to Adipose Derived Stem Cells. In November 2002, we acquired StemSource, and the license agreement was assigned to us.

The agreement calls for annual payments until such time as we begin commercial sales of any products utilizing the licensed technology. Upon achieving commercial sales we will be required to pay variable royalties based on the net sales of products sold. The royalties are further subject to minimum annual royalties increasing annually with a plateau in the fifth year. In addition, we are obligated to pay certain milestone payments upon achieving any

of the following: (a) the filing of an investigational new drug application, (b) applying for marketing approval, or (c) receiving marketing approval. We may also be subject to a substantial change of control payment within sixty days of a change of control transaction.

Additionally, we are obligated to reimburse UC for patent prosecution costs on any patents pending including foreign applications.

Although our power as licensee to successfully use these rights to exclude competitors from the market is untested, we believe that the loss of all rights to this patent could significantly impact our development of the regenerative cell technology and/or commercialization of related products.

The University of Pittsburgh filed a lawsuit in the fourth quarter of 2004, naming all of the inventors who had not assigned their ownership interest in Patent 6,777,231 to U Pitt. It was seeking a determination that its assignors, rather than the University of California's assignors, are the true inventors of U.S. Patent No. 6,777,231. This lawsuit could subject us to significant costs and, if U Pitt wins the lawsuit, our license rights to this patent could be nullified or rendered non-exclusive with respect to any third party that might license rights from U Pitt. Accordingly, if U Pitt wins the lawsuit, our regenerative cell strategy could be significantly affected.

We are not named as a party to the lawsuit but our president, Marc Hedrick, is a named individual defendant because he is one of the inventors identified on the patent. We are providing substantial financial and other assistance to the defense of the lawsuit.

In the years ended December 31, 2005, 2004 and 2003 we expensed $1,303,000, $190,000 and $112,000, respectively, under this license agreement. These expenses have been classified as general and administrative expense in the accompanying consolidated financial statements. We believe that the amount expensed for December 31, 2005 is a reasonable estimate of our exposure for the probable expenses for litigation, prosecution, and other expenses related to the license agreement.

11. Restructuring Event

In September 2003, we closed an administrative office in Königstein, Germany in an effort to reduce costs and consolidate operations in the United States.

In connection with the facility closure, we involuntarily terminated three employees and relocated another employee to the United States. We incurred a liability of approximately $282,000 related to severance benefits and paid all the severance benefits prior to December 31, 2003.

The Königstein, Germany office was rented under an operating lease. As of September 30, 2003, we ceased using the office space, but continued to remain liable for monthly rent payments of approximately $12,500 per month under a lease agreement that would have expired in February 2006. We sought to sublease the entire facility for the remaining term of the lease agreement. However, due to the unique nature of the office building and the depressed rental market in and around Frankfurt, Germany, we expected that a sublease of the entire facility (if one was successfully negotiated) would yield only approximately 65% of our monthly rental obligation. Accordingly, we recorded a restructuring expense of $169,000 in the year 2003.

During the second quarter of 2004, we re-assessed the expected range of probable sublease rates giving consideration to the current market for commercial real estate, the condition of the property, its location, and other relevant factors. It was expected that we could potentially sublease the entire facility (if one was successfully negotiated) for only 45% of our current monthly rental obligation. It was also expected to take a minimum of seven months to find such a tenant. As a result of this analysis, we recorded an additional provision of $70,000 in the second quarter of 2004. This additional provision was recorded as restructuring expense.

During the third quarter of 2004, we negotiated a settlement of the remaining lease payments with the lessor. As a result of the settlement, we recorded an additional provision of $37,000 in the third quarter of 2004. This additional provision was recorded as restructuring expense.

The following outlines the restructuring activity recorded to the liability account during the years ended December 31, 2004 and 2003:

	As of January 1,	Charged to Expense*	Costs Paid	Adjustments to Liability**	As of December 31,
2004:					
Lease termination	$ 153,000	$ 107,000	$ (255,000)	$ (5,000)	$ —
2003:					
One-time termination benefits	$ —	$ 282,000	$ (284,000)	$ 2,000	$ —
Lease termination	—	169,000	(28,000)	12,000	153,000
	$ —	$ 451,000	$ (312,000)	$ 14,000	$ 153,000

* All amounts recorded as "Restructuring charge" in the accompanying statements of operations.

** Revaluation of monetary liability denominated in a foreign currency, which was charged to other income (expense) during the period.

12. Long-term Obligations

In 2003, we entered into an Amended Master Security Agreement to provide financing for new equipment purchases. In connection with the agreement, we issued three promissory notes to our lender under the agreement in an aggregate principal amount of approximately $1,120,000. In 2004, we issued three additional promissory notes in an aggregate principal amount of approximately $1,039,000 and in 2005, we issued one additional promissory note for an amount of approximately $1,380,000. All notes are secured by equipment with an aggregate cost of approximately $3,539,000.

Additional details relating to the above promissory notes are presented in the following table:

Origination Date	Interest Rate	Current Monthly	Term	Remaining Principal

		Payment*		
October 2003	8.6%	6,000	48 Months	$ 113,000
October 2003	8.6%	8,000	36 Months	81,000
October 2003	8.8%	17,000	48 Months	299,000
March 2004	8.2%	16,000	48 Months	337,000
April 2004	9.0%	3,000	48 Months	79,000
September 2004	9.0%	9,000	48 Months	221,000
December 2005	10.75%	41,765	35 Months	1,380,000
				$ 2,510,000

*Includes principal and interest

As of December 31, 2005, the future contractual principal payments on all of our promissory notes are as follows:

Years Ending December 31,	
2006	$ 952,000
2007	836,000
2008	544,000
2009	178,000
Total	$ 2,510,000

Our interest expense for the years ended December 31, 2005, 2004, and 2003 (all of which related to these promissory notes) was $137,000, $177,000 and $126,000, respectively.

13. Income Taxes

Due to our net loss position for the years ended December 31, 2005, 2004 and 2003, and as we recorded a full valuation allowance against deferred tax assets, there was no provision or benefit for income taxes recorded. There were no components of current or deferred federal or state income tax provisions for the years ended December 31, 2005, 2004, and 2003.

A reconciliation of the total income tax provision tax rate to the statutory federal income tax rate of 34% for the years ended December 31, 2005, 2004 and 2003 is as follows:

	2005	2004	2003
Income tax expense (benefit) at federal statutory rate	(34.00)%	(34.00)%	(34.00)%
Stock based compensation	0.05%	1.54%	3.38%
Credits	(0.59)%	(3.58)%	(1.99)%
Change in federal valuation allowance	23.46%	31.05%	30.00%
Equity loss on investment in Joint Venture	5.35%	—	—
Gain on intangible property	4.74%	—	—
Other, net	0.99%	4.99%	2.61%
	0.00%	0.00%	0.00%

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities as of December 31, 2005 and 2004 are as follows:

	2005	2004
Deferred tax assets:		
Allowances and reserves	$ 190,000	$ 46,000
Accrued expenses	275,000	251,000
Deferred revenue and gain on sale of assets	5,784,000	3,833,000
Stock based compensation	1,604,000	1,509,000
Net operating loss carryforwards	17,917,000	13,228,000
Income tax credit carryforwards	2,195,000	1,517,000
Capitalized assets and other	435,000	434,000
	28,400,000	20,818,000
Valuation allowance	(27,830,000)	(19,582,000)
Total deferred tax assets, net of allowance	570,000	1,236,000
Deferred tax liabilities:		
Property and equipment, principally due to differences in depreciation	174,000	(378,000)
Intangibles	(738,000)	(845,000)
Other	(6,000)	(13,000)
Total deferred tax liability	(570,000)	(1,236,000)
Net deferred tax assets (liability)	$ —	$ —

We have established a valuation allowance against our net deferred tax asset due to the uncertainty surrounding the realization of such assets. Management periodically evaluates the recoverability of the deferred tax asset. At such time as it is determined that it is more likely than not that deferred assets are realizable, the valuation allowance will be reduced. We have recorded a valuation allowance of $27,830,000 as of December 31, 2005 to reflect the estimated amount of deferred tax assets that may not be realized. We increased our valuation allowance by approximately $8,213,000 for the year ended December 31, 2005. The valuation allowance includes approximately $579,000 related to stock option deductions, the benefit of which will, if they are ever utilized, be credited to equity.

At December 31, 2005, we had federal and state tax net operating loss carryforwards of approximately $42,987,000 and $33,681,000, respectively. The federal and state net operating loss carryfowards begin to expire in 2019 and 2007, respectively, if unused. At December 31, 2005, we had federal and state tax credit carryforwards of approximately $1,127,000 and $1,093,000, respectively. The federal credits will begin to expire in 2017, if unused, and the state credits will begin to expire in 2009 if unused. In addition, we have a foreign tax loss carryforward of $1,031,000 in Japan.

The Internal Revenue Code limits the future availability of net operating loss and tax credit carryforwards that arose prior to certain cumulative changes in a corporation's ownership resulting in a change of our control. Due to prior ownership changes as defined in IRC Section 382, a portion of the net operating loss and tax credit carryforwards are limited in their annual utilization. In September 1999, we experienced an ownership change for purposes of the IRC Section 382 limitation. As of December 31, 2005, the remaining 1999 pre-change federal net operating loss carryforward of $973,000 is subject to an annual limitation of approximately $573,000. It is estimated that the pre-change net operating losses and credits will be fully available by 2007.

Additionally, in 2002 when we purchased StemSource, we acquired federal and state net operating loss carryforwards of approximately $2,700,000 and $2,700,000, respectively. This event triggered an ownership change for purposes of IRC Section 382. As of December 31, 2005, this remaining pre-change federal and state net operating loss carryforward of $960,000 is subject to an annual limitation of approximately $460,000. It is estimated that the pre-change net operating losses and credits will be fully available by 2008.

We have not updated our analysis for the tax year ended December 31, 2005. The extent of any additional limitation, if any, on the availability to use net operating losses and credits, is not known at this time.

14. Employee Benefit Plan

We implemented a 401(k) retirement savings and profit sharing plan (the "Plan") effective January 1, 1999. We may make discretionary annual contributions to the Plan, which is allocated to the profit sharing accounts based on the number of years of employee service and compensation. At the sole discretion of the Board of Directors, we may also match the participants' contributions to the Plan. We made no discretionary or matching contributions to the Plan in 2005, 2004 and 2003.

15. Stockholders' Equity

Preferred Stock

We have authorized 5,000,000 shares of $.001 par value preferred stock, with no shares outstanding as of December 31, 2005 and 2004. 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.

Treasury Stock

On August 11, 2003, the Board of Directors amended the April 3, 2001 authorization to purchase treasury stock and authorized the repurchase of up to 3,000,000 shares of our common stock in the open market, from time to time until August 10, 2004 at a purchase price per share not to exceed €15.00, based on the exchange rate in effect on August 11, 2003. During 2003, we repurchased 614,099 shares of our Common Stock at an average cost of $3.69 per share for a total of $2,266,000.

In 2003, we sold 150,500 shares of treasury stock for $542,000 at an average price of $3.60 per share. The basis of the treasury stock sold was the weighted average purchase price or $3.67 per share with the difference of $10,000 accounted for as a reduction to additional paid-in capital.

On December 6, 2003, we exchanged 1,447,755 shares of common stock (all listed on the Frankfurt Stock Exchange) held in our treasury for 1,447,755 of our unlisted outstanding common stock issued to former StemSource shareholders. $104,000 was accounted for as a charge against additional paid-in capital relating to the difference between the weighted average purchase price and fair market value of the listed shares held in treasury at the time of the exchange.

In 2004, we repurchased 27,650 shares of our common stock for $76,000 on the open market at a price of $2.75 per share. Additionally in 2004, we repurchased 262,602 shares of our common stock for $976,000 from a former director and officer of StemSource at a price of $3.72 per share as discussed in note 19.

See also the description in note 18, Related Party Transactions, regarding the repurchase of 375,000 shares from related parties in 2003.

Our repurchase program expired on August 10, 2004. We have no plans to initiate a new repurchase program at this time.

16. Stockholders Rights Plan

On May 28, 2003, the Board of Directors declared a dividend distribution of one preferred share purchase right (a "Right") for each outstanding share of our Common Stock. The dividend is payable to the stockholders of record on June 10, 2003, and with respect to shares of Common Stock issued thereafter until the Distribution Date (as defined below) and, in certain circumstances, with respect to shares of Common Stock issued after the Distribution Date. Except as set forth below, each Right, when it becomes exercisable, entitles the registered holder to purchase from us one one-thousandth (1/1000th) of a share of our Series RP Preferred Stock, $0.001 par value per share (the "Preferred Stock"), at a price of $25.00 per one one-thousandth (1/1000th) of a share of Preferred Stock, subject to adjustment. Each share of the Preferred Stock would entitle the holder to Common Stock

with a value of twice that paid for the Preferred Stock. The description and terms of the Rights are set forth in a Rights Agreement (the "Rights Agreement") between us and Computershare Trust Company, Inc., as Rights Agent, dated as of May 29, 2003, and as amended on May 12, 2005.

The Rights attach to all certificates representing shares of our Common Stock outstanding, and are evidenced by a legend on each share certificate, incorporating the Rights Agreement by reference. The Rights trade with and only with the associated shares of the Company's Common Stock and have no impact on the way in which holders can trade the Company's shares. Unless the Rights Agreement were to be triggered, it would have no effect on the Company's balance sheet or income statement and should have no tax effect on the Company or its stockholders. The Rights Agreement is triggered upon the earlier to occur of (i) a person or group of affiliated or associated persons having acquired, without the prior approval of the Board, beneficial ownership of 15% or more of the outstanding shares of Common Stock or (ii) 10 days, or such later date as the Board may determine, following the commencement of or announcement of an intention to make, a tender offer or exchange offer the consummation of which would result in a person or group of affiliated or associated persons becoming an Acquiring Person (as defined in the Rights Agreement) except in certain circumstances (the "Distribution Date"). The Rights are not exercisable until the Distribution Date and will expire at the close of business on May 29, 2013, unless we redeem them earlier.

17. Stock Based Compensation

During 2004, we adopted the 2004 Equity Incentive Plan (the "2004 Plan"), which provides our employees, directors and consultants the opportunity to purchase our common stock through non-qualified stock options, stock appreciation rights, restricted stock units, or restricted stock and cash awards. The 2004 Plan initially provides for issuance of 3,000,000 shares of our common stock, which number may be cumulatively increased (subject to Board discretion) on an annual basis beginning January 1, 2005, which increase shall not exceed 2% of our then outstanding stock.

During 1997, we adopted the 1997 Stock Option and Stock Purchase Plan (the "1997 Plan"), which provides for the direct award or sale of shares and for the grant of incentive stock options ("ISOs") and non-statutory options to employees, directors or consultants. The 1997 Plan, as amended, provides for the issuance of up to 7,000,000 shares of our repurchase program common

stock.

The exercise price of ISOs cannot be less than the fair market value of the underlying shares on the date of grant. ISOs can be granted only to employees. Option vesting is determined by the Board of Directors and is generally over a four-year period. Options expire no later than ten years from date of grant.

The following summarizes activity with respect to the options granted under the 2004 and 1997 Plans:

	Years ended December 31,					
	2005		2004		2003	
	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price
Options outstanding at beginning of period	5,001,000	$ 3.92	4,801,000	$ 3.96	4,263,000	$ 3.85
Granted	1,399,000	$ 4.20	681,000	$ 4.14	896,000	$ 4.26
Exercised	(252,000)	$ 0.69	(42,000)	$ 0.69	(131,000)	$ 0.26
Cancelled	(363,000)	$ 4.06	(439,000)	$ 5.02	(227,000)	$ 5.13
Options outstanding at end of period	5,785,000	$ 4.12	5,001,000	$ 3.92	4,801,000	$ 3.96
Options vested at end of period	4,007,000	$ 4.03	3,609,000	$ 3.87	3,130,000	$ 3.78

The following table summarizes information about options outstanding under the 2004 and 1997 Plans as of December 31, 2005:

Range of Exercise Price	Options Outstanding	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years	Options Vested	Weighted Average Exercise Price
$ 0.05 – $1.90	403,000	$ 0.29	3.0	403,000	$ 0.29
$ 2.50 – 3.00	976,000	$ 2.91	4.4	927,000	$ 2.92
$ 3.09 – 3.88	1,402,000	$ 3.17	7.4	762,000	$ 3.19
$ 4.00 – 5.00	1,684,000	$ 4.23	7.2	1,093,000	$ 4.25
$ 5.10 – 7.50	1,218,000	$ 6.65	6.8	720,000	$ 6.95
$ 8.00 – 17.26	102,000	$ 12.05	4.8	102,000	$ 12.05
$ 0.05 - $17.26	5,785,000	$ 4.12	6.4	4,007,000	$ 4.03

Unearned Stock Based Compensation

In connection with the grant of stock options to employees and directors, we recorded unearned stock based compensation within stockholders' equity of $0, $(13,000), and $49,000 during the years ended December 31, 2005, 2004 and 2003, respectively. This represents the difference between the exercise price of these stock based awards and the deemed market value of the underlying common stock on the date of grant, reduced by any forfeitures during the period. Amortization of unearned stock based compensation, net of any charges reversed during the period for the forfeiture of unvested awards, was $0, $96,000 and $997,000 for the years ended December 31, 2005, 2004, and 2003, respectively.

There was no remaining unearned stock based compensation at December 31, 2005.

Employee Stock Based Compensation

In August 2005, our Chief Operating Officer ("COO"), ceased employment with us. We paid the former COO a lump sum cash severance payment of $155,164 and have extended the post-separation exercise period for two years on 253,743 vested stock options. In addition to the cash severance payment, we have recorded stock based compensation expense of $337,000 in the third quarter of 2005, which represents the intrinsic value of the options held by the COO at the date of the modification.

Non-Employee Stock Based Compensation

In the second quarter of 2005, we granted 20,000 shares of restricted common stock to a non-employee scientific advisor. Because the shares granted are not subject to additional future vesting or service requirements, the stock based compensation expense of $63,000 recorded in the second quarter of 2005 constitutes the entire expense related to this grant, and no future period charges will be required. The stock is restricted only in that it cannot be sold for a specified period of time. There are no vesting requirements. This scientific advisor will also be receiving cash consideration as services are performed. The fair value

of the stock granted was $3.15 per share based on the market price of our common stock on the date of grant.

We issued 10,000 stock options to a non-employee for consulting services for the year ended December 31, 2004. The fair value per share of these stock options was $3.17. As a result, we recorded stock based compensation expense of $32,000 for the year ended December 31, 2004. The expense recorded constitutes the entire expense related to these options, and no future period charges will be required. The fair value of the grant was estimated using the Black-Scholes option-pricing model with the following weighted average assumptions for the year ended December 31, 2004: expected dividend yield of 0.0%, risk-free interest rate of 4.3%, expected volatility factor of 87% and life of 7 years.

Warrants

In connection with our convertible bridge loan financing in 1998 and 1999, we issued warrants to purchase 25,000 shares of Series C convertible preferred stock with an exercise price of $2.25 per share. Upon conversion of our outstanding preferred stock into common stock, which occurred in August 2000, the warrants became immediately exercisable into shares of our common stock. All of the warrants were to expire in 2008 or 2009. As of December 31, 2004, 2,777 of these warrants were exercised. The remaining 22,223 warrants were exercised in 2005.

18. Related Party Transactions

Refer to note 6 for a discussion of related party transactions with Olympus.

In January 2000, we entered into a five-year distribution agreement with Medtronic. Under the terms of the agreement, we granted Medtronic exclusive worldwide rights, except for certain international rights previously granted, to market, distribute and sell all of our products for use in the cranial and facial areas. In consideration for this exclusive right, Medtronic paid us a $1,500,000 up-front license fee, which was initially to be recognized ratably over the same five-year period. We concurrently entered into a five-year development and supply agreement with Medtronic, which provided Medtronic exclusive worldwide rights for products developed as a result of the agreement. In connection with the sale of the CMF product line to Medtronic, the terms of this agreement have changed substantially. Moreover, any unrecognized amounts related to the upfront license fee received were recorded as part of gain on sale of assets, related party (see note 3).

Additionally, in January 2000, Medtronic purchased 1,000,000 shares of Series D convertible preferred stock for $3,500,000. The terms of the sale of the Series D convertible preferred stock were equivalent to the terms and price paid by unaffiliated third parties who also purchased shares of Series D convertible preferred stock. In August 2000, the preferred stock was converted into common stock. Medtronic continues to hold at December 31, 2005, 1,000,000 shares of our common stock, which constitutes approximately 6.5% of our outstanding common stock at December 31, 2005.

For the years ended December 31, 2005, 2004 and 2003, we had sales to Medtronic of $5,634,000, $4,085,000 and $12,893,000, respectively, which represented 93.8%, 59.9% and 91.5% of total product and development revenues, respectively. At December 31, 2005 and 2004, we had amounts due from Medtronic of $721,000 and $767,000, respectively.

On December 8, 2003, we repurchased from two of our executives (each a senior officer and a director) and from a trust for the benefit of the family of another senior officer and director, a total of 375,000 shares of common stock for $1,393,000 in cash (this repurchase was part of the 614,099 share repurchase discussed in note 15). The repurchase price was established by the Board of Directors as 100% of the mean average of the closing sale prices of our common stock on the Frankfurt Stock Exchange over the 10 trading days before the repurchase. We are holding the 375,000 shares as treasury stock.

19. Treasury Stock Receivable Contra-Equity Account

On December 17, 2003, we agreed to repurchase 262,602 shares of common stock for $975,934 in cash from a former director and officer of StemSource, Inc., who was also a stockholder of StemSource when we acquired StemSource on November 13, 2002. We had issued our common stock to this stockholder (who never became one of our directors, officers or employees) in exchange for his StemSource shares.

All of the shares issued to acquire StemSource, including the 262,602 shares to be repurchased, were unlisted and were not registered for sale in a public market.

As part of the StemSource acquisition agreement, we agreed to list the unlisted shares on a liquid market by December 13, 2003. Although most of our outstanding shares of common stock are listed on the Frankfurt Stock Exchange and the unlisted StemSource acquisition shares would have been eligible for listing on the Frankfurt Stock Exchange, we elected not to apply to list them. At the time of the acquisition, and in late 2003, we held as treasury stock in excess of 1,500,000 listed shares of our common stock. Accordingly, in lieu of listing the shares issued in the StemSource acquisition, we simply exchanged listed

treasury shares for the unlisted acquisition shares, before thirteen months following the acquisition date.

In December 2003, logistical problems prevented us from formally delivering the listed securities into all of the respective holders' brokerage accounts. The former director and officer of StemSource, Inc. purported to exercise a contractual right embedded in the StemSource acquisition agreement to put 262,602 shares that he received as part of the StemSource acquisition back to us at a calculated price (approximating market value), as we had not listed and delivered his shares nor delivered the swapped-in listed shares into his brokerage account by the December 13, 2003 deadline. The other former StemSource shareholders either received Frankfurt Stock Exchange-listed shares before the December 13, 2003 deadline or allowed their put right to lapse.

As of December 21, 2003, we had recorded our obligation to repurchase the shares of common stock from the former StemSource owner as a liability included in accounts payable and accrued expenses. We also recorded the shares to be received as Treasury stock receivable, a contra-equity account in 2003. The repurchase was effected in January 2004.

20. Subsequent Events

Upon receipt of a CE Mark for the Celution™ System in January 2006, we became entitled to and subsequently received an $11 million milestone payment from the Joint Venture.

On February 22, 2006, we granted Olympus an exclusive right to negotiate a commercialization collaboration for the use of adipose stem and regenerative cells for a specific therapeutic area outside of cardiovascular disease. In exchange for this right, we will receive a $1.5 million payment from Olympus, which is non-refundable but may be applied towards any definitive commercial collaboration in the future. As part of this agreement, Olympus will conduct market research and pilot clinical studies in collaboration with us over a 12 to 18 month period for the therapeutic area.

21. Quarterly Information (unaudited)

The following unaudited quarterly financial information includes, in management's opinion, all the normal and recurring adjustments necessary to fairly state the results of operations and related information for the periods presented.

	For the three months ended			
	March 31, 2005	June 30, 2005	September 30, 2005	December 31, 2005
Product revenues	$ 1,755,000	$ 1,477,000	$ 1,544,000	$ 858,000
Gross profit	1,010,000	739,000	616,000	115,000
Development revenues	34,000	64,000	38,000	235,000
Operating expenses, excluding stock based compensation	5,573,000	6,091,000	8,182,000	10,600,000
Stock based compensation	—	63,000	341,000	—
Other income	2,000	(8,000)	5,581,000	(4,114,000)
Net loss	$ (4,527,000)	$ (5,359,000)	$ (2,288,000)	$ (14,364,000)
Basic and diluted net loss per share	$ (0.32)	$ (0.37)	$ (0.15)	$ (0.96)

	For the three months ended			
	March 31, 2004	June 30, 2004	September 30, 2004	December 31, 2004
Product revenues	$ 2,258,000	$ 1,528,000	$ 1,485,000	$ 1,051,000
Gross profit	1,139,000	1,214,000	301,000	284,000
Development revenues	94,000	12,000	289,000	101,000
Operating expenses, excluding stock based compensation	4,691,000	4,967,000	4,952,000	4,762,000
Stock based compensation	46,000	79,000	—	—
Other income	4,994,000	10,000	8,908,000	61,000
Net income (loss)	$ 1,490,000	$ (3,810,000)	$ 4,546,000	$ (4,316,000)
Basic net income (loss) per share.	$ 0.11	$ (0.27)	$ 0.33	$ (0.31)
Diluted net income (loss) per share	$ 0.10	$ (0.27)	$ 0.31	$ (0.31)

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

Not applicable.

Item 9A. Controls and Procedures

Christopher J. Calhoun, our Chief Executive Officer, and Mark E. Saad, our Chief Financial Officer, after evaluating the effectiveness of our "disclosure controls and procedures" (as defined in Securities Exchange Act Rule 13a-15(e)), have concluded that

as of December 31, 2005, our disclosure controls and procedures are effective.

Item 9B. Other Information

None.

PART III

Item 10. Directors and Executive Officers of the Registrant

The information called for by Item 10 is incorporated herein by reference to the material under the captions “Election of Directors” and “Directors and Executive Officers of the Registrant” in our proxy statement for our 2006 annual stockholders’ meeting, which will be filed with the SEC on or before May 1, 2006.

Item 11. Executive Compensation

The information called for by Item 11 is incorporated herein by reference to the material under the caption “Executive Compensation” in our proxy statement for our 2006 annual stockholders’ meeting, which will be filed with the SEC on or before May 1, 2006.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information called for by Item 12 is incorporated herein by reference to the material under the caption “Security Ownership of Certain Beneficial Owners and Management” in our proxy statement for our 2006 annual stockholders’ meeting, which will be filed with the SEC on or before May 1, 2006.

Item 13. Certain Relationships and Related Transactions

The information called for by Item 13 is incorporated herein by reference to the material under the caption “Compensation and Other Information Concerning Directors and Executive Officers- Certain Relationships and Related Transactions” in our proxy statement for our 2006 annual stockholders’ meeting, which will be filed with the SEC on or before May 1, 2006.

Item 14. Principal Accountant Fees and Services

The information called for by Item 14 is incorporated herein by reference to the material under the caption “Principal Accountant Fees and Services” in our proxy statement for our 2006 annual stockholders meeting, which will be filed with the SEC on or before May 1, 2006..

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) (1) Financial Statements

(a) (2) Financial Statement Schedules

SCHEDULE II — VALUATION AND QUALIFYING ACCOUNTS

For the years ended December 31, 2005, 2004 and 2003
(in thousands of dollars)

	Balance at beginning of year	Additions/(Reductions) ((charges)/ credits to expense)	Charged to Other Accounts	Deductions	Balance at end of year
Allowance for doubtful accounts					
Year ended December 31, 2005	$ 8	$ 1	$ —	$ —	$ 9
Year ended December 31, 2004	$ 62	$ (44)	$	$ 10	$ 8
Year ended December 31, 2003	$ 50	$ 15	$ —	$ 3	$ 62

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(a)(3) Exhibits

Exhibit Number	Description
3.1	Amended and Restated Certificate of Incorporation (filed as Exhibit 3.1 to our Form 10-Q Quarterly Report as filed on August 13, 2002 and

incorporated by reference herein)

3.2 Amended and Restated Bylaws of Cytori Therapeutics, Inc. (filed as Exhibit 3.2 to our Form 10-Q Quarterly Report, as filed on August 14, 2003 and incorporated by reference herein)

3.3 Certificate of Ownership and Merger (effecting name change to Cytori Therapeutics, Inc.) (filed as Exhibit 3.1.1 to our Form 10-Q, as filed on November 14, 2005 and incorporated by reference herein)

4.1 Rights Agreement, dated as of May 19, 2003, between Cytori Therapeutics, Inc. and Computershare Trust Company, Inc. as Rights Agent, which includes: as Exhibit A thereto, the Form of Certificate of Designation, Preferences and Rights of Series RP Preferred Stock of Cytori Therapeutics, Inc.; as Exhibit B thereto, the Form of Right Certificate; and, as Exhibit C thereto, the Summary of Rights to Purchase Series RP Preferred Stock (filed as Exhibit 4.1 to our Form 8-A which was filed on May 30, 2003 and incorporated by reference herein)

4.2 Amendment No. 1 to Rights Agreement dated as of May 12, 2005, between Cytori Therapeutics, Inc. and Computershare Trust Company, Inc. as Rights Agent (filed as Exhibit 4.1.1 to our Form 8-K, which was filed on May 18, 2005 and incorporated by reference herein).

10.1# Amended and Restated 1997 Stock Option and Stock Purchase Plan (filed as Exhibit 10.1 to our Form 10 registration statement, as amended, as filed on March 30, 2001 and incorporated by reference herein)

10.2+ Development and Supply Agreement, made and entered into as of January 5, 2000, by and between the Company and Medtronic (filed as Exhibit 10.4 to our Form 10 registration statement, as amended, as filed on June 1, 2001 and incorporated by reference herein)

10.3+ Amendment No. 1 to Development and Supply Agreement, effective as of December 22, 2000, by and between the Company and Medtronic (filed as Exhibit 10.5 to our Form 10 registration statement, as amended, as filed on June 1, 2001 and incorporated by reference herein)

10.4+ License Agreement, effective as of October 8, 2002, by and between the Company and Medtronic PS Medical, Inc. (filed as Exhibit 2.2 to our Current Report on Form 8-K which was filed on October 23, 2002 and incorporated by reference herein)

10.5+ Amendment No. 2 to Development and Supply Agreement, effective as of September 30, 2002, by and between the Company and Medtronic, Inc. (filed as Exhibit 2.4 to our Current Report on Form 8-K which was filed on October 23, 2002 and incorporated by reference herein)

10.6+ Exclusive License Agreement, effective October 16, 2001, by and between The Regents of the University of California and StemSource, Inc. (the Company was substituted for StemSource in the agreement effective November 8, 2002) (filed as Exhibit 10.10 to our Annual Report on Form 10-K which was filed on March 31, 2003 and incorporated by reference herein)

10.7 Amended Master Security Agreement between the Company and General Electric Corporation, September,

2003 (filed as Exhibit 10.1 to our Form 10-Q Quarterly Report, as filed on November 12, 2003 and incorporated by reference herein)

10.8# Asset Purchase Agreement dated May 7, 2004 between Cytori Therapeutics, Inc. and MAST Biosurgery AG (filed as Exhibit 2.1 to our Form 8-K Current Report, as filed on May 28, 2004 and incorporated by reference herein.)

10.8.1 Settlement Agreement dated August 9, 2005, between MAST Biosurgery AG, MAST Biosurgery, Inc. and the Company (filed as Exhibit 10.26 to our Form 10-Q, which was filed on November 14, 2005 and incorporated by reference herein)

10.9# Offer Letter for the Position of Chief Financial Officer dated June 2, 2004 between the Company and Mark Saad (filed as Exhibit 10.18 to our Form 10-Q Quarterly Report, as filed on August 16, 2004 and incorporated by reference herein)

10.10# 2004 Equity Incentive Plan of Cytori Therapeutics, Inc. (filed as Exhibit 10.1 to our Form 8-K Current Report, as filed on August 27, 2004 and incorporated by reference herein)

10.11 Exclusive Distribution Agreement, effective July 16, 2004 by and between the Company and Senko Medical Trading Co. (filed as Exhibit 10.25 to our Form 10-Q Quarterly Report, as filed on November 15, 2004 and incorporated by reference herein)

10.12# Notice and Agreement for Stock Options Grant Pursuant to Cytori Therapeutics, Inc. 1997 Stock Option and Stock Purchase Plan; (Nonstatutory) (filed as Exhibit 10.19 to our Form 10-Q Quarterly Report, as filed on November 15, 2004 and incorporated by reference herein)

10.13# Notice and Agreement for Stock Options Grant Pursuant to Cytori Therapeutics, Inc. 1997 Stock Option and Stock Purchase Plan; (Nonstatutory) with Cliff (filed as Exhibit 10.20 to our Form 10-Q Quarterly Report, as filed on November 15, 2004 and incorporated by reference herein)

10.14# Notice and Agreement for Stock Options Grant Pursuant to Cytori Therapeutics, Inc. 1997 Stock Option and Stock Purchase Plan; (Incentive) (filed as Exhibit 10.21 to our Form 10-Q Quarterly Report, as filed on November 15, 2004 and incorporated by reference herein)

10.15# Notice and Agreement for Stock Options Grant Pursuant to Cytori Therapeutics, Inc. 1997 Stock Option and Stock Purchase Plan; (Incentive) with Cliff (filed as Exhibit 10.22 to our Form 10-Q Quarterly Report, as filed on November 15, 2004 and incorporated by reference herein)

10.16# Form of Options Exercise and Stock Purchase Agreement Relating to the 2004 Equity Incentive Plan (filed as Exhibit 10.23 to our Form 10-Q Quarterly Report, as filed on November 15, 2004 and incorporated by reference herein)

10.17# Form of Notice of Stock Options Grant Relating to the 2004 Equity Incentive Plan (filed as Exhibit 10.24 to our Form 10-Q Quarterly Report,

as filed on November 15, 2004 and incorporated by reference herein)

10.18# Separation Agreement and General Release dated July 15, 2005, between John K. Fraser and the Company (filed as Exhibit 10.25 to our Form 10-Q, which was filed on November 14, 2005 and incorporated by reference herein)

10.19# Consulting Agreement dated July 15, 2005, between John K. Fraser and the Company (filed as Exhibit 10.28 to our Form 10-Q, which was filed on November 14, 2005 and incorporated by reference herein)

10.20 Agreement Between Owner and Contractor dated October 10, 2005, between Rudolph and Sletten, Inc. and the Company (filed herewith)

10.21# Severance Agreement and General Release dated August 10, 2005, between Sharon V. Schulzki and the Company (filed as Exhibit 10.27 to our Form 10-Q, which was filed on November 14, 2005 and incorporated by reference herein)

10.22 Common Stock Purchase Agreement dated April 28, 2005, between Olympus Corporation and the Company (filed as Exhibit 10.21 to our Form 10-Q, which was filed on August 15, 2005 and incorporated by reference herein)

10.23 Sublease Agreement dated May 24, 2005, between Biogen Idec, Inc. and the Company (filed as Exhibit 10.21 to our Form 10-Q, which was filed on August 15, 2005 and incorporated by reference herein)

10.24# Employment Offer Letter to Doug Arm, Vice President of Development—Biologics, dated February 1, 2005 (filed as Exhibit 10.21 to our Form 10-Q, which was filed on August 15, 2005 and incorporated by reference herein)

10.25# Employment Offer Letter to Alex Milstein, Vice-President of Clinical Research, dated May 1, 2005 (filed as Exhibit 10.21 to our Form 10-Q, which was filed on August 15, 2005 and incorporated by reference herein)

10.26# Employment Offer Letter to Vice-President of Research, dated November 15, 2005 (filed herewith)

10.27+ Joint Venture Agreement dated November 4, 2005, between Olympus Corporation and the Company (filed herewith)

10.28+ License/ Commercial Agreement dated November 4, 2005, between Olympus-Cytori, Inc. and the Company (filed herewith)

10.29+ License/ Joint Development Agreement dated November 4, 2005, between Olympus Corporation, Olympus-Cytori, Inc. and the Company (filed herewith)

10.30+ Shareholders Agreement dated November 4, 2005, between Olympus Corporation and the Company (filed herewith)

14.1 Code of Ethics (filed as Exhibit 14.1 to our Annual Report on Form 10-K which was filed on March 30, 2004 and incorporated by reference herein)

23.1 Consent of KPMG LLP, Independent Registered Public Accounting Firm (filed herewith).

31.1 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).

31.2 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).

32.1 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).

+ Portions of these exhibits have been omitted pursuant to a request for confidential treatment.

# Indicates management contract or compensatory plan or arrangement.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

CYTORI THERAPEUTICS, INC.

By: /s/ Christopher J. Calhoun
Christopher J. Calhoun
Chief Executive Officer
March 30, 2006

Pursuant to the requirements of the Securities Exchange Act of 1934, this annual report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

SIGNATURE	TITLE	DATE
/s/ Marshall G. Cox Marshall G. Cox	*Chairman of the Board of Directors*	March 30, 2006
/s/ Christopher J. Calhoun Christopher J. Calhoun	*Chief Executive Officer, Director (Principal Executive Officer)*	March 30, 2006
/s/ Marc H. Hedrick, MD Marc H. Hedrick, MD	*President, Director*	March 30, 2006
/s/ Mark E. Saad Mark E. Saad	*Chief Financial Officer (Principal Financial Officer)*	March 30, 2006
/s/ Charles E. Galetto Charles E. Galetto	*Senior Vice President of Finance (Principal Accounting Officer)*	March 30, 2006
/s/ David M. Rickey David M. Rickey	*Director*	March 30, 2006
/s/ Ronald D. Henriksen Ronald D. Henriksen	*Director*	March 30, 2006
/s/ E. Carmack Holmes, MD E. Carmack Holmes, MD	*Director*	March 30, 2006
/s/ Paul W. Hawran Paul W. Hawran	*Director*	March 30, 2006

AIA Document A111-1997

Standard Form of Agreement Between Owner and Contractor

where the basis for payment is the COST OF THE WORK PLUS A FEE with a negotiated Guaranteed Maximum Price

AGREEMENT made as of the Tenth day of October in the year Two Thousand and Five

BETWEEN the Owner:

Cytori Therapeutics
6740 Top Gun Street
San Diego, CA 92121

and the Contractor:

Rudolph and Sletten, Inc.
10955 Vista Sorrento Parkway
Suite 100
San Diego, CA 92130

The Project is:

Cytori Therapeutics
3030 Callan Road
San Diego, CA 92121

The Architect is:

Dowler-Gruman Architects
445 West Ash Street
San Diego, CA 92101

The Owner and Contractor agree as follows.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other

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Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 15. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

The commencement date will be fixed in a notice to proceed

If, prior to commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

4.2 The Contract Time shall be measured from the date of commencement.

4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than [blank] days from the date of commencement, or as follows:

Tenant Improvement Substantial Completion date: February 1, 2006, subject to adjustments of this Contract Time as provided in the Contract Documents.

ARTICLE 5 BASIS FOR PAYMENT

5.1 CONTRACT SUM

5.1.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

5.1.2 The Contractor's Fee is: Four percent (4%) of the cost of the Work. This same percentage will be used for changes in the Work.

5.2 GUARANTEED MAXIMUM PRICE

5.2.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed

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Two Million Five Hundred Seventy Nine Thousand Two Hundred and Sixty Two Dollars ($2,579,262), subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

5.2.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

Insurance rate to be fixed at $0.95 / $1,000 coverage (Article 16)

5.2.3 Unit prices, if any, are as follows:

Description	Units	Price ($0.00)

5.2.4 Allowances, if any, are as follows

Allowance
To be included in subsequent Request for Authorization letters

5.2.5 Assumptions, if any, on which the Guaranteed Maximum Price is based are as follows:

To be included in subsequent Request for Authorization letters

5.2.6 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Contractor has provided in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

ARTICLE 6 CHANGES IN THE WORK

6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201-1997.

6.2 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-1997 and the terms "costs" and "a reasonable allowance for overhead and profit" as used in Section 7.3.6 of AIA Document A201-1997 shall have the meanings assigned to them in AIA Document A201-1997 and shall not be modified by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-1997 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the terms "fee" and "a reasonable allowance for overhead and profit" shall mean the Contractor's Fee as defined in Section 5.1.2 of this Agreement.

6.4 If no specific provision is made in Section 5.1 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the basis of the Fee established for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COSTS TO BE REIMBURSED

7.1 COST OF THE WORK

The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 7.

7.2 LABOR COSTS

7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's approval, at off-site workshops.

See Exhibit "E" for Trade Labor Rates

7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site with the Owner's approval.

See Exhibit "E" for Management Labor Rates

7.2.3 Wages and salaries of the Contractor's supervisory or administrative personnel engaged, at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

7.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

7.3 SUBCONTRACT COSTS

7.3.1 Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

7.4 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

7.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

7.5 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS

7.5.1 Costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers, that are provided by the Contractor at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the

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Contractor. Cost for items previously used by the Contractor shall mean fair market value.

7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, whether rented from the Contractor or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be subject to the Owner's prior approval.

7.5.3 Costs of removal of debris from the site.

7.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

7.5.5 That portion of the reasonable expenses of the Contractor's personnel incurred while traveling in discharge of duties connected with the Work.

7.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, if approved in advance by the Owner.

7.6 MISCELLANEOUS COSTS

7.6.1 That portion of insurance and bond premiums that can be directly attributed to this Contract:

Liability Insurance cost shall be $.95 per $1,000.00 of Contract value.

7.6.2 Sales, use or similar taxes imposed by a governmental authority that are dated to the Work.

7.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the Contract Documents to pay.

7.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AZA Document A201-1997 or other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

7.6.5 [reserved]

7.6.6 Data processing costs related to the Work.

7.6.7 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility to the Owner as set forth in the Contract Documents.

7.6.8 [reserved]

7.6.9 Expenses incurred in accordance with the Contractor's standard personnel policy for relocation and temporary living allowances of personnel required for the Work if approved by the Owner.

7.7 OTHER COSTS AND EMERGENCIES

7.7.1 Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the Owner.

7.7.2 Costs due to emergencies incurred in taking action to prevent threatened damage, injury or loss in case of

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an emergency affecting the safety of persons and property, as provided in Section 10.6 of AIA Document A201-1997.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

8.1 The Cost of the Work shall not include:

8.1.1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Sections 7.2.2 and 7.2.3 or as may be provided in Article 14.

8.1.2 Expenses of the Contractor's principal office and offices other than the site office.

8.1.3 Overhead and general expenses, except as may be expressly included in Article 7.

8.1.4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work.

8.1.5 Rental costs of machinery and equipment, except as specifically provided in Section 7.5.2.

8.1.6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence or failure to fulfill a specific responsibility of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable.

8.1.7 Any cost not specifically and expressly described in Article 7.

8.1.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment therefor from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be secured.

9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons or entities from whom the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Contractor and the Architect, which bids will be accepted. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

10.2 If a specific bidder among those whose bids are delivered by the Contractor to the Architect (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has

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submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

10.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract, and the accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's accountants shall be afforded access to, and shall be permitted to audit and copy, the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Contract, and the Contractor shall preserve these for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 12 PAYMENTS

12.1 PROGRESS PAYMENTS

12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

12.1.3 Provided that an Application for Payment is received by the Architect not later than the first (1st) day of a month, the Owner shall make payment via wire transfer to the bank designated by the Contractor to the Contractor not later than the thirtieth (30^{th}) day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.

12.1.4 With each Application for Payment, the Contractor shall submit whatever evidence is reasonable to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

12.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;

.2 add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 add the Contractor's Fee, less retainage of ten percent (10%).The Contractor's Fee shall be computed upon the Cost of the Work described in the two preceding Clauses at the rate stated in Section 5.1.2 or, if the Contractor's Fee is stated as a fixed sum in that Subparagraph, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work in the two preceding clauses bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 subtract the aggregate of previous payments made by the Owner;

.5 subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's accountants in such documentation; and

.6 subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

12.1.8 Except with the Owner's prior approval, payments to Subcontractors shall be subject to retainage of not less than ten percent (10). The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments and retention for Subcontractors.

12.1.9 In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 12.1.4 or other supporting data; that the Architect has made exhaustive or continuous onsite inspections or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on

account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the sole interest of the Owner.

12.2 FINAL PAYMENT

12.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and

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.2 a final Certificate for Payment has been issued by the Architect.

12.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

12.2.3 The Owner's accountants will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's accountants report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 12.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's accountants, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-1997. The time periods stated in this Section 12.2.3 supersede those stated in Section 9.4.1 of the AIA Document A201-1997.

12.2.4 If the Owner's accountants report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to demand arbitration of the disputed amount without a further decision of the Architect. Such demand for arbitration shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment; failure to demand arbitration within this 30-day period shall result in the substantiated amount reported by the Owner's accountants becoming binding on the Contractor. Pending a final resolution by arbitration, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

12.2.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs costs described in Article 7 and not excluded by Article 8 to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Contractor has participated in savings as provided in Section 5.2, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

ARTICLE 13 TERMINATION OR SUSPENSION

13.1 The Contract may be terminated by the Contractor, or by the Owner for convenience, as provided in Article 14 of AIA Document A201-1997. However, the amount to be paid to the Contractor under Section 14.1.3 of AIA Document A201-1997 shall not exceed the amount the Contractor would be entitled to receive under Section 13.2 below, except that the Contractor's Fee shall be calculated as if the Work had been fully completed by the Contractor, including a reasonable estimate of the Cost of the Work for Work not actually completed.

13.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AL4 Document A201-1997. The amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A201-1997 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

13.2.1 Take the Cost of the Work incurred by the Contractor to the date of termination;

13.2.2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

13.2.3 Subtract the aggregate of previous payments made by the Owner.

13.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise

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included in the Cost of the Work under Section 13.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

13.4 The Work may be suspended by the Owner as provided in Article 14 of AL4 Document A201-1997; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-1997 except that the term "profit" shall be understood to mean the Contractor's Fee as described in Sections 5.1.2 and Section 6.4 of this Agreement.

13.5 Termination:

(a) If pursuant to any provision in the Contract Documents, the Contractor is granted the right to terminate the Agreement, such right may be exercised by the Contractor giving the owner fifteen (15) days written notice. Upon termination, Owner will pay to the Contractor within thirty (30) days thereafter all amounts to be paid by Owner pursuant to Article 13.

(b) If Owner terminates the Agreement pursuant to any right of termination within the Contract Documents, Owner shall pay to Contractor within thirty (30) days thereafter all amounts to be paid by Owner pursuant to Article 13 upon termination; provided, however, that a termination of the Agreement by Owner for cause pursuant to 14.2 of the General Conditions shall be governed in accordance with the terms of Paragraph 14.2 of the General Conditions.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 Where reference is made in this Agreement to a provision AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

14.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

Prevailing prime rate of the Bank of America, NTSA

14.3 The Owner's representative is:

N/A

14.4 The Contractor's representative is:

N/A

14.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

14.6 Other provisions:

14.6.1 (a) In the event the Work herein be wholly or partially damaged or destroyed from any causality or cause whatsoever, before the final completion of said Work, the Contractor, upon written instructions from the Owner,

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shall proceed to replace and/or repair said Work in accordance with the plans. In this event, the provisions of this Agreement shall remain in full force and effect, except that the Guaranteed Maximum Cost stated in Article 5 shall be increased by the total cost of removing and/or replacing all damaged and/or destroyed work, the time for completion shall be extended and the Contractor's fee shall be increased. (b) In the event of substantial damage or destruction to the Work by any cause the Owner may, upon giving written notice to the Contractor, elect to terminate the Agreement. In such case, the Owner shall pay the Contractor for all costs of the Work and all obligations incurred by Contractor in connection with the Work through the date of termination, and the Contractor's fee earned upon the costs and obligations. (c) Prior to commencement of the Work, Owner shall obtain flood, tire, earthquake, and extended coverage insurance, including "All Risk" insurance for malicious mischief and vandalism and such other additional insurance as Owner may desire to insure the Work and all materials intended to become part of the Work, wherever located from the causalities and causes as set forth in subparagraph (a), and Owner shall bear the risk of loss not covered by such insurance. A copy of each policy shall be submitted to Contractor for approval. Such policies shall include Waiver of Subrogation and Permission to Occupy Endorsements, and shall name Contractor and its subcontractors and suppliers (all tiers) as additional insureds.

14.62 Owner agrees to defend, indemnify and hold Contractor and Contractor's directors, officers, employees, agents and &dates harmless from any and all claims, damages, costs or liabilities arising out of or related to any hazardous materials that were present at, on or under the property prior to commencement of the construction of the Work or that are thereafter introduced to the site by persons other than Contractor or any of its subcontractors, suppliers, or vendors, regardless of tier. The obligations specified in the previous sentence shall be effective regardless of Contractor's or its subcontractor or suppliers' own negligence or fault, so long as the claim, damage, cost or liability indemnified against does not arise from the sole negligence or willful misconduct of Contractor or its subcontractors or suppliers. Contractor shall not be responsible and shall have no obligations to indemnify, defend or hold harmless any person for claims, damages, costs or liabilities arising out of or related to the conduct of Owner's separate contractors or consultants. Notwithstanding any of the provisions of the Contract Documents to the contrary, Contractor shall not have any duty to indemnify any person, and shall not be liable to Owner, its affiliates, or any other persons for any claims, damages, costs or liabilities arising out of or related to: (1) Hazardous materials to the extent that such materials were at, on or under or about the project site prior to the commencement of the Work; (2) Hazardous materials introduced to the site by persons other than Contractor or any of its subcontractors, suppliers or vendors, regardless of tier, or by processes or forces such as infiltration or migration from off the project, which are not caused or controlled by Contractor, its subcontractors, or suppliers; or (3) Subsidence not caused by Contractor. For purposes of this provision: (a) Hazardous materials means any and all pollutants, toxic materials, gaseous emissions or substances, or hazardous materials (including, without limitation, substances such as lead, PCB's, hydrocarbons, or asbestos). (b) Subsidence not caused by Contractor means any subsidence, shifting, sliding, slippage, heaving, liquefaction, raising, lowering, collapse, swelling, dislocation of any soils, ground, rock or materials present at the project site, not constructed as part of the Work, which was contributed to or resulted from any cause or mechanism other than the active negligence of Contractor or its subcontractors, suppliers or vendors, or from the failure by any of them to fulfill obligations they owe under the Contract Documents.

14.6.3 Owner acknowledges that Contractor is acting as a licensed contractor, not as an architect, engineer, or other design professional. If any other portion of the Contract Documents specifically and clearly imposes a design/build requirement on the Contractor, for which the services of an architect or engineer are required, then Contractor will fulfill that requirement by retaining appropriately licensed subconsultants. The services to be performed by Contractor under the Contract Documents shall not constitute it an Architect nor impose upon it the obligation to render to, assume, or perform on behalf of Owner the professional responsibilities, duties, services and activities of the Architect or any other design professional. Contractor assumes no responsibility or liability in connection with the design of the Project by Architect or the failure of the Architect to provide designs or otherwise discharge Architect's obligations. Contractor's performance of the Contract Documents does not relieve Architect of its obligations to Owner. Contractor shall notify Owner and/or Architect promptly in writing if it becomes aware the needed designs are lacking.

14.6.4 Mediation: All reference in the Contract Documents, including in the General Conditions, to the word arbitration are hereby deleted, and notwithstanding any such reference the parties do hereby agree instead to submit to mediation any such disputes in accordance with the following provisions:

If a dispute arises out of or relates to the Contract Documents or the breach thereof, and if the dispute cannot be settled through direct discussions, the parties agree to first endeavor in good faith to settle the dispute within 45 days of submission to mediation under Construction Industry Mediation Rules of the American Arbitration Association, before having recourse to a judicial forum. The mediation shall be initiated by written request of either party and shall be commenced within fifteen (15) days of receipt of such notice.

The parties agree that if the mediation fails and the dispute is submitted to a judicial forum, there shall be no right of appeal from the judgment of the court of original jurisdiction, hereby waiving all rights of appeal.

14.65 Delay: Notwithstanding any provision of the Contract Documents to the contrary, in the event that the project is delayed or suspended, other than for the Contractor's fault, for a period or periods of time that in aggregate exceed twenty percent (20%) of the originally specified time for performance, Contractor shall be entitled to an equitable adjustment of General Conditions, Fee, and of the Guaranteed Maximum Price in light of the delay or suspension.

ARTICLE 15 ENUMERATION OF CONTRACT DOCUMENTS

15.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

15.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A111-1997.

15.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

15.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated, and are as follows:

Document	Title	Pages

15.1.4 The Specifications are those contained in the Project Manual dated as in Section 15.1.3, and are as follows:

Title of Specifications exhibit:

15.1.5 The Drawings are as follows, and are dated unless a different date is shown below:

Title of Drawings exhibit:

15.1.6 The Addenda, if any, are as follows:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 15.

15.1.7 Other Documents, if any, forming part of the Contract Documents are as follows:

50% CD Estimate dated August 24, 2005

ARTICLE 16 INSURANCE AND BONDS

Type of insurance Limit of Liability ($0.00)
Insurance rate to be fixed at $0.95 / $1,000 coverage

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

/s/ Christopher J. Calhoun	/s/ Martin Sisemore
OWNER Cytori Therapeutics	**CONTRACTOR** Rudolph and Sletten, Inc.
Christopher J. Calhoun, CEO	Martin Sisemore, President and CEO

EXHIBIT 10.26

November 15, 2005

John T. Ransom, Ph.D.

Dear Dr. Ransom:

We are pleased to offer you the position of Vice-President of Research – Regenerative Cell Technology at a salary of $15,000 per month (which, if computed on an annual basis, would be equivalent to $180,000), payable semi-monthly. You will report to me, and your start date will be as soon as possible. Please note that your status as an officer of the Company (as referred to above) will be subject to the final approval and appointment by the Board of Directors.

You will receive employee benefits comparable to Cytori's standard package, including PPO medical insurance, group life insurance, group long-term disability insurance, and participation in our flexible spending account and 401(k) plan. Your paid time off will be four (4) weeks per year. You will also receive an auto allowance of $800 per month.

We will recommend to the Board of Directors that it grant to you, under our Amended and Restated 1997 Stock Option and Stock Purchase Plan, 50,000 stock options. These stock options, if granted by the Board, would vest monthly over four years (subject to a 1-year cliff) starting from your first day of employment. The exercise price would be equal to 100% of the fair market value of our stock as of the date the Board acts to grant the options. The options will be exercisable once they vest, subject to your remaining an employee of the Company, as described in the stock option agreement you will receive from the Company.

Beginning in 2006, you will have a target annual bonus of 15% of your base salary. The bonus is usually paid in the first quarter of each year, and is based upon your achievement of mutually agreed-upon performance objectives during the preceding year.

Employment with Cytori is "at will" and may be terminated without cause by either party. This letter describes a written offer of employment and does not constitute a contract.

Dr. Ransom, we would be delighted to have someone of your caliber join our company. Please sign below as acceptance of this offer and return a copy to me at your earliest convenience.

We would be pleased for you and your spouse to join us for our management retreat that will be held December 10 – 14 at the Princeville Hotel in Princeville, Kauai. Travel, accommodations and meals will be paid by Cytori.

Sincerely,

/s/ Marc Hedrick

Marc Hedrick
President

Acceptance:
I understand and accept the above offer.

Signature:

/s/ John T. Ransom	11-18-05
John T. Ransom, Ph.D.	Date

EXHIBIT 10.27

JOINT VENTURE AGREEMENT

This **JOINT VENTURE AGREEMENT** (the "**Agreement**"), dated November 4, 2005 the "**Effective Date**"), between **CYTORI THERAPEUTICS, INC.** (*formerly* ***MACROPORE BIOSURGERY, INC.***), a Delaware corporation with its principal place of business located at 3020 Callan Road, San Diego, CA 92121, U.S.A. ("**Cytori**"), and **OLYMPUS CORPORATION**, a Japanese corporation with its principal office at 2-4h3-2 Hatagaya Shibuya-ku, Tokyo, Japan ("**Olympus**"). (Cytori and Olympus may each individually be referred to herein as a "**Party**" and collectively as the "**Parties**.")

RECITALS

A. Cytori has acquired and possesses, through the expenditure of considerable time, effort and money, certain intellectual property rights (including patents, patent applications and technical information) to regenerative cell technology, including scientific equipment used to carry out regenerative cell therapies and treatments.

B. Olympus is a leading developer and manufacturer of medical and scientific equipment and has acquired and possesses, through the expenditure of considerable time, effort and money, certain intellectual property rights (including patents, patent applications and technical information) related to medical and scientific equipment.

C. Olympus and Cytori entered into a confidentiality agreement dated November 30, 2004 (the "**Confidentiality Agreement**").

D. Olympus and Cytori entered into a stock purchase agreement (the **"Common Stock Purchase Agreement"**), dated April 28, 2005, pursuant to which Olympus acquired 1,100,000 common shares of Cytori.

E. The Parties desire to form a joint venture corporation under the laws of the State of Delaware("**NewCo**") for the purposes of developing, licensing and manufacturing certain medical equipment.

F. Olympus and Cytori intend in this Agreement to set forth the principal agreement between them regarding the formation of NewCo.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and provisions contained herein, and other valuable consideration, the Parties hereto agree as follows:

SECTION 1: DEFINITIONS

Unless the provisions of the Agreement otherwise provide, each of the following capitalized terms used in the Agreement shall have the meaning set out below.

"**Affiliate**" means, as to any Party, any Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Party, where "control" (including, with its correlative meanings, "controlled by" and "under common control with") means (a) the beneficial ownership of fifty percent (50%) or more of the outstanding voting securities of a Party, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Party, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"**Agreement**" has the meaning set forth in the Preamble.

"**Aggregate Purchase Price**" has the meaning set forth in Section 4.2

"**Ancillary Agreements**" means the License/ Joint Development Agreement, the Shareholders Agreement, the License/ Commercial Agreement, the Olympus Share Subscription Agreement, the NewCo Share Subscription Agreement and the Three-Way NDA; provided, however, where the context herein would provide that NewCo is a party to the Ancillary Agreements, such usage of the term "Ancillary Agreements" shall be understood to exclude the Shareholders Agreement.

"**Bankruptcy and Equity Exception**" means the extent to which enforceability of this Agreement (a) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws of general application affecting or relating to the enforcement of creditors' rights generally and (b) is subject to general principles of equity, whether considered in a proceeding at law or in equity.

"**Closing**" has the meaning set forth in Section 8.1 below.

"**Closing Date**" has the meaning set forth in Section 8.1 below.

"**Cytori**" has the meaning set forth in the Preamble.

"**Disclosure Schedule**" has the meaning set forth in Section 5.1.

"**Effective Date**" has the meaning set forth in the Preamble.

"**Governmental Authority**" means any federal, state, local, foreign or international body, court, government, department, commission, board, bureau, agency, official or other administrative or governmental authority.

"**Indemnified Party**" has the meaning set forth in Section 9.4(a).

"**Indemnifying Party**" has the meaning set forth in Section 9.4(a).

"**Indemnity Claim**" has the meaning set forth in Section 9.4(a).

"**Indemnity Claim Notice**" has the meaning set forth in Section 9.4(a).

"**Intellectual Property Rights**" shall mean (a) all inventions (whether patentable or unpatentable and whether or not actually reduced to practice), all improvements thereto (but only if such improvements relate to inventions in existence as of the Closing), and all patents, provisional and non-provisional patent applications and patent disclosures, together with all reissuances, continuations, continuations-in-part, divisionals, renewals, extensions and reexaminations thereof, (b) all copyrightable works, all works of authorship, all copyrights, and all applications, registrations and renewals in connection therewith, (c) all mask works and all applications, registrations and renewals in connection therewith, (d) all trademarks, service marks, trade names, service names, brand names, trade dress rights, logos, Internet domain names and corporate names, together with the goodwill associated with any of the foregoing, (e) all trade secrets and confidential business information (including, but not limited to, ideas, research and development, know-how, formulas, compositions, biochemical and biological materials, reagents, assays, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information and business and marketing plans and proposals), and (f) any and all applications and registrations of the foregoing (in any jurisdiction).

"**Liability**" means any debt, adverse claim, liability, obligation or commitment of any kind or nature,

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whether direct or indirect, fixed, absolute or contingent, determined or determinable, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, due or to become due, asserted or unasserted, or known or unknown, and regardless of whether arising out of or based upon contract, tort, strict liability, statute or otherwise or whether required by US GAAP to be reflected as a liability on such Party's balance sheet or disclosed in the related notes.

"**License/ Commercial Agreement**" means the License/ Commercial Agreement to be entered into by and between NewCo and Cytori at Closing, in substantially the same form as attached hereto as Exhibit 1.

"**License/ Joint Development Agreement**" means the License/ Joint Research and Development Agreement to be entered into by and among Cytori, NewCo and Olympus at Closing, in substantially the same form as attached hereto as Exhibit 2.

"**Licensed Field**" shall mean the use of Licensed IP for the purpose of designing, developing, manufacturing, testing and servicing Licensed Products for sale exclusively from NewCo to Cytori.

"**Licensed IP**" means all Intellectual Property Rights owned or controlled by either Party which are necessary or useful to design, develop, manufacture, test, analyze, market, offer to sell to Cytori, sell to Cytori and service all current and future generations of the Licensed Product(s). The term "Licensed IP" shall include all Intellectual Property Rights licensed to NewCo by Cytori and by Olympus, whether pursuant to this Agreement, any Ancillary Agreement or otherwise.

"**Licensed Product(s)**" shall mean any automated devices (and related component parts) that *** separate and concentrate *** cells (including stem cells and other regenerative cells) from harvested adipose tissue (fat tissue). The device components include, but are not limited to,

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"**Liens**" means all liens, pledges, charges, mortgages, deeds of trust, pledges, hypothecations, title defects, restrictions, conditions, easements, claims, options, leases, rights of possession or use, encumbrances, adverse rights or claims and security interests of any kind or nature whatsoever (including any restriction on the right to vote or transfer), whether voluntarily incurred or arising by operation of law or otherwise, including, without limitation, any written or oral agreement to give or grant any of the foregoing.

"**Loss**" shall mean any claim, demand, Liability, loss, damage, deficiency, assessment, judgment, settlement, remediation and costs or expenses (including reasonable attorney, consultant and expert fees and expenses).

"**Material Adverse Event**" shall mean any change, event, occurrence or state of facts which has had, or would reasonably be expected to have, a material adverse effect on (a) Cytori's or NewCo's ability to perform their respective obligations set forth in this Agreement or the Ancillary Agreements, (b) the Licensed IP provided to Newco by Cytori or by Olympus, or (c) the transactions contemplated by this Agreement or the Ancillary Agreements.

"**Material Litigation**" shall mean any litigation, action, suit, claim, investigation or administrative, arbitral or other proceedings which has had, or would reasonably be expected to have, a material adverse effect on (a) the Licensed IP provided to Newco by Cytori or by Olympus, (b) Cytori's or NewCo's ability to perform their respective obligations set forth in this Agreement or the Ancillary Agreements, or (c) the transactions contemplated by this Agreement or the Ancillary Agreements. The Patent Dispute shall not constitute a Material Litigation under this Agreement.

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

"**NewCo**" has the meaning set forth in the Recitals.

"**NewCo Share Subscription Agreement**" means the Share Subscription Agreement to be entered into by and between Cytori and NewCo concurrently with the License/ Commercial Agreement, in substantially the same form as attached hereto as Exhibit 3.

"**Olympus**" has the meaning set forth in the Preamble.

"**Olympus Share Subscription Agreement**" means the Share Subscription Agreement to be entered into by and between Olympus and NewCo concurrently with the License/ Commercial Agreement, in substantially the same form as attached hereto as Exhibit 4.

"**Parties**" and "**Party**" hasthe meaning set forth in the Preamble.

"**Patent Dispute**" shall mean the inventorship dispute between the Regents of the University of California and the University of Pittsburgh concerning U.S. Patent Number 6,777,231 B1, including, without limitation, the claim filed by the University of Pittsburgh with the Central District of California, Case No. CV-04-9014, entitled Complaint for Correction of Inventorship under 35 USC Sections 1 and 256, against some of the named inventors of U.S. Patent Number 6,777,231.

"**Person**" shall mean an association, corporation, individual, partnership, trust or any other entity or organization, including a governmental entity, other than a Party.

"**Rules**" has the meaning set forth in Section 11.1.

"**Shareholders Agreement**" means the Shareholders Agreement to be entered into by and between the Parties, in substantially the same form as attached hereto as Exhibit 5.

"**Subscription Shares**" has the meaning set forth in Section 4.1.

"**Survival Period**" has the meaning set forth in Section 9.1.

"**Three-Way NDA**" shall mean the Three-Way Non-Disclosure Agreement, dated [ ], entered into by and among Cytori, Olympus and NewCo.

SECTION 2: ESTABLISHMENT OF NEWCO

2.1 Establishment of NewCo. Cytori shall, on or prior to the Closing Date, but in any event within sixty (60) days following the Effective Date:

(a) Form and incorporate NewCo, the company name of which shall be "Olympus-Cytori Inc.", under the laws of the State of Delaware, through which Cytori will be issued share certificates of NewCo containing the legend set forth in Section 4.1 of the Shareholders Agreement;

(b) Adopt the certificate of incorporation attached hereto as Exhibit 2.1(b), file such certificate of incorporation with the Delaware Secretary of State and provide a certified copy thereof as accepted by the Delaware Secretary of State to Olympus; and

(c) Adopt the by-laws of NewCo attached hereto as Exhibit 2.1(c).

2.2 Management of NewCo Prior to Closing. From the time NewCo is established by Cytori and up to and until Closing, Cytori shall procure and ensure that NewCo does not:

(a) except as expressly set forth in the NewCo Share Subscription Agreement and this Agreement, (i) authorize, issue, sell or grant, or commit to authorize, issue, sell or grant, any capital stock, voting securities or equity interests, or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for, any shares of its capital stock, voting securities or equity interests, or any rights, warrants, options, calls, commitments or any other agreements of any kind to purchase, acquire or register any shares of its capital stock, voting securities or equity interests or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for, any shares of its capital stock, voting securities or equity interests; (ii) redeem, repurchase or otherwise acquire any of its outstanding shares of capital stock, voting securities or equity interests, or any rights, warrants or options to acquire any shares of its capital stock, voting securities or equity interests; (iii) declare, set aside for payment or pay any dividend on, or make any other distribution in respect of, any shares of its capital stock or otherwise make any payments to its stockholders in their capacity as such; or (iv) split, combine, subdivide or reclassify any shares of its capital stock;

(b) incur any indebtedness for borrowed money or guarantee any indebtedness (or enter into a "keep well" or similar agreement) or assume, endorse or otherwise become responsible for the obligations of any other Person;

(c) sell, transfer, lease, license, mortgage, encumber or otherwise dispose of any assets of NewCo;

(d) make any capital expenditures;

(e) make any acquisition (by purchase of securities or assets, merger or consolidation, or otherwise) of any other Person, business, division or assets;

(f) make any investment (by contribution to capital, property transfers, purchase of securities or otherwise) in, or loan or advance to, any Person;

(g) except for the Ancillary Agreements to which Newco is a party, enter into any contracts, agreements, undertakings, covenants, leases, intellectual property licenses, or any other arrangement with any Person;

(h) terminate or amend any Ancillary Agreement to which Newco is a party, or otherwise waive or release any right or claim that NewCo may have under any Ancillary Agreement to which Newco is a party;

(i) hire any employees for NewCo;

(j) initiate, settle or compromise any litigation or other adversarial proceeding;

(k) engage in any business;

(l) amend NewCo's by-laws or certificate of incorporation; and

(m) pay, discharge, settle or satisfy any claims, liabilities or obligations.

2.3 Contracts Between NewCo and Cytori. Cytori shall ensure and procure that at Closing (a) NewCo shall duly and validly execute each Ancillary Agreement to which NewCo is a party, and (b) all common stock of NewCo pursuant to the NewCo Share Subscription Agreement shall be issued to Cytori before or at the Closing.

2.4 Notification of Bank Account. Promptly following the establishment of NewCo by Cytori, but in no event

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later than seven (7) days prior to the Closing Date, Cytori shall, and shall procure and ensure that NewCo shall, notify Olympus in writing of the bank account information to which Olympus shall pay the Aggregate Purchase Price pursuant to Sections 4.2 and 8.3.

2.5 Corporate Authority and Other Approvals. Cytori shall, and shall procure that NewCo shall, promptly following establishment of NewCo, but in any event prior to the Closing, conduct any and all necessary board of directors meetings, shareholders meetings, filings and/or registrations, and shall obtain any and all necessary (whether corporate, governmental or otherwise) consents, approvals, permits, licenses or registrations that may be necessary or prudent for Cytori and/or NewCo to perform, consummate and effectuate the transactions contemplated by this Agreement and the Ancillary Agreements.

2.6 Reasonable Access. At all times following Cytori's establishment of NewCo pursuant to Section 2.1 through the Closing, Cytori shall, and shall procure and ensure (to the extent that Cytori then has control of NewCo's Board of Directors or management) that NewCo shall, provide Olympus and its agents and representatives reasonable access during normal business hours and upon reasonable notice as described below to all of the premises, properties, assets, financial statements and records, books, contracts, documents and commitments of or relating to NewCo, and shall furnish Olympus and its authorized agents and representatives with all such information concerning NewCo as Olympus may reasonably request.

2.7 Notice of Breaches. Cytori shall, promptly after receiving written notice of the occurrence of, or of the impending or threatened occurrence of, any event which would cause or constitute a material breach of any of its warranties, representations, covenants or agreements contained in this Agreement or any Ancillary Agreement, give notice to Olympus in writing of such event or occurrence or impending or threatened event or occurrence, and shall use its commercially reasonable efforts to prevent or promptly remedy such material breach.

2.8 Compliance With Laws. At all times following Cytori's establishment of NewCo pursuant to Section 2.1 (or execution of each Ancillary Agreement, as applicable) up to the time immediately preceding the Closing, Cytori shall, and shall procure that NewCo shall, comply with any and all laws that are applicable to Cytori, NewCo and the transactions contemplated in this Agreement and each applicable Ancillary Agreement.

2.9 Cytori IP Prosecution Notifications. Cytori shall provide Olympus with all copies of correspondences regarding Licensed IP provided by Cytori to New co. and prosecution thereof, including, without limitation, all correspondences exchanged with the US Patent and Trademark Office and any applicable foreign patent offices. Prior to making any decisions with respect to the prosecution of Licensed IP provided by Cytori to New co, Cytori shall afford Olympus a reasonable opportunity to provide any comments Olympus may have. In addition, Cytori shall provide Olympus a minimum of thirty (30) days to provide comments to Cytori regarding patent office actions that have a reply period greater than one month, and fifteen (15) days from Olympus' receipt of Office Actions issued during prosecution of the Licensed IP that have a reply period of one month. Cytori shall consider in good faith all comments made by Olympus.

SECTION 3: COVENANTS OF OLYMPUS

3.1 Compliance With Laws. Olympus shall comply with all laws that are applicable to Olympus and to the transactions contemplated in this Agreement.

3.2 Corporate Authority and Other Approvals. Olympus shall, prior to the Closing, conduct any and all necessary board of directors meetings, shareholders meetings, filings and/or registrations, and shall obtain any and all necessary (whether corporate, governmental or otherwise) consents, approvals, permits, licenses or registrations that may be necessary or prudent for Olympus and/or Newco to perform, consummate and effectuate the transactions contemplated by this Agreement and the Ancillary Agreements.

SECTION 4: SUBSCRIPTION TO COMMON STOCK OF NEWCO

4.1 Subscription Shares. Subject to the terms and conditions of this Agreement and of the Olympus Share Subscription Agreement, which Olympus shall execute and deliver to NewCo at the Closing, Cytori shall procure and ensure that at the Closing NewCo shall issue and sell to Olympus, and Olympus shall subscribe for and purchase from NewCo, one thousand (1,000) common shares in the capital of NewCo (the "**Subscription Shares**"), which shall constitute fifty percent (50%) of the issued and outstanding shares of NewCo on a fully diluted basis taking into account the common stock of NewCo issued to Cytori concurrently with the Closing pursuant to the NewCo Share Subscription Agreement.

4.2 Purchase Price.. The aggregate purchase price for the Subscription Shares shall be ***
*** United States Dollars (US$***) (the "**Aggregate Purchase Price**").

SECTION 5: REPRESENTATIONS AND WARRANTIES OF CYTORI

5.1 Representations and Warranties of Cytori. Except as set forth in Cytori's disclosure schedule attached as Schedule 5.1 hereto (the "**Disclosure Schedule**"), each section of which qualifies the correspondingly numbered representation and warranty to the extent expressly specified therein and other representations and warranties to the extent that a matter is disclosed in such a way as to make its relevance to the information called for by such other representation and warranty readily apparent, Cytori represents and warrants to Olympus that the statements contained in this Section 5 are correct and complete as of the Effective Date and will be correct and complete as of the Closing Date (as though made then).

(a) Organization and Authority of Cytori. Cytori is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is in good standing and duly qualified to do business in California and has all requisite power and authority (corporate and otherwise) to execute, deliver and perform this Agreement, each Ancillary Agreement to which Cytori is a party, and to consummate the transactions contemplated hereby and thereby. This Agreement and each Ancillary Agreement to which Cytori is a party has been or will be at the Closing, duly and validly executed and delivered by Cytori and constitutes or will constitute valid and binding obligations of Cytori, enforceable against it in accordance with the terms set forth in those agreements, subject to the Bankruptcy and Equity Exception.

(b) Status of NewCo. At all times following Cytori's establishment of NewCo pursuant to Section 2.1 and up to and until completion of the Closing:

(i) NewCo will be a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, in good standing and duly qualified to do business in California and will have all requisite power and authority (corporate and otherwise) to execute, deliver and perform each Ancillary Agreement to which Newco is a party, to own all of its assets and to conduct its business, and to consummate the transactions contemplated hereby and thereby.

(ii) NewCo will have a total of Three thousand (3,000) authorized shares of common stock, one thousand (1,000) shares of which will be issued and outstanding and will reflect the common stock of NewCo issued to Cytori concurrently with the Closing pursuant to the NewCo Share Subscription Agreement, and there will be no other capital stock of NewCo.

(iii) Except for the Subscription Shares to be issued to Olympus in accordance with Section 4,

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*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

Cytori will be the sole owner, legally, beneficially and of record, of all such issued and outstanding shares of common stock, all of which will have been duly and validly issued in compliance with all applicable laws, and all of which will be fully paid, non-assessable and free and clear of any and all Liens.

(iv) There are no outstanding options or warrants regarding the capital stock of NewCo, and NewCo has not issued or authorized, and will not issue or authorize prior to Closing, any capital stock (except for shares of Common Stock specifically set forth in Section 5.1(b)(ii) or to be issued to Olympus pursuant to Section 4.1), security, debt instrument, option, warrant or other right of any nature that is or may be convertible into common stock or any other capital stock of, or equity interest in, NewCo. No shares of NewCo's outstanding capital stock are subject to any rights of first refusal or other rights to purchase stock (whether in favor of Cytori, Olympus or any other Person), pursuant to any agreement or commitment of NewCo.

(v) Other than the Ancillary Agreements to which Newco is a party, NewCo has not entered into any agreements, contracts, arrangements, or understandings with any Person, and has not conducted any business whatsoever.

(vi) NewCo has no Liabilities or obligations of any nature whatsoever (whether absolute, accrued, contingent, or otherwise).

(c) Binding Effect on NewCo. NewCo shall duly and validly execute each Ancillary Agreement to which NewCo is a party. Upon corresponding execution and delivery by each other Party thereto, each such Ancillary Agreement will be binding and enforceable against NewCo in accordance with its terms and conditions, subject to the Bankruptcy and Equity Exception.

(d) No Conflicts. Neither the execution, delivery and performance of this Agreement by Cytori, nor the consummation of the transactions contemplated hereby or by each of the Ancillary Agreements to which Cytori is a party, will (i) conflict with or violate any provision of Cytori's organizational documents, any agreement to which Cytori is a party or any judgment, order of any court or governmental body by which Cytori or its assets are bound, or (ii) violate any law or permit applicable to Cytori.

(e) No Consents. The execution, delivery and performance by Cytori of this Agreement, and the execution, delivery and performance by Cytori and NewCo of the Ancillary Agreements to which Cytori and Newco, respectively, are parties, instruments and/or documents required to complete the transactions contemplated herein, except to the extent otherwise provided in each relevant Ancillary Agreement, (i) do not require any action by or in respect of, or filing with, any Governmental Authority; and (ii) do not require consent of any third parties for the consummation by Cytori and/or NewCo of the transactions contemplated by this Agreement or any of the Ancillary Agreements, as applicable to each of Cytori and NewCo.

(f) Litigation. There are no material actions, suits, claims, investigations or administrative, arbitration or other proceedings pending or, to Cytori's knowledge, threatened against Cytori before or by any court, arbitration tribunal or Governmental Authority, domestic or foreign, that relate to the Licensed IP provided to Newco by Cytori or the transactions contemplated by this Agreement and the Ancillary Agreements.

(g) Intellectual Property Rights. The Licensed IP provided to NewCo by Cytori is accurately described in reasonable detail in Schedule 5.1(g)(i). The Patent Dispute is fully and accurately described in Schedule 5.1(g)(ii). Cytori has full right, title and interest in, and ownership of or license rights to the Licensed IP provided to Newco by Cytori, as described in Schedule 5.1(g)(i). Furthermore, to Cytori's best knowledge, in all material respects the Licensed IP provided to NewCo by Cytori (i) constitutes all of the Intellectual Property Rights used by Cytori to develop, manufacture and sell the Licensed Product(s), (ii) has been duly registered or filed (as applicable), properly maintained (as in relation to the confidential nature of or controlled use of certain Intellectual Property Rights such as trade secrets and trademarks), and is subject to protection (as applicable) and is in full force and effect (as applicable), and (iii) except for the Patent Dispute, is free and clear of all Liens. Furthermore, it is

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hereby certified by Cytori that to Cytori's best knowledge, (I) there are no threatened or pending claims that Cytori's development and manufacture of the Licensed Product(s) infringe the Intellectual Property Right of any third party, or that any portion of the Licensed IP provided to NewCo by Cytori is invalid or unenforceable, and (II) to Cytori's best knowledge, no third party is infringing any of the Licensed IP provided to NewCo by Cytori.

(h) Accuracy of Representations and Warranties. The representations and warranties contained in this Section 5 do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained in this Section 5 not misleading in light of the circumstances in which such statements are made.

5.2 Notice Regarding Representations and Warranties. During the period between the Effective Date and the date on which Closing occurs, Cytori shall promptly notify Olympus in writing of any occurrence that would render any representation or warranty made by Cytori in this Section 5 materially false or misleading.

SECTION 6: REPRESENTATIONS AND WARRANTIES OF OLYMPUS

6.1 Representations and Warranties of Olympus. Olympus represents and warrants to Cytori that the statements contained in this Section 6 are correct and complete as of the Effective Date and will be correct and complete as of the Closing Date (as though made then).

(a) Organization and Authority. Olympus is a corporation duly organized and validly existing under the laws of Japan, and has all requisite power and authority (corporate and otherwise) to execute, deliver and perform this Agreement and each Ancillary Agreement to which Olympus is a party, and has, or will have prior to Closing, all requisite power and authority (corporate and otherwise) to consummate the transactions contemplated hereby and thereby, including, without limitation, the execution and delivery of the Shareholders Agreement. This Agreement and each Ancillary Agreement to which Olympus is a party has been duly and validly executed and delivered by Olympus, and constitutes valid and binding obligations of Olympus, enforceable against it in accordance with the terms set forth in those agreements, subject to the Bankruptcy and Equity Exception.

(b) No Conflicts. Neither the execution, delivery and performance of this Agreement by Olympus, nor the consummation of the transactions contemplated hereby or by each of the Ancillary Agreements to which Olympus is a party, will (i) conflict with or violate any provision of Olympus' organizational documents, any agreement to which Olympus is a party or any judgment, order of any court or governmental body by which Olympus or any of its assets is bound, or (ii) violate any law or permit applicable to Olympus.

(c) No Consents. The execution, delivery and performance by Olympus of this Agreement and the execution, delivery and performance by Olympus and NewCo of the Ancillary Agreements to which Olympus and Newco, respectively, are parties, each Ancillary Agreement to which Olympus is a party, and any other agreements, instruments and/or documents required to complete the transactions contemplated herein, except to the extent otherwise provided in each relevant Ancillary Agreement, (i) do not require any action by or in respect of, or filing with, any Governmental Authority; and (ii) do not require consent of any third parties for the consummation by Olympus of the transactions contemplated by this Agreement and each of the Ancillary Agreements to which Olympus is a party.

(d) Accuracy of Representations and Warranties. The representations and warranties contained in this Section 6 do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained in this Section 6 not misleading in light of the circumstances in which such statements are made.

6.2 Notice Regarding Representations and Warranties. During the period between the Effective Date and the date on which Closing occurs, Olympus shall promptly notify Cytori in writing of any occurrence that would render

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any representation or warranty made by Olympus in this Section 6 materially false or misleading.

SECTION 7. CONDITIONS PRECEDENT

7.1 Olympus' Conditions Precedent. Olympus' obligations set forth in this Agreement, including, without limitation, Olympus' obligation to purchase the Subscription Shares, shall be subject to the satisfaction of the following conditions precedent:

(a) The receipt of all internal corporate approvals of Olympus, including, without limitation, board approvals, required for the execution and delivery of this Agreement, and all Ancillary Agreements to which Olympus is a party, and the performance of all of Olympus' obligations hereunder and thereunder;

(b) There being no material breach by Cytori or Newco of any provision of this Agreement or any Ancillary Agreement to which Cytori or Newco, respectively, is a party, including, but not limited to, Cytori's representations and warranties set forth in Section 5, and Cytori's covenants set forth in Section 2;

(c) The full and complete satisfaction of all covenants of Cytori required to be performed on or prior to Closing, and that all representations and warranties of Cytori set forth in Section 5 have been and are true and correct in all material respects as of the Effective Date and as though made on the Closing Date (except to the extent such representations and warranties expressly relate to an earlier date, and in such case, as of such earlier date);

(d) Each Ancillary Agreement to which Newco and Cytori are parties shall have been duly and validly executed by NewCo and Cytori and delivered to Olympus;

(e) The Shareholders Agreement shall have been duly and validly executed by Cytori and delivered to Olympus;

(f) The License/ Joint Development Agreement shall have been duly and validly executed by NewCo and delivered to Olympus;

(g) No statute, regulation or order shall be in effect enjoining, restraining, preventing or prohibiting consummation by Cytori or Newco of the transactions contemplated by this Agreement and/or the Ancillary Agreements to which Cytori or Newco, respectively, is a party, such that the transactions contemplated by this Agreement and/or such Ancillary Agreements are made illegal;

(h) There shall not be any then-existing Material Adverse Event;

(i) There shall not be any then-existing Material Litigation; and

(j) The receipt by Cytori and Newco of any and all necessary approvals from all applicable governmental agencies.

7.2 Cytori's Conditions Precedent. Closing, and Cytori's obligations with respect thereto, shall be subject to the satisfaction of the following conditions precedent:

(a) There being no material breach by Olympus of any provision of this Agreement or any Ancillary Agreement to which Olympus is a party, including, but not limited to, Olympus' representations and warranties set forth in Section 6, and Olympus' covenants set forth in Section 3;

(b) The full and complete satisfaction of all covenants of Olympus required to be performed on or prior to Closing, and that all representations and warranties of Olympus set forth in Section 6 have been and are accurate in all material respects as of the Effective Date and as though made on the Closing Date (except to the extent such representations and warranties expressly relate to an earlier date, and in such case, as of such earlier date);

(c) Each Ancillary Agreement to which Olympus is a party shall have been duly and validly executed by Olympus and delivered to Cytori and/or NewCo, as applicable; and

(d) The receipt by Olympus of any and all necessary approvals from all applicable governmental agencies.

SECTION 8. CLOSING

8.1 Closing. Unless otherwise agreed in writing by the Parties, closing of the sale and purchase of the Subscription Shares contemplated by this Agreement ("**Closing**") shall take place at the offices of Squire, Sanders & Dempsey L.L.P. in Los Angeles, California on November 9, 2005] ("**Closing Date**"). If Closing does not take place within one (1) month from the Effective Date, this Agreement shall automatically terminate and shall be of no further force and effect; provided that such termination shall not absolve a party of liability for any previous breaches of this Agreement.

8.2 Cytori's and NewCo's Obligations at Closing. At Closing, Cytori shall, and shall procure and ensure that NewCo shall, deliver to Olympus:

(a) A certified copy of the internal corporate approvals of NewCo required under the laws of the State of Delaware for NewCo to execute, deliver and perform its obligations under this Agreement and each Ancillary Agreement to which Newco is a party;

(b) A certified copy of the certificate of incorporation of NewCo as accepted by the Delaware Secretary of State, and of the by-laws of NewCo;

(c) A certified copy of the internal corporate approvals of Cytori required under the laws of the State of Delaware for Cytori to execute, deliver and perform its obligations under this Agreement and the Ancillary Agreements to which Cytori is a party;

(d) Certificates representing the Subscription Shares being duly registered in the name of Olympus and containing the legend set forth in Section 4.1 of the Shareholders Agreement, against payment by Olympus to NewCo of the Aggregate Purchase Price therefor in accordance with Sections 4.2 and 8.3;

(e) The Shareholders Agreement duly executed by Cytori;

(f) The Olympus Share Subscription Agreement, the License/ Joint Development Agreement duly executed by NewCo;

(g) The NewCo Share Subscription Agreement, the Three-Way NDA and the License/ Commercial Agreement duly executed by Cytori and NewCo;

(h) A certificate duly and validly executed by an officer of Cytori certifying full performance of all obligations of Cytori required to be performed prior to Closing, and that the representations and warranties made by Cytori in Section 5 are true and correct in all material respects as of Closing, in substantially the form attached thereto as Exhibit 8.2(h).

8.3 Olympus's Obligations at Closing. At Closing, Olympus shall, against delivery of each item listed in Section 8.2 and in reliance upon the representations and warranties made by Cytori in Section 5:

(a) Pay the cash portion of the Aggregate Purchase Price by wire transfer of immediately available

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funds to an account designated by NewCo in accordance with Section 2.4, which shall be an account held and managed by NewCo;

(b) Deliver to NewCo the Olympus Share Subscription Agreement, the License/ Joint Development Agreement duly executed by Olympus;

(c) Deliver to Cytori the Shareholders Agreement duly executed by Olympus;

(d) Deliver to Cytori and NewCo the Three-Way NDA duly executed by Olympus; and

(e) Deliver to Cytori and Newco a certificate duly and validly executed by an officer of Olympus certifying full performance of all obligations of Olympus required to be performed prior to or at Closing, and that the representations and warranties made by Olympus in Section 6 are true and correct in all material respects as of Closing, in substantially the form attached thereto as Exhibit 8.3(e).

Payment of the Aggregate Purchase Price shall be without any deduction for taxes or charges of any kind (including, without limitation, any wire transfer fees or other bank charges, or any withholding taxes).

8.4 Further Assurances. Each Party shall execute and deliver such documents and take all further actions that the other Party may reasonably request from time to time in order to effectuate or evidence the terms, purposes and intent of this Agreement. The Parties shall cooperate with each other in securing all consents and approvals necessary to effectuate the transactions contemplated herein.

8.5 Closing Conditions. Neither Party shall be required to fulfill its respective obligations under this Section 8 unless the other Party has fully complied with its obligations under this Section 8.

8.6 Survival After Closing. Except as otherwise specifically provided in this Agreement, all provisions of this Agreement shall survive Closing and shall continue in full force and effect thereafter.

SECTION 9. SURVIVAL, INDEMNITY AND WARRANTY

9.1 Survival. All representations and warranties, and all covenants and agreements in this Agreement that are to be performed on or prior to Closing, shall survive and remain fully enforceable after the Closing Date regardless of any investigation, inquiry or knowledge on the part of either Party, and a Party's willingness to close the transactions contemplated hereby shall not constitute a waiver by such Party of the representations or warranties, or covenants or agreements that are to be performed on or prior to Closing, of the other Party in this Agreement for the shorter of three (3) years from the Closing Date or the applicable statutory limitation period (in each case, the "**Survival Period**"). No claim for breach of any such representation, warranty, covenant or agreement may be brought under this Agreement unless written notice describing in reasonable detail the nature and basis of such claim, and expressly referring to this Section 9.1, is given on or prior to the last day of the applicable Survival Period. In the event such written notice of a claim is so given, the right to indemnification with respect to such claim shall survive the applicable Survival Period until the claim is finally resolved, and any obligations with respect to the claim are fully satisfied. For the avoidance of doubt, all covenants and agreements in this Agreement that are to be performed, or to be continued to be performed, after Closing, and the right to indemnification with respect to any breach thereof, shall survive Closing and termination of this Agreement and continue in effect indefinitely.

9.2 Cytori's Indemnification of Olympus. Cytori shall indemnify and hold harmless Olympus, its Affiliates, successors and assigns, and its and their respective directors, officers, employees and agents, from and against, and pay or reimburse each of them for and with respect to, any and all Losses suffered by Olympus, whether or not resulting from third party claims, relating to, arising out of or resulting from, any breach by Cytori of any of its representations, warranties, covenants, agreements or certifications in this Agreement, including those arising from

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any Liability of Cytori or its Affiliates in respect of the Licensed IP provided to Newco by Cytori or the transactions contemplated by this Agreement and/or the Ancillary Agreements prior to Closing.

9.3 Olympus's Indemnification. Olympus shall indemnify and hold harmless Cytori, its Affiliates, successors and assigns, and its and their respective directors, officers, employees and agents, from and against, and pay or reimburse each of them for and with respect to, any and all Losses suffered by Cytori, whether or not resulting from third party claims, relating to, arising out of or resulting from, any breach by Olympus of any of its representations, warranties, covenants, agreements or certifications in this Agreement.

9.4 Administration of Indemnification. For purposes of administering the indemnification provisions set forth in Sections 9.2 and 9.3, the following procedure shall apply:

(a) Whenever a claim (each, an "**Indemnity Claim**") shall arise for indemnification under this Section 9, the Party entitled to indemnification (the "**Indemnified Party**") shall, reasonably promptly after acquiring knowledge of the Indemnity Claim, give written notice (each, an "**Indemnity Claim Notice**") to the Party from whom indemnification is sought (the "**Indemnifying Party**") setting forth in reasonable detail, to the extent then available, the facts concerning the nature of the Indemnity Claim and the basis upon which the Indemnified Party believes that it is entitled to indemnification under this Section 9.

(b) In the event of any Indemnity Claim resulting from or in connection with any claim by a third party, the Indemnifying Party shall be entitled, at its sole expense, either (i) to participate in defending against such claim or (ii) to assume the entire defense with counsel who is selected by it and who is reasonably satisfactory to the Indemnified Party, provided that (A) the Indemnifying Party agrees in writing that it does not and will not contest its responsibility for indemnifying the Indemnified Party in respect of such claim or proceeding, and (B) no settlement shall be made and no judgment consented to without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed (except that no such consent shall be required if the claimant is entitled under the settlement to only monetary damages actually paid by the Indemnifying Party). If, however, (I) the claim, action, suit or proceeding would, if successful, result in the imposition of damages for which the Indemnifying Party would not be responsible, or (II) representation of both the Indemnified Party and Indemnifying Party by the same counsel would otherwise be inappropriate due to actual or potential differing interests between them, then the Indemnifying Party shall not be entitled to assume the entire defense and each Party shall be entitled to retain counsel who shall cooperate with one another in defending against such claim. In the case of item (I) of the preceding sentence, the Indemnifying Party shall be obligated to bear only that portion of the expense of the Indemnified Party's counsel that is in proportion to the claimed damages indemnifiable by the Indemnifying Party compared to the total amount of the third-party claim against the Indemnified Party.

(c) If, within ten (10) days after receipt of an Indemnity Claim Notice, the Indemnifying Party fails to give the Indemnified Party written notice of the Indemnifying Party's election to undertake the defense of the related Indemnity Claim, or if the Indemnifying Party subsequently fails to diligently prosecute such defense, the Indemnified Party may defend in such manner as it reasonably deems appropriate or settle the claim (after giving notice thereof to the Indemnifying Party) on such terms as the Indemnified Party may deem appropriate, and the Indemnified Party shall be entitled to periodic reimbursement of defense expenses incurred and prompt indemnification from the Indemnifying Party in accordance with this Section 9.

(d) Failure or delay by an Indemnified Party to give a reasonably prompt notice of any Indemnity Claim (if given prior to expiration of the applicable Survival Period) shall not release, waive or otherwise affect an Indemnifying Party's obligations with respect to the Indemnity Claim, except to the extent that the Indemnifying Party can demonstrate actual Loss or prejudice as a result of such failure or delay.

SECTION 10. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANY PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICE, DOWNTIME, PERSONAL PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR IN ANY WAY RELATED TO THE PARTIES' PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED OTHERWISE IN THIS AGREEMENT, ALL REMEDIES PROVIDED FOR HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO TERMINATE THIS AGREEMENT AND ALL OF THE REMEDIES PROVIDED BY LAW (AND NOT EXCLUDED PURSUANT TO THE FOREGOING SENTENCE), SHALL BE DEEMED CUMULATIVE AND NON EXCLUSIVE.

SECTION 11. MISCELLANEOUS

11.1 Governing Law and Dispute Resolution. This Agreement shall in all respects be governed by and construed in accordance with the laws of New York without reference to principles of conflicts of laws that would require the application of the laws of another jurisdiction. All disputes arising out of or in connection with this Agreement, or any relationship created by or in accordance with this Agreement, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "**Rules**") by three arbitrators. Judgment on the award rendered by the panel of arbitrators shall be binding upon the Parties and may be entered in any court having jurisdiction thereof. Olympus shall nominate one arbitrator and Cytori shall nominate one arbitrator. The arbitrators so nominated by Cytori and Olympus respectively shall jointly nominate the third arbitrator within fifteen (15) days following the confirmation of arbitrators nominated by Cytori and Olympus. If the arbitrators nominated by Cytori and Olympus cannot agree on the third arbitrator, then such third arbitrator shall be selected as provided in the Rules. The place of the arbitration and all hearings and meetings shall be Singapore. unless the Parties to the arbitration otherwise agree. In addition to the Rules and except as otherwise provided herein, the Parties agree that the arbitration shall be conducted according to the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration. The arbitrators may order pre-hearing production or exchange of documentary evidence, and may require written submissions from the relevant Parties hereto, but may not otherwise order pre-hearing depositions or discovery. The arbitrators shall apply the laws of New York as set forth in this Section 11.1; provided, however, that the Federal Arbitration Act shall govern. The language of the arbitral proceedings shall be English. The arbitrators shall not issue any award, grant any relief or take any action that is prohibited by or inconsistent with the provisions of this Agreement.

No arbitration pursuant to this Section 11.1 shall be commenced until the Party intending to request arbitration has first given thirty (30) days written notice of its intent to the other Party and has offered to meet and confer with one or more responsible executives of such other Party in an effort to resolve the dispute(s) described in detail in such written notice. If one or more responsible executives of the other Party agree, within thirty (30) days after receipt of such written notice, to meet and confer with the requesting Party, then no arbitration shall be commenced until such Parties have met and conferred in an effort to resolve the dispute(s), or until sixty (60) days has elapsed from the date such written notice has been given.

11.2 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the Parties. Neither this Agreement nor any right, license, privilege or obligation provided herein may be assigned or transferred by either Party without the other Party's prior written consent, and any such attempted assignment or transfer shall

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constitute Change of Control (of Cytori) and/or Change of Control (of Olympus) duly stipulated under the Shareholders Agreement..

11.3 Entire Agreement. This Agreement, the Ancillary Agreements and the attachments, schedules and exhibits hereto, which are hereby expressly incorporated herein by this reference, and constitute the entire understanding and agreement between the Parties with regard to the subject matter hereof and thereof, including without limitation the Confidentiality Agreement.

11.4 Notices. Except as may be otherwise provided herein, all notices, requests, waivers and other communications made pursuant to this Agreement shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other Party; (b) when received, if sent by facsimile at the address and number set forth below, with a written confirmation copy of such facsimile sent the next business day in accordance with (c) below; (c) the second business day after deposit with a national overnight delivery service, postage prepaid, addressed to the other Party as set forth below, provided that the sending Party receives a confirmation of delivery from the delivery service provider; or (d) if earlier, when actually received.

To Cytori:

3020 Callan Road, San Diego, CA 92121, U.S.A

Attn: Christopher J. Calhoun
Fax: 858-458-0995

To Olympus:

2-3 Kuboyama-cho,
Hachioji-shi, Tokyo, 192-8512, Japan

Attn: Yasunobu Toyoshima
Fax: +81-426-91-7350

A Party may change or supplement its address set forth above, or may designate additional addresses, for purposes of this Section 11.4, by giving the other Party written notice of the new address in the manner set forth above.

11.5 Amendments. This Agreement may be modified or amended only by an instrument in writing duly executed by authorized representatives both of the Parties.

11.6 Waivers. No waiver of any provision hereof shall be effective unless made in writing and duly executed by an authorized representative of the waiving Party. The failure by a Party to require the performance of any term or obligation of this Agreement, or the waiver by a Party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

11.7 Cumulative Remedies. Unless expressly so stated in this Agreement in respect of any particular right or remedy, the rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

11.8 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

11.9 Relationship of Parties. This Agreement shall not be deemed to constitute either Party the agent, the licensee, the affiliate or the representative of the other Party, and neither Party shall represent to any third party that it has any such relationship or right of representation.

11.10 Press Release. No public announcements or press releases shall be issued by either Party regarding this Agreement or any of the activities engaged in by the Parties or NewCo pursuant to this Agreement and/or the Ancillary Agreements without the prior written approval of the other Party; provided, however, that either Party shall have the right to make such public disclosure with a written notice to the other Party as may be necessary or appropriate to comply with applicable securities or other laws.

11.11 Counterparts. This Agreement may be executed by facsimile signature in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

11.12 Severability. Should any provision of this Agreement be determined to be illegal or unenforceable, such determination shall not affect the remaining provisions of this Agreement. To the extent permitted by applicable law, the Parties waive any current or future provision of law which renders any provision of this Agreement unenforceable in any respect. The Parties agree that any illegal or unenforceable provision shall be construed or reformed so as to enforceably effectuate, to the maximum possible extent, the Parties' expressed intent.

11.13 Confidentiality. Each Party will during the term of this Agreement and for two (2) years thereafter keep confidential all information obtained by or in connection with this Agreement from the other Party, including marketing plans, customer information, technical information, trade secrets and financial information. Nothing in this Section 11.13 prevents any announcement being made or any confidential information being disclosed (i) with the written approval of the other Party; or (ii) to the extent required by law or any competent Government Authority where failure to disclose could result in a penalty or sanction, but a Party required to disclose any confidential information will promptly notify the other Party, where practicable and lawful to do so, before disclosure occurs and co-operate with the other Party regarding the timing and content of such disclosure or any action which the other Party may reasonably elect to take to challenge the validity of such requirement. Notwithstanding the foregoing, any information which: (i) can be shown to have been known to the a Party prior to disclosure to it by the other Party; (ii) is or subsequently becomes generally available from public sources through no fault or breach by the receiving Party; (iii) can be proved by documentary evidence that the information was independently developed by the receiving Party without the use of any information of the disclosing Party; or (iv) is disclosed to the receiving Party by others who are entitled to disclose it, except to the extent that the receiving Party gives undertakings of confidentiality and/or non-use to such others with respect to the information disclosed by them, shall not be subject to this Section 11.13. In the event that the terms of this confidentiality provision conflict with the terms of the Three-Way Non-Disclosure Agreement between the parties, the terms of the Three-Way Non-Disclosure Agreement shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Venture Agreement as of the Effective Date.

OLYMPUS CORPORATION

Name: Tsuyoshi Kikukawa

Title: President

Date: November 4, 2005

Signature: /s/ Tsuyoshi Kikukawa

CYTORI THERAPEUTICS, INC.

Name: Christopher J. Calhoun

Title: CEO

Date: November 4, 2005

Signature: /s/ Christopher J. Calhoun

LIST OF ATTACHMENTS

Exhibit 1:	License/ Commercial Agreement
Exhibit 2:	License/ Joint Development Agreement
Exhibit 2.1(b):	Certificate of Incorporation
Exhibit 2.1(c):	By-Laws of NewCo

Exhibit 3:	Cytori Share Subscription Agreement
Exhibit 4:	Olympus Share Subscription Agreement
Exhibit 5:	Shareholders Agreement
Exhibit 8.2(h)	Cytori Officer's Certificate
Exhibit 8.3(e)	Olympus Officer's Certificate

LIST OF SCHEDULES

Schedule 1:	Description of Prototype of Product
Schedule 5.1:	Disclosure Schedule of Cytori
Schedule 5.1(g)(i)	Description of Licensed IP Provided by Cytori
Schedule 5.1(g)(ii)	Description of Patent Dispute

LICENSE/ COMMERCIAL AGREEMENT

THIS LICENSE/ COMMERCIAL AGREEMENT (this "**Agreement**"), dated as of the 4th day of November, 2005 (the "**Effective Date**"), is made and entered into by and between **OLYMPUS-CYTORI, INC.**, a Delaware corporation, located at 3020 Callan Road, San Diego, CA 92121 ("**NewCo**") and **CYTORI THERAPEUTICS, INC.,** a Delaware corporation, located at 3020 Callan Road, San Diego, CA 92121 ("**Cytori**").

(NewCo and Cytori may each be individually referred to herein as a "**Party**" and collectively as the "**Parties**").

RECITALS

A. Cytori has acquired and possesses, through the expenditure of considerable time, effort and money, certain intellectual property rights (including patents, patent applications and technical information) to regenerative cell technology, including scientific equipment used to carry out regenerative cell therapies and treatments.

B. On and subject to the terms and conditions set forth herein and pursuant to Section 2.3 of a Joint Venture Agreement by and between Cytori and Olympus, dated as of November 4, 2005 (the "**JVA**"), Cytori is prepared to grant to NewCo, and NewCo desires to obtain from Cytori, an exclusive license to use such intellectual property rights of Cytori for purposes of developing, manufacturing and selling Licensed Product(s) in the Licensed Field (as defined below).

C. Cytori shall purchase from NewCo, and NewCo shall sell exclusively to Cytori, the Licensed Product(s) on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the capitalized terms set forth in this Section 1 shall have the following meanings:

"**Affiliate**" means, as to any Party, any Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Party, where "control" (including, with its correlative meanings, "controlled by" and "under common control with") means (a) the beneficial ownership of fifty percent (50%) or more of the outstanding voting securities of a Party, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Party, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"**Agreement**" shall have the meaning set forth in the Preamble.

"**Business Day**" shall mean any day on which banking institutions are open in the United States, and excluding national holidays in Japan.

"**Commercial Term**" shall have the meaning set forth in Section 3.1.

"**Cytori**" shall have the meaning set forth in the Preamble.

"**Cytori IP**" shall mean all Intellectual Property Rights owned by or licensed to Cytori as of the Closing and any improvements thereto (specifically including, without limitation, the Intellectual Property Rights listed in Schedule 1A and any improvements thereto), to the extent that such Intellectual Property Rights are necessary to design, develop, manufacture, test, analyze, offer to sell to Cytori, sell to Cytori and service Licensed Product(s).

"**Delivery Date**" shall mean the date of delivery of Licensed Product(s) by NewCo to Cytori.

"**Documentation**" shall mean the user and technical manuals and other documentation necessary in connection with commercialization of the Licensed Products.

"**Effective Date**" shall have the meaning set forth in the Preamble.

"**Force Majeure Event**" shall have the meaning set forth in Section 3.10.1

"**Forecast**" shall have the meaning set forth in Section 3.4.5

"**Forecast Period**" shall have the meaning set forth in Section 3.4.5

"**Intellectual Property Rights**" shall mean (a) all inventions (whether patentable or unpatentable and whether or not actually reduced to practice), all improvements thereto (but only if such improvements relate to inventions in existence as of the Closing), and all patents, provisional and non-provisional patent applications and patent disclosures, together with all reissuances, divisions, continuations, continuations-in-part, renewals, extensions and reexaminations thereof, (b) all copyrightable works, all works of authorship, all copyrights, and all applications, registrations and renewals in connection therewith, (c) all mask works and all applications, registrations and renewals in connection therewith, (d) all trademarks, service marks, trade names, service names, brand names, trade dress rights, logos, Internet domain names and corporate names, together with the goodwill associated with any of the foregoing, (e) all trade secrets and confidential business information (including, but not limited to, ideas, research and development information, know-how, formulas, compositions, biochemical and biological materials, reagents, assays, manufacturing and production processes and techniques, technical data, data base rights, designs, drawings, specifications, customer and supplier lists, pricing and cost information and business and marketing plans and proposals, and (f) any and all applications and registrations of the foregoing (in any jurisdiction).

"**Initial Training**" shall have the meaning set forth in Section 2.2.2

"**JVA**" shall have the meaning set forth in Recital B.

"**License/ Joint Development Agreement**" shall mean the License/ Joint Development Agreement of even date herewith and entered into by and among Cytori, Olympus (and NewCo Prior to Closing).

"**Licensed Field**" shall mean the use of the Licensed IP for the purpose of designing, developing, manufacturing, testing and servicing Licensed Products for sale exclusively from NewCo to Cytori.

"**Licensed IP**" shall mean all Intellectual Property Rights owned or controlled by either Party which are necessary or useful to design, develop, manufacture, test, analyze, market, offer to sell to Cytori, sell to Cytori and service all current and future generations of the Licensed Product(s). The term "Licensed IP" shall include Cytori IP and NewCo IP.

"**Licensed Product(s)**" shall mean any automated devices (and related component parts) that ***
*** separate and concentrate *** cells (including stem cells and other regenerative cells) from harvested adipose tissue (fat tissue). The device components include, but are not limited to,

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"**Liens**" shall mean all liens, pledges, charges, mortgages, deeds of trust, hypothecations, title defects, restrictions, conditions, easements, claims, options, leases, rights of possession or use, encumbrances, adverse rights or claims and security interests of any kind or nature whatsoever (including any restriction on the right to vote or transfer), whether voluntarily incurred or arising by operation of law or otherwise, including, without limitation, any written or oral agreement to give or grant any of the foregoing.

"**NewCo**" shall have the meaning set forth in the Preamble.

"**NewCo IP**" shall mean all Intellectual Property Rights owned by or acquired by NewCo in connection with and during the term of the JVA, including licenses granted to NewCo with respect to Cytori IP and Olympus IP.

"**NewCo Share Subscription Agreement**" shall mean the share subscription agreement of even date herewith and entered into by and between Cytori and NewCo.

"**Order(s)**" shall have the meaning set forth in Section 3.4.1.

"**Party**" and "**Parties**" shall have the meaning set forth in the Preamble.

"**Person**" shall mean an association, corporation, individual, partnership, trust or any other entity or organization, including a governmental entity, other than a Party.

"**Rules**" shall have the meaning set forth in Section 4.3.

"**Term**" shall have the meaning set forth in Section 2.4.

"**Three-Way NDA**" shall mean the Three-Way Non-Disclosure Agreement, dated November 4, 2005, entered into by and among Cytori, Olympus and NewCo.

"**Trademark**" shall mean all trademarks, service marks, trademark and service mark applications, trade dress, trade names, logos, insignia, symbols, designs or other marks identifying a party or its products.

"**Warranty Period**" shall have the meaning set forth in Section 3.6.1.

"**Yearly Training**" shall have the meaning set forth in Section 2.2.2

1.2 References. In this Agreement, a reference to:

(a) A Section, Sub-section, Preamble, Recital, Attachment, Schedule or Exhibit is, unless the context otherwise requires, a reference to a section or sub-section of, or a preamble, recital, attachment, schedule or exhibit to, this Agreement;

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

(b) "This Agreement" (or any specific provision hereof) shall be construed as references to this Agreement or that provision as amended, varied or modified from time to time;

(c) "¥" or "JPY" refers to Japanese Yen, the lawful currency for the time being of Japan. "$" or "USD" refers to United States Dollars, the lawful currency for the time being of the United States of America; and

(d) All references in this Agreement to "days" will, unless otherwise specified herein, mean calendar days.

1.3 Headings. Headings in this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.4 Attachments, Schedules and Exhibits. The Attachments, Schedules and Exhibits attached hereto are incorporated herein and form a part of this Agreement.

2. THE LICENSE GRANTED BY CYTORI

2.1 License Grant and Sublicenses.

2.1.1 Cytori License Grant. Subject to the terms, conditions and limitations set forth in this Agreement (including Sections 2.1.4 and 2.1.5 below) and the JVA (with its Ancillary Agreements), and in consideration of the royalty payment to be made by NewCo to Cytori under Section 2.3, Cytori hereby grants to NewCo an exclusive, perpetual, sublicenseable, irrevocable, fully paid-up, worldwide license under the Cytori IP (including any improvements thereto) in the Licensed Field, to design, develop, make, have made, use, translate, perform, service, maintain, import, offer to sell and sell Licensed Product(s), each Deliverable and any part or component thereof, as contemplated by the JVA. The right of NewCo to grant sublicenses to any third party other than Olympus under such Cytori IP shall be subject to the consent of Cytori, which shall not be unreasonably withheld or delayed. The sublicense granted with respect to U.S. Patent #6,777,231 shall be subject to all of the terms and conditions disclosed to NewCo of the license granted by the University of California Regents, excepting only the obligation with respect to the payment of royalties.

2.1.2 [reserved]

2.1.3 Sublicenses. The license granted to NewCo pursuant to Section 2.1.1 shall be sublicensable by NewCo, without any additional compensation to Cytori.

2.1.4 Sales and Distribution. NewCo acknowledges and agrees that its right of sale and distribution under its license from Cytori pursuant to this Section 2 is solely limited to NewCo's right to sell and distribute exclusively to Cytori the Licensed Product(s) within the Licensed Field in accordance with Section 3 herein.

2.1.5 Reservation of Rights for Cytori to Use the Cytori IP. Cytori has and shall retain an unrestricted right to use all Cytori IP for the development, manufacture and sale of a first generation of commercial Licensed Product(s); provided that such Licensed Product(s) may only be used for regulatory and clinical trial purposes, and may not otherwise be generally commercially released, unless NewCo has failed to produce a successful commercial Licensed Product line within *** from the Effective Date. NewCo shall not be liable in any way for the commercial use of the first generation Licensed Product

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

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unless it affirmatively elects to do so in writing. Cytori shall share all such first generation Licensed Product development information with NewCo, and NewCo shall be entitled to incorporate any such information and data into NewCo's Licensed Product(s). At any time that NewCo has a successful commercial Licensed Product(s) available for any specific therapeutic application, Cytori shall not have the right to offer for sale the first generation Licensed Product (unless NewCo is unable to fulfill Cytori's Orders for such Licensed Product(s) in accordance with Section 3 herein). For avoidance of doubt, Cytori shall not sell any competing product for the first *** from the effective date. Cytori reserves all rights to itself to use and exploit the Cytori IP for the further development of all therapeutic applications of the Cytori IP in all fields of use.

2.1.6 Irrevocable License. For the avoidance of doubt, and subject to the termination rights of Cytori provided in Section 8.3(c) of the Shareholders Agreement, the license granted to NewCo under Section 2.1.1 shall not be subject to revocation by a Party or be otherwise affected by any matter whatsoever, including, without limitation, termination of this Agreement, breach of this Agreement by NewCo, impossibility, impracticality, frustration of purpose, force majeure, acts of governments or the insolvency of either Party. In view of the fact that such license granted to NewCo by Cytori is irrevocable, any breach by NewCo of any restriction or obligation connected with this license grant shall entitle Cytori to recovery of reasonable attorneys fees associated with enforcing this Agreement..

2.1.7 Authority. Cytori hereby represents and warrants that it is the owner of or enjoys all the right, title and interest required to grant the license under Cytori IP to NewCo pursuant to this Section 2.1. In the event that, during the term of this Agreement, Cytori no longer has the authority to license NewCo under all or part of the Cytori IP, it shall coordinate and further execute an appropriate agreement and/or arrangement within sixty (60) days from the date when such lack of authority is found. In case Cytori fails to coordinate and further execute such appropriate agreement and/or arrangement during such 60-day period, Cytori shall be deemed to be in material breach of this Agreement.

2.1.8 Cytori shall not grant any license of the Cytori IP to any third party for the purpose of designing, developing, manufacturing, testing and servicing of Licensed Products. In the Licensed Field Cytori shall not make use of the Cytori IP for the purpose of designing, developing, manufacturing, testing and servicing of Licensed Products, except in accordance with the rights reserved in Section 2.1.5 above.

2.2 Disclosure of Cytori IP.

2.2.1 Subject to the terms, conditions and limitations set forth in this Agreement, Cytori has delivered and disclosed to NewCo or its designee, or shall, within thirty (30) days from the Effective Date, deliver and disclose to NewCo or its designee, and NewCo may disclose to Olympus in accordance with the License/ Joint Development Agreement, (a) any documentation, data, diagrams, and other information embodying the Cytori IP that is necessary or useful for NewCo to use and practice the Cytori IP under the license granted to NewCo under Section 2.1.1, including, without limitation, the documents listed and described in Schedule 2.2.1, and (b) any other information or documentation relevant to the Cytori IP or Licensed Product(s), and/or which is necessary or useful for NewCo's performance of its obligations under this Agreement or the License/ Joint Development Agreement, and/or that NewCo may reasonably request and that Cytori is reasonably able to provide.

2.2.2 Cytori shall provide employees of NewCo or employees of NewCo's designee with training in relation to the Licensed Product(s). The initial training by Cytori shall be provided free of charge, and shall be conducted at the offices of Cytori (as set forth in the Preamble of this Agreement) (the "**Initial Training**"). Free training by Cytori shall also be provided to NewCo employees or employees of its designee once every calendar year in relation to any pertinent improvements or results of research and development conducted by Cytori pursuant to the License/ Joint Development Agreement (each, a "**Yearly Training**"). The scope, amount and timing of the Initial Training and each Yearly Training shall be

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mutually agreed by the Parties, but shall at least meet the parameters set forth in Schedule 2.2.2. All such training shall be in English. NewCo or its designee shall bear all travel and living expenses of its employees that are sent to Cytori for purposes of receiving the Initial Training and each Yearly Training. Any additional training beyond Initial Training and each Yearly Training shall be mutually agreed by the Parties.

2.3 License Consideration and Payments.

2.3.1 In consideration of the license granted by Cytori to NewCo pursuant to Section 2, and Cytori's other obligations set forth herein, NewCo shall:

(a) Issue to Cytori one thousand (1,000) common shares of NewCo, as a payment in kind to Cytori that represents a one-time royalty payment of *** United States Dollars (USD ***) as fair market value, in accordance with the NewCo Share Subscription Agreement; and

(b) Pay to Cytori in cash, by wire transfer of immediately available funds to a bank account designated by Cytori in writing, upon the following payment terms, the amount of *** United States Dollars (USD ***) as non-recurring royalty payments.

(c) Only in the event of a dissolution of NewCo as provided for in Section 8.4(ii) of the Shareholders Agreement, Licensee (NewCo) shall pay Cytori a supplemental royalty equal to *** *** (or a supplemental royalty that equals the *** *** ***.

(d) Only in the event of a dissolution of NewCo as provided for in Section 8.4(ii) of the Shareholders Agreement, Licensee shall at all times have an obligation to use commercially reasonable efforts to supply Licensed Products to Cytori. Notwithstanding the foregoing, in the event of a change in control of Olympus Corporation, Licensee, its successors and assigns shall be required at all times to use "best efforts" to supply Licensed Products to Cytori.

2.3.2 The Parties agree and acknowledge that the license granted to NewCo under Section 2.1.1 shall be granted and fully paid-up (subject to Section 2.3.1(c) above) upon issuance by NewCo of common stock of NewCo to Cytori in accordance with the NewCo Share Subscription Agreement and the wire transfer specified in Section 2.3.1(b) above.

2.4 Term and Termination.

2.4.1 Term of this Agreement. The term of this Agreement ("**Term**") shall commence on the Effective Date and shall continue in full force and effect until expiration of all Intellectual Property Rights included within the license of Cytori IP granted to NewCo pursuant to Section 2.1.1.

2.5 Representations and Warranties.

2.5.1 Representations and Warranties of Cytori. Cytori represents and warrants to NewCo that:

(a) Cytori is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and that Cytori has full power and authority, and has taken all action necessary, to execute and deliver this Agreement and to fulfill its obligations under, and to consummate the

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*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

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transactions contemplated by, this Agreement.

(b) The execution, delivery and performance of this Agreement by Cytori will not result in any breach or violation of, or conflict with, any contract, agreement, undertaking, judgment, decree, order, law, regulation or rule to which Cytori is a party or by which Cytori or any of its assets are bound.

(c) This Agreement has been duly and validly executed and delivered by Cytori and is binding upon and enforceable against Cytori in accordance with its terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the rights of creditors and except as enforceability may be limited by rules of law governing specific performance, injunctive relief or other equitable remedies.

(d) The Cytori IP and Intellectual Property Rights listed and described in Schedule 1A (i) constitute, to Cytori's best knowledge as of the Effective Date, all of the Intellectual Property Rights used by Cytori to develop, manufacture and sell the Licensed Product(s), (ii) have been duly registered (as applicable), properly maintained (as in relation to the confidential nature of or controlled use of certain Intellectual Property Rights, such as trade secrets and trademarks), and are subject to protection and are in full force and effect in the countries listed in Schedule 1A, and (iii) except to the extent expressly provided under this Agreement (including the Patent Dispute), are free and clear of all Liens. To the knowledge of Cytori, (I) there are no threatened or pending claims that Cytori's development and manufacture of the Licensed Product(s) infringe the Intellectual

Property Rights of any third party, or that any portion of the Cytori IP is invalid or unenforceable, and (II) to Cytori's Best knowledge no third party is infringing any of the Cytori IP.

(e) Cytori has the right and authority to grant the licenses provided under Section 2.1.1 herein.

2.5.2 Representations and Warranties of NewCo. NewCo represents and warrants to Cytori that:

(a) NewCo is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and that NewCo has full power and authority, and has taken all action necessary, to execute and deliver this Agreement and to fulfill its obligations under, and to consummate the transactions contemplated by, this Agreement.

(b) The execution, delivery and performance of this Agreement by NewCo will not result in any breach or violation of, or conflict with, any contract, agreement, undertaking, judgment, decree, order, law, regulation or rule to which NewCo is a party or by which NewCo or any of its assets are bound.

(c) This Agreement has been duly and validly executed and delivered by NewCo and is binding upon and enforceable against NewCo in accordance with its terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the rights of creditors, and except as enforceability may be limited by rules of law governing specific performance, injunctive relief or other equitable remedies.

2.6 Litigation.

2.6.1 Notification of Infringement. Each Party shall promptly notify the other Party in writing of any suspected infringement(s) of any Cytori IP in any jurisdiction of which it becomes aware, and shall inform the other Party of any evidence of such infringement(s).

2.6.2 NewCo's Right to Bring Suit. NewCo shall have the first right to institute suit for any infringement(s) of the Cytori IP in all Fields of Use, including those outside of the Licensed Field. Cytori agrees to join as a plaintiff in any such lawsuit initiated by NewCo, if requested by NewCo, with all Cytori's costs, attorneys' fees and expenses in joining such lawsuit to be paid by NewCo. If NewCo fails to institute suit for such infringement(s) within sixty (60) days after receipt of written notice from Cytori of Cytori's desire to bring suit for such infringement(s) in its own name and on its own behalf, then Cytori may, at its own expense, bring such suit or take any other action as Cytori may, in its sole discretion, deem appropriate In the event that NewCo does not have any right to institute such suit due to any legal restrictions, then, if requested by NewCo, Cytori agrees to institute such suit.

2.6.5 Settlements. NewCo shall not settle with an infringing third party in connection with any suit initiated pursuant to Section 2.6.2 without the prior written consent of Cytori. Cytori shall not settle with an infringing third party in connection with any suit initiated pursuant to Section 2.6.2 without the prior written consent of NewCo, if such settlement would affect NewCo's license rights under this Agreement.

3. COMMERCIAL AGREEMENT

3.1 Commericial Term. The term of the commercial agreement between the Parties set forth in this Section 3 ("**Commercial Term**") shall commence on the Effective Date and shall continue in full force and effect, unless terminated by mutual agreement of the Parties.

3.2 Exclusive Sales Arrangement. NewCo agrees to exclusively sell (whether directly or indirectly) to Cytori, and Cytori agrees to purchase from NewCo, the Licensed Product(s), at a price that is determined in accordance with Section 3.3. NewCo's sale of Licensed Product(s) to Cytori, and Cytori's purchase of Licensed Product(s), shall be in accordance with all of the terms and conditions set forth in this Section 3 and the Orders submitted by Cytori and accepted by NewCo, as further described in Section 3.4 of this Agreement.

3.3 Prices and Payment Terms.

3.3.1 Product Price. The transfer price for the Licensed Product(s) shall be *** *** ***.

3.3.2 Invoicing and Payment Procedure. NewCo shall invoice Cytori concurrently with its delivery of the Licensed Product(s) ordered by Cytori. Cytori shall pay for the Licensed Product(s) delivered in accordance with each Order within a maximum of forty-five (45) calendar days (with the final term of payment to be agreed later) from the date that Cytori receives the corresponding invoice issued by NewCo. Invoices issued by NewCo shall reference the relevant Order number, and indicate (a) applicable tax (if any), (b) quantities of Licensed Product(s) shipped by NewCo, and (c) date of shipment of the Licensed Product(s) to Cytori or its designee.

3.3.3 Late Payment. If any payment amount under any invoice issued by NewCo pursuant to Section 3.3.2 becomes overdue, Cytori shall pay to NewCo, upon written demand from NewCo, interest on the unpaid, overdue, balance at the lesser of (a) the maximum rate permitted by law, and (b) ten percent (10%) per annum on the outstanding, balance. To the extent that any payment of Cytori is overdue, payments received by NewCo from Cytori shall first be applied to any such accrued but unpaid overdue amount.

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

3.4 Order and Forecast.

3.4.1 Orders. The purchase and sale of the Licensed Product(s) hereunder shall be made by written or electronic purchase order issued by Cytori to NewCo, for purchase of Licensed Product(s) by Cytori from NewCo ("**Order(s)**"). Cytori shall, on or before the first Business Day of each month during the Commercial Term, place an Order for Licensed Product(s) in amounts for such month that are in accordance with the applicable Forecast(s) previously submitted by Cytori in accordance with this Section 3.4. The Delivery Date specified in an Order shall be no later than the last day of the month immediately following the month in which each relevant Order is placed by Cytori. Each Order will include: (a) a reference to this Agreement and Section, (b) Order quantities, (c) specifications and/or type/model number of the Licensed Product(s) ordered; (d) each Licensed Product unit price and the total price for all Licensed Product(s) in the Order, (e) shipping instructions, (f) requested Delivery Date in accordance with this Section 3.4.1 (including Delivery Dates for partial shipments of ordered Licensed Product(s) on different dates); and (g) shipping and billing address. In the event of any conflict between or among the terms and conditions of this Agreement and the terms and conditions specified in a Order (including Order acknowledgement by NewCo), such provisions shall be construed in a mutually consistent manner or, if such construction is not reasonably possible, the provisions of this Agreement shall govern and prevail.

3.4.2 Order Acknowledgment. NewCo shall confirm its receipt of an Order electronically or by facsimile to Cytori within five (5) Business Days of NewCo's receipt of each such Order, stating the applicable Product purchase price and expected Delivery Date. For any Orders that exceed one hundred twenty-five percent (125%) of the applicable Forecast in quantity, NewCo may reject such Orders to the extent such Order exceeds 125% of the applicable Forecast. NewCo shall specifically acknowledge or reject any Order that exceeds 125% of the Forecast within five (5) Business Days from the date on which NewCo receives such Order.

3.4.3 Order Address. All Orders shall be sent to the following address:

Olympus-Cytori, Inc.
3020 Callan Road
San Diego, CA 92121, U.S.A.
[Facsimile Number]
[e-mail address]

3.4.4 Order Changes. Once submitted, Orders may not be withdrawn, revoked or altered in any way by Cytori without NewCo's prior written consent. Furthermore, except as specifically provided herein or otherwise agreed by NewCo and Cytori, Orders accepted by NewCo may not be withdrawn, revoked, altered or cancelled.

3.4.5 Partially Binding Forecast. Once NewCo is ready to deliver Final Products (as such term is defined in the License/ Joint Development Agreement) to Cytori, on the [15th] day of every calendar month during the Term (or, if such day is not a Business Day, then on the immediately following Business Day), CYTORI shall submit to NEWCO a six (6) month rolling, partially binding forecast (each a "**Forecast**") of the quantities of each Product anticipated to be purchased during the upcoming six (6) calendar month period (the "**Forecast Period**"). Each Forecast, and the quantities forecasted for purchase during the Forecast Period covered thereby, shall be partially binding upon CYTORI and NEWCO as follows:

Month after delivery of ***

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

Forecast by CYTORI

Month 1: ***

Month 2: ***

Month 3: ***
***

Month 4: ***
***

Month 5: ***

Month 6: ***

3.4.6 Manufacturing Capacity. The Parties agree and acknowledge that NewCo cannot manufacture, or procure the manufacture of, Licensed Product(s) beyond the levels specified in Schedule 3.4.6 (as amended from time to time) during any given calendar quarter. Accordingly, it is further agreed and acknowledged by the Parties that any Forecasts submitted that are in excess of the stated production capacities will not be binding on any of the Parties to the extent that the forecasted quantity exceeds such capacity.

3.4.7 Non-Binding Minimum Purchase Forecast. The following quantities of the Products per year is a good faith estimate on which Cytori shall endeavor to purchase from NewCo up to the eighth (8^{th}) anniversary from the year when the Product is ready for sale under the Joint Development Agreement, provided that both parties recognize that such estimate shall be non-binding :

	Year 1	Year 2	Year 3	Year 4
***	***	***	***	***
***	***	***	***	***

	Year 5	Year 6	Year 7	Year 8
***	***	***	***	***
***	***	***	***	***

3.4.8 Marketing Obligations of Cytori. Beginning when the Licensed Product is ready for sale in accordance with the terms of the Joint Development Agreement Cytori shall at all times use commercially reasonable efforts to market Licensed Products, provided that in the event of a Change of Control of Cytori, Cytori, its successors and assigns shall at all times be required to utilize its best efforts to market the Licensed Products supplied hereunder.

3.5 Inventory Management and Shipment of Products.

3.5.1 Shipment. Unless otherwise specifically agreed between the Parties in writing, NewCo shall, at its own expense, procure from contract manufacturer(s), if any, shipment and delivery of Licensed Product(s) ex works (Japan, manufacturing subcontractor facilities, as interpreted in accordance with INCOTERMS 2000).

3.5.2 Title and Risk of Loss. Risk of loss and title to any Licensed Product(s) purchased by Cytori pursuant to this Agreement shall pass from NewCo to Cytori FOB shipping point.

3.5.3 Notice of Inability to Deliver Licensed Product(s). NewCo shall provide Cytori with immediate

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written notice if NewCo becomes aware that it will not be able to deliver the relevant Licensed Product(s) on or within three (3) days prior to the relevant Delivery Date specified in an accepted Order, or if NewCo becomes aware that only a portion of the relevant Licensed Product(s) can be delivered on or within three (3) days prior to the relevant Delivery Date specified in an accepted Order. Upon receipt by Cytori of such notice from NewCo, Cytori shall instruct NewCo to either (a) deliver such deliverable portion of the Licensed Product(s) in accordance with this Agreement and relevant Order, or (b) reschedule shipment of all or a portion of such Licensed Product(s). If NewCo delivers a portion of the Licensed Product(s) ordered under a certain Order pursuant to Cytori's instructions issued by Cytori pursuant to item (a) of this Section 3.5.3, NewCo shall, at NewCo's sole cost and expense (including air transportation) and upon becoming able to complete such Order, promptly deliver all remaining undelivered Licensed Product(s) specified in such partially performed Order by air transportation, or such other means of transportation directed by and/or reasonably acceptable to Cytori.

3.5.4 Inventory of Cytori. Cytori shall maintain a sufficient amount of Licensed Product(s) inventory to meet its reasonably expected market demand for thirty (30) days.

3.6 Product Warranties.

3.6.1. Product Warranties. NewCo warrants to Cytori for a period that is the lesser of: (a) twenty-three (23) months from the Delivery Date of the relevant Licensed Product(s) by NewCo to Cytori; or (b) twelve (12) months from the date of installation of such Licensed Product(s) by Cytori or its designee to the end-user or customer, (the applicable period referred to herein as the "**Warranty Period**"), that any such Licensed Product(s) sold by NewCo to Cytori hereunder shall:

(i) operate in a manner that meets the relevant Licensed Product(s) specifications to be mutually agreed by the Parties; and

(ii) be free from defects, for reason(s) attributable to NewCo, in material, design and workmanship.

3.6.2 Warranty Obligations. During the Warranty Period, and subject to NewCo's confirmation and acceptance of any warranty claim asserted by Cytori in connection with this Section 3.6, NewCo shall, at its sole cost and expense, and in NewCo's sole discretion, either repair or replace any such non-conforming or malfunctioning Licensed Product(s) within a reasonable period of time (as mutually agreed by the Parties). NewCo's warranty obligations under this Section 3.6 shall not apply to: (a) malfunctions or damages caused by any Force Majeure Event; (b) malfunctions that are the result of improper storage, installation, use, maintenance or repair by Cytori, its agents, distributors or customers; (c) malfunctions caused by improper operation of the Licensed Product(s), or use of the Licensed Product(s) with any equipment, software, hardware, or device not authorized by NewCo; and (d) malfunctions or damages caused by the defects or failure of non- Licensed Product equipment, parts or service supplied by Cytori.

3.6.3 Disclaimer of Warranty. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 3.6, NEWCO DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING. NEWCO DOES NOT WARRANT THAT ALL DEFICIENCIES, ERRORS, DEFECTS OR NON-CONFORMITIES OF THE LICENSED PRODUCT(S) OR PARTS OR COMPONENTS THEREOF (WHETHER DIRECTLY OR INDIRECTLY) SUPPLIED BY NEWCO CAN BE CORRECTED.

3.7 Obsolescence.

3.7.1 Discontinuance by NewCo. NewCo agrees and acknowledges that it has an obligation to

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manufacture, supply and support the Licensed Product(s) without interruption during the Commercial Term. If NewCo wishes to discontinue the manufacture and supply of any particular Licensed Product(s) during the Commercial Term, NewCo shall provide written notice of such desire to Cytori not less than twelve (12) months in advance of the last date such Licensed Product(s) can be ordered. Upon Cytori's receipt of any such discontinuance notice by NewCo, NewCo shall provide Cytori with the appropriate designation for a suitable replacement Licensed Product(s), unless the Parties have mutually agreed to no longer sell such discontinued Licensed Product type. Provided that support for discontinued products shall not be required for more than seven years from the date of discontinuance.

3.7.2 Final Order. Prior to the effective date of the (a) the expiration or sooner termination of this Agreement, or (b) discontinuance of any Licensed Product(s) by NewCo under Section 3.7.1, Cytori may make, and NewCo agrees to accept, a final Order for the relevant Licensed Product(s) to be paid for and shipped during a period commencing on the date of any such expiration, sooner termination or discontinuance, and ending on the date that is six (6) months after such date of any such expiration, sooner termination or discontinuance.

3.8 Marketing, Licensing and Insurance.

3.8.1 Marketing Authority. Cytori retains the sole and exclusive right and authority to market the Licensed Product(s) worldwide, to the extent it deems appropriate, in its discretion. Upon NewCo's reasonable request, Cytori, when reasonably practicable, shall allow NewCo's personnel to participate in Cytori's general marketing research activities in relation to the Licensed Product(s).

3.8.2. No Rights In Marks. Unless otherwise agreed by the Parties in writing, nothing in this Agreement shall be construed to grant either Party any rights in any Trademarks of the other Party. Notwithstanding the immediately preceding sentence, Cytori hereby authorizes NewCo, only for the purposes of labeling the Licensed Product(s), to use the Licensed Product(s)-related Trademark(s) of Cytori, and NewCo hereby authorizes Cytori, only for the purposes of labeling and selling the Licensed Product(s), to use the Licensed Product-related Trademark(s) of Olympus-Cytori (subject to approval by Olympus). For the avoidance of doubt, NewCo is not granted any right or authority to use Trademarks of Cytori for any other use, unless otherwise expressly authorized by Cytori in writing.

3.8.3 Documentation. Responsibility for the preparation of any necessary manuals for the Licensed Products shall be as mutually agreed prior to commercialization.

3.8.4 Insurance. Each Party will, at its sole discretion, maintain adequate commercial general liability insurance and product liability insurance, in amounts which are reasonable and customary. Subject to reasonable insurance policy limitations and exclusions, such product liability insurance of each Party shall insure against all liability arising out of the use, manufacture (including packaging and delivery), sale, offer for sale, importation, distribution, marketing and promotion of the Licensed Product(s) throughout the world.

3.9 Country of Manufacture.

3.9.1 Country of Origin Certification. Upon Cytori's request, NewCo shall provide Cytori with an appropriate certification stating the country of origin for Licensed Product(s), sufficient to satisfy the requirements of the customs authorities of the country of receipt and any applicable export licensing regulations, including those of the United States.

3.9.2 Country of Origin Marking. NewCo will mark each Licensed Product(s) (or the Licensed Product container, if there is no room on the Licensed Product), with the country of origin. NewCo will, in so marking Licensed Product(s), comply with the requirements of the customs authorities of the country of

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receipt.

3.9.3 Customs Authorities; Export Regulations. Cytori shall notify NewCo of any requirement from applicable customs authorities, and NewCo will comply in a timely manner with such requirements. Upon Cytori's reasonable request, NewCo shall assist Cytori with certification stating the country of origin to satisfy the requirements of: (a) the customs authorities of the country of receipt and the countries of Cytori's distribution operations; and (b) any applicable export licensing regulations, including those of the United States.

3.9.4 Costs and Expenses. NewCo will solely bear its costs incurred in connection with Sections 3.9.1, 3.9.2 and 3.9.3. In the event of significant changes in cost as a consequence of modification of law, rule, regulation and/or governmental order, such cost may be allocated between NewCo and Cytori, if such allocation is fair and reasonable, and if the Parties mutually agree to such allocation. The Parties will negotiate any such allocation in good faith.

3.10 Force Majeure Events.

3.10.1 Force Majeure. To the extent that either Party to this Agreement is temporarily unable to perform its obligations hereunder, in whole or in part, due to causes beyond such Party's reasonable control, including, but not limited to, acts of God, acts of war, acts of terrorism, civil disturbance, governmental action, strikes, fire, flood, typhoon, peril or accident at sea, inability to secure materials and transportation or facilities**,** walkouts or lock-outs or other labor disputes beyond the reasonable control of such Party (each, a "**Force Majeure Event**"), the time for performing such Party's obligations will be extended until such time (a) as the Force Majeure Event has been resolved or otherwise mitigated or eliminated, or (b) as mutually agreed by the Parties, and in case of either (a) or (b), so as not to materially impede or prevent performance of such Party's obligations; provided, however, that the Party claiming the benefit of this provision shall provide to the other Party prompt written notice and reasonable evidence of the occurrence of such Force Majeure Event, and shall cooperate with the other Party in taking all such commercially reasonable actions as may be necessary or appropriate to mitigate, avoid or lessen the adverse effects of such Force Majeure Event, as it may relate to the performance of each Party's respective obligations hereunder. In no event shall a Party's inability to pay any sums due hereunder or otherwise perform any of its financial obligations hereunder be independently deemed to be a Force Majeure Event. Until such Force Majeure Event is so resolved, mitigated or eliminated, or until expiration of the time period mutually agreed by the Parties, the Party so unable to perform its obligations shall not be deemed to be in default under or in breach of this Agreement; further provided that the Parties shall in any event be required to perform all other obligations hereunder which are reasonably capable of being performed during the continuance of such Force Majeure Event. In the event that the Parties do not agree upon the occurrence of a Force Majeure Event, then the matter shall be submitted to arbitration pursuant to the provisions of Section 4.3 hereof. Subject to the foregoing, a Force Majeure Event may include (a) the occurrence of any pandemic, epidemic or prevalent disease or illness with an actual or probable threat to human life, including, without limitation, atypical pneumonia or Severe Acute Respiratory Syndrome (SARS), or avian influenza, or (b) adherence to any travel restriction, warning or advisory issued in relation thereto by the Government of Japan, the World Health Organization (WHO) or the U.S. Centers for Disease Control (CDC), or (c) any quarantine or similar measure taken in relation thereto by any governmental authority to prevent the spread of any communicable disease, or (d) any unavailability of any resources or services resulting directly from any of the foregoing, or (e) impossibility to deliver Licensed Product(s) due to export/import restriction derived from a governmental regulation that would make the export/import act illegal. In the event that a Force Majeure Event continues for three (3) months or longer, either Party may terminate and cancel any and all outstanding Orders, regardless as to whether accepted by NewCo, by written notice to the other Party. In the event that a Force Majeure Event continues for six (6) months or longer, either Party may terminate this Agreement without any liability to the other Party that solely arises from such early termination. In addition to the above, NewCo and Cytori will, within a reasonable period

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of time after the Effective Date, discuss the manner in which NewCo may be able to establish and implement a business recovery plan that describes strategies for response to and recovery from a broad spectrum of potential natural and man-made disasters.

3.11 RESERVED.
3.11.1 RESERVED.
3.11.2 RESERVED.
3.11.3 RESERVED.

3.11.4 Accrued Liabilities. The expiration or sooner termination of Section 3 of this Agreement for any cause shall not release any Party hereto from any liability which, at the time of such expiration or termination, has already accrued against such Party (or which thereafter may accrue against such Party in respect of any act or omission occurring prior to such expiration or termination), nor shall any such expiration or termination of this Agreement affect in any way the survival of any right, duty or obligation of any Party hereto which is expressly stated elsewhere in this Agreement to survive expiration or earlier termination hereof.

3.11.5 Return of Confidential Information. The capitalized terms used in this Section 3.11.5 are defined in the Three-Way NDA. Upon expiration or sooner termination of Section 3 of this Agreement and the Commercial Term, the Receiving Party shall immediately cease all use of the Disclosing Party's Confidential Information and shall, in accordance with Disclosing Party's reasonable written instructions, promptly return to Disclosing Party or destroy all Confidential Information of the Disclosing Party, including, without limitation, all copies (in electronic form or otherwise) in Receiving Party's possession and any notes or memoranda that contain Confidential Information of the Disclosing Party. The Receiving Party shall certify in a writing signed by an officer or director of the Receiving Party that all such Disclosing Party Confidential Information has been returned, deleted or destroyed.

3.12 Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANY PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICE, DOWNTIME, PERSONAL PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR IN ANY WAY RELATED TO THE PARTIES' PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED OTHERWISE IN THIS AGREEMENT, ALL REMEDIES PROVIDED FOR HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO TERMINATE THIS AGREEMENT AND ALL OF THE REMEDIES PROVIDED BY LAW (AND NOT EXCLUDED PURSUANT TO THE FOREGOING SENTENCE), SHALL BE DEEMED CUMULATIVE AND NON EXCLUSIVE.

4. MISCELLANEOUS PROVISIONS

4.1 Export Regulations. Each Party shall be responsible for observing and abiding by any and all export control laws and regulations (including, without limitation, any and all costs associated therewith) applicable to the Cytori IP and/or Licensed Product(s).

4.2 Governing Law. This Agreement shall be governed in all respects by the laws of New York without regard to provisions regarding choice of laws.

4.3 Dispute Resolution. All disputes arising out of or in connection with this Agreement, or any relationship created by or in accordance with this Agreement, shall be finally settled under the Rules of the American Arbitration Association (the "**Rules**") by three arbitrators. Judgment on the award rendered by the panel of arbitrators shall be binding upon the Parties and may be entered in any court having jurisdiction thereof. NewCo shall nominate one arbitrator and Cytori shall nominate one arbitrator. The arbitrators so nominated by NewCo and Cytori, respectively, shall jointly nominate the third arbitrator within fifteen (15) days following the confirmation of arbitrators nominated by NewCo and Cytori. If the arbitrators nominated by NewCo and Cytori cannot agree on the third arbitrator, then such third arbitrator shall be selected as provided in the Rules. The place of the arbitration and all hearings and meetings shall be Singapore, , unless the Parties to the arbitration otherwise agree. The arbitrators may order pre-hearing production or exchange of documentary evidence, and may require written submissions from the relevant Parties hereto, but may not otherwise order pre-hearing depositions or discovery. The arbitrators shall apply the laws of New York as set forth in Section 4.2; provided, however, that the Federal Arbitration Act shall govern. The language of the arbitral proceedings shall be English. The arbitrators shall not issue any award, grant any relief or take any action that is prohibited by or inconsistent with the provisions of this Agreement.

No arbitration pursuant to this Section 4.3 shall be commenced until the Party intending to request arbitration has first given thirty (30) days written notice of its intent to the other Party, and has offered to meet and confer with one or more responsible executives of such other Party in an effort to resolve the dispute(s) described in detail in such written notice. If one or more responsible executives of the other Party agree, within thirty (30) days after receipt of such written notice, to meet and confer with the requesting Party, then no arbitration shall be commenced until the Parties have met and conferred in an effort to resolve the dispute(s), or until sixty (60) days has elapsed from the date such written notice has been given.

4.4 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the Parties hereto whose rights or obligations hereunder are affected by such amendments. Neither this Agreement nor any right, license, privilege or obligation provided herein may be assigned or transferred by either Party without the other Party's prior written consent, and any such assignment or transfer shall constitute a Change of Control (of Cytori).

4.5 Entire Agreement. This Agreement and the attachments, schedules and exhibits hereto, which are hereby expressly incorporated herein by this reference, constitute the entire understanding and agreement between the Parties with regard to the subject matter hereof and thereof, and supersedes, cancels and annuls in its entirety any and all prior or contemporaneous agreements and understandings, express or implied, oral or written among

them with respect thereto. No alteration, modification, interruption or amendment of this Agreement shall be binding upon the Parties unless in writing designated as an amendment hereto, and executed with equal formality by each of the Parties.

4.6 Notices. Except as otherwise expressly provided herein, all notices, requests, waivers and other communications made pursuant to this Agreement shall be in writing and shall be deemed to have been duly given (a) when hand delivered to the other Party; (b) when received, if sent by facsimile at the address and number set forth below, with a written confirmation copy of such facsimile sent the next business day in accordance with (c) below; (c) the second business day after deposit with a national overnight delivery service, postage prepaid, addressed to the other Party as set forth below, provided that the sending Party receives a confirmation of delivery from the delivery service provider; or (d) if earlier, when actually received.

To Cytori:

3020 Callan Road, San Diego, CA 92121, U.S.A.

Attn: Christopher J. Calhoun
Fax: 858-458-0995

To NewCo:

2-3 Kuboyama-cho,
Hachioji-shi, Tokyo, 192-8512, Japan

Attn: Masaaki Terada
Fax: +81-426-91-7350

A Party may change or supplement its address set forth above, or may designate additional addresses, for purposes of this Section 4.6, by giving the other Party written notice of the new address in the manner set forth above.

4.7 Amendments and Waivers. No term or provision of this Agreement may be amended, waived, discharged or terminated orally but only by an instrument in writing signed by the Party against whom the enforcement of such amendment, waiver, discharge or termination is sought. Any waiver shall be effective only in accordance with its express terms and conditions.

4.8 Cumulative Remedies. Unless expressly so stated in this Agreement in respect of any particular right or remedy, the rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

4.9 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

4.10 Relationship of Parties. This Agreement shall not be deemed to constitute either Party, the agent, the partner, the licensee, the affiliate or the representative of the other Party, and neither Party shall represent to any third party that it has any such relationship or right of representation.

4.11 Press Release. No public announcements or press releases shall be issued by either Party regarding this Agreement or any of the activities engaged in by the Parties or NewCo pursuant to this Agreement without the prior written approval of the other Party; provided, however, that either Party shall have the right to make such public disclosure as may be necessary or appropriate to comply with applicable securities or other laws.

4.12 Counterparts. This Agreement may be executed by facsimile signature in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

4.13 Severability. Should any provision of this Agreement be determined to be illegal or unenforceable, such determination shall not affect the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this License/ Commercial Agreement as of the Effective Date.

CYTORI THERAPEUTICS, INC

By: /s/ Christopher J. Calhoun

Title: CEO

Date: November 4, 2005

OLYMPUS-CYTORI, INC.

By: /s/ Masaaki Terada

Title: CEO

Date: November 4, 2005

LIST OF SCHEDULES

Schedule 1A:	Description of Cytori IP (Section 1 (Definitions))
Schedule 2.2.1:	List of Documents Relating to Cytori IP (Section 2.2 (Disclosure of Cytori IP))
Schedule 2.2:	Description of Training (Section 2.2 (Disclosure of Cytori IP))
Schedule 3.4.6	NewCo’s Manufacturing Capacity (Section 3.4 (Order and Forecast))

LICENSE/ JOINT DEVELOPMENT AGREEMENT

This **LICENSE/ JOINT DEVELOPMENT AGREEMENT** (this "**Agreement**") is entered into as of November 4, 2005 (the "**Effective Date**"), by and among **CYTORI THERAPEUTICS, INC.**, a Delaware corporation, located at 3020 Callan Road, San Diego, CA 92121, U.S.A. ("**Cytori**"), **OLYMPUS CORPORATION**, a Japanese corporation, with its principal office at 2-43-2 Hatagaya Shibuya-ku, Tokyo, Japan ("**Olympus**"), and Olympus-Cytori, Inc. a Delaware corporation, located at 3020 Callan Road, San Diego, CA 92121, U.S.A. ("**NewCo**").

Cytori, Olympus and NewCo shall each be referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Cytori has acquired and possesses, through the expenditure of considerable time, effort and money, certain intellectual property rights (including patents, patent applications and technical information) to regenerative cell technology, including scientific equipment used to carry out regenerative cell therapies and treatments.

B. On and subject to the terms and conditions set forth herein and pursuant to Section 2.3 of a Joint Venture Agreement by and between Cytori and Olympus Corporation, dated as of November 4, 2005 (the "**JVA**"), Olympus is prepared to grant to NewCo, and NewCo desires to obtain from Olympus, an exclusive license to use such intellectual property rights of Olympus for purposes of developing, manufacturing and selling to Cytori the Licensed Product(s) (as defined below).

C. The obligations of the Parties under the JVA and the Ancillary Agreements (as defined in the JVA) is conditioned on Cytori, NewCo and Olympus entering into this Agreement, which sets forth, among other things, certain terms and conditions under which the Parties will jointly develop the Licensed Product(s) for sale in the Licensed Field (as defined below).

D. NewCo desires Cytori and Olympus to jointly develop Licensed Product(s), and Cytori and Olympus are willing to perform such Licensed Product(s) development under the terms and conditions provided for herein.

NOW, **THEREFORE**, in consideration of the foregoing, the mutual promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows

SECTION 1
DEFINITIONS

1.1 Definitions. As used in this Agreement, the capitalized terms set forth in this Section 1 shall have the following meanings, and may be read in the singular, plural or an alternative tense as the context requires.

"**Acceptance**" means NewCo's express written acceptance and acknowledgement (which shall not be unreasonably withheld) of the completion of development of a given Licensed Product in accordance with the Development Plan and in satisfaction of the Specifications.

"**Acceptance Procedures**" means the procedures and criteria under which NewCo shall test each Licensed Product Deliverable, as set forth in further detail in Exhibit 1A. **[These procedures to be mutually agreed between the Parties in connection with the final determination of the Development Plan and Specification.]**

"**Affiliate**" means, as to any Party, any Person that, directly or indirectly, controls, or is controlled by, or is

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under common control with, such Party, where "control" (including, with its correlative meanings, "controlled by" and "under common control with") means (a) the beneficial ownership of fifty percent (50%) or more of the outstanding voting securities of such Party, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of such Party, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"**Agreement**" shall have the meaning ascribed thereto in the Preamble, and shall include this Agreement and each Exhibit attached hereto, as each such Exhibit may be amended, varied, novated or substituted from time to time by written mutual agreement of the Parties.

"**Cytori**" shall have the meaning ascribed thereto in the preamble.

"**Cytori Indemnitees**" shall have the meaning ascribed thereto in Section 11.3.

"**Cytori IP**" shall mean all Intellectual Property Rights licensed to NewCo by Cytori in accordance with the License/ Commercial Agreement, any Ancillary Agreement or otherwise.

"**Cytori Development Fees**" shall mean ******* United States Dollars (USD *******).

"**Deliverables**" shall mean the information, data, equipment, prototypes and components listed and described in the Development Plan.

"**Development Plan**" shall mean the written research and development plan for the Licensed Product(s), as set forth in (or to be set forth in) Exhibit 1B.

"**Developer(s)**" shall mean both Cytori and Olympus, and when used in a singular form, either Cytori or Olympus, as the context requires.

"**Effective Date**" shall have the meaning ascribed thereto in the Preamble.

"**Exhibit**" shall refer to each of the exhibits attached to this Agreement, each of which is hereby incorporated by reference.

"**Final Product(s)"** shall mean a Licensed Product(s) developed hereunder in full accordance with the Development Plan and the Specifications, and that has received Acceptance by NewCo.

"**Intellectual Property Rights**" or "**IP**" shall mean (a) all inventions (whether patentable or unpatentable and whether or not actually reduced to practice), all improvements thereto (but only if such improvements relate to inventions in existence as of the Closing), and all patents, provisional and non-provisional patent applications and patent disclosures, together with all reissuances, divisions, continuations, continuations-in-part, renewals, extensions and reexaminations thereof, (b) all copyrightable works, all works of authorship, all copyrights, and all applications, registrations and renewals in connection therewith, (c) all mask works and all applications, registrations and renewals in connection therewith, (d) all trademarks, service marks, trade names, service names, brand names, trade dress rights, logos, Internet domain names and corporate names, together with the goodwill associated with any of the foregoing, (e) all trade secrets and confidential business information (including, but not limited to, ideas, research and development information, know-how, formulas, compositions, biochemical and biological materials, reagents, assays, manufacturing and production processes and techniques, technical data, data base rights, designs, drawings, specifications, customer and supplier lists, pricing and cost information and business and marketing plans and proposals, and (f) any and all applications and registrations of the foregoing (in any jurisdiction).

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

"**Indemnifying Party**" shall have the meaning ascribed thereto in Section 11.1.

"**Indemnified Party**" shall have the meaning ascribed thereto in Section 11.1.

"**Indemnity Claim**" shall have the meaning ascribed thereto in Section 11.5.1.

"**Indemnity Claim Notice**" shall have the meaning ascribed thereto in Section 11.5.1.

"**JVA**" shall have the meaning ascribed thereto in Recital B.

"**License/ Commercial Agreement**" shall mean the License/ Commercial Agreement to be entered into by and between Cytori and NewCo at Closing.

"**Licensed Field**" shall mean the use of the Licensed IP for the purpose of designing, developing, manufacturing, testing and servicing Licensed Products for sale exclusively from NewCo to Cytori.

"**Licensed IP**" means all Intellectual Property Rights owned or controlled by a Party which are necessary or useful to design, develop, manufacture, test, analyze, market, offer to sell to Cytori, sell to Cytori and service all current and future generations of the Licensed Product(s). The term "Licensed IP" shall include Cytori IP, Olympus IP and NewCo IP.

"**Licensed Product(s)**" shall mean any automated devices (and related component parts) that *** separate and concentrate *** cells (including stem cells and other regenerative cells) from harvested adipose tissue (fat tissue). The device components include, but are not limited to ***

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"**Milestone**" means a specific stage of the Development Plan.

"**NewCo**" shall have the meaning ascribed thereto in the Preamble.

"**NewCo Indemnitees**" shall have the meaning ascribed thereto in Section 11.4.

"**NewCo IP**" means all Intellectual Property Rights owned by or acquired by NewCo in connection with and during the term of the JVA, including licenses granted to NewCo with respect to Cytori IP and Olympus IP.

"**Olympus Indemnitees**" shall have the meaning ascribed thereto in Section 11.2.

"**Olympus IP**" shall mean all Intellectual Property Rights owned by Olympus and licensed to NewCo in accordance with this Agreement, any Ancillary Agreement or otherwise, including, without limitation, those patents, patent applications and other Intellectual Property Rights.

"**Olympus Development Fees**" shall mean *** United States Dollars (USD ***)

"**Party**" and "**Parties**" shall have the meaning ascribed thereto in the Preamble.

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

"**Person**" shall mean an association, corporation, individual, partnership, trust or any other entity or organization, including a governmental entity, other than a Party to this Agreement.

"**Rules**" shall have the meaning ascribed thereto in Section 16.3

"**Specifications**" shall mean (a) the technical specifications of the commercially acceptable Licensed Product(s) and each Deliverable, as set forth in the Development Plan, or (b) the technical specifications of the commercially acceptable Licensed Product(s) and each Deliverable which has received Acceptance by NewCo.

"**Survival Period**" shall have the meaning ascribed thereto in Section 11.6.

"**Three-Way NDA**" shall mean the Three-Way Non-Disclosure Agreement, dated [ ], entered into by and among Cytori, Olympus and NewCo.

SECTION 2
LICENSE GRANT

2.1 Olympus License Grant. Subject to the terms, conditions and limitations set forth in this Agreement and the JVA (with its Ancillary Agreements), Olympus hereby agrees to grant to NewCo with respect to any Intellectual Property of Olympus, that Olympus incorporates into the Licensed Products, a non-exclusive, sublicenseable, irrevocable, worldwide, fully paid-up license under the Olympus IP (including any improvements thereto) so incorporated, in the Licensed Field, for the term of the Joint Venture, to design, develop, make, have made, use, translate, perform, service, maintain, import, offer to sell and sell Licensed Product(s), each Deliverable and any part or component thereof, as contemplated by the JVA to the extent not subject to any third party restrictions applicable to Olympus IP. The right of NewCo to grant sublicenses to any third party other than Cytori under such Olympus IP shall be subject to the written consent of Olympus, which shall not be unreasonably withheld or delayed. If Olympus wishes to incorporate any Olympus IP (including any third-party IP rights licensed to Olympus and any Olympus IP exclusively licensed to a third party) into a Licensed Product (or into any Licensed Product-related process) that (i) would require a further license or sublicense to NewCo and/or Cytori in order for Newco and/or Cytori to practice such Intellectual Property Right in making, using, selling, offering for sale, importing or otherwise exploiting Licensed Products; or (ii) would require royalty or other payments by NewCo, Cytori or Olympus to any third party; or (iii) is not available for licensing or sublicensing to NewCo and/or Cytori, then Olympus must first obtain Cytori's approval (after full disclosure by Olympus of all applicable terms and conditions associated therewith). For avoidance of doubt, Olympus shall not be required to grant any license to NewCo except in so far as Olympus, in its sole discretion, elects to incorporate such Olympus IP into the Licensed Products.

2.2 NewCo License Grant. Subject to the terms, conditions and limitations set forth in this Agreement and the JVA (with its Ancillary Agreements), NewCo hereby grants to Olympus and to Cytori a non-exclusive, perpetual, sublicenseable, irrevocable, fully paid-up, worldwide license (or sublicense, as applicable) under all NewCo IP (including any improvements thereto) in the Licensed Field, to design, develop, make, have made, use, translate, perform, service, maintain, import, offer to sell and sell, Licensed Product(s), each Deliverable and any part or component thereof, as contemplated by the JVA. Each of Olympus and Cytori may grant sublicenses to a third party only with the prior consent of NewCo.

2.3 No Reverse Engineering. Each Party agrees not to reverse engineer, disassemble or decompile the whole or any part of any other Party's IP , or to use any other Party's IP in any manner not expressly authorized or contemplated by this Agreement and the JVA. If a Party and/or its end users believe that they are entitled to reverse engineer the IP of another Party by virtue of rights that may be granted as a matter of applicable law, such as the Council Directive of 14 May 1991 of the Council of the European Communities (as amended), such Party represents that (a) such Party and its end users shall first request the technical information from such other Party; and (ii) such technical information shall be used only to the extent permitted under such applicable law.

SECTION 3
DEVELOPMENT COMMITTEE

3.1 Development Committee. From time to time, the Developers may establish a development committee (the "**Development Committee**") to oversee, review and coordinate the research and development of Licensed Product(s) and the implementation of the Development Plan. From time to time, the Development Committee may establish subcommittees, to oversee particular projects or activities (such as separate committees to oversee product development), and such subcommittees will be constituted as the Development Committee agrees.

3.2 Membership. In the event that the Development Committee is established under Section 3.1, the Development Committee shall be comprised of an equal number of representatives from each of Olympus and Cytori, as appointed by each Developer. Subject to the foregoing provisions of this Section 3.2, each Developer may replace any of its respective Development Committee representatives at any time, with prior written notice to the other Developer. The Parties agree and acknowledge that the representatives appointed by each Developer to the Development Committee have no authority to legally bind any Developer.

3.3 Meetings. In the event that the Development Committee is established under Section 3.1, the Development Committee shall meet as agreed by the Developers, at such locations as the Developers mutually agree. At its meetings, the Development Committee shall (a) formulate and review (but not modify) the Development Plan objectives; (b) monitor the Parties' progress under the Development Plan toward those objectives; and/or (c) discuss any problems that arise in the implementation of the Development Plan. With the consent of both Developers, other representatives of each Developer may attend Development Committee meetings. The Development Committee shall prepare written minutes of each Development Committee meeting and a written record of all Development Committee discussions, whether made at a Development Committee meeting or otherwise. Such minutes of the Development Committee meeting shall only be effective when they are subsequently approved in writing by all of the appointed representatives on the Development Committee. Each Developer shall bear its own costs and expenses, including without limitation travel costs and expenses, associated with its appointed representatives' attendance at Development Committee meetings. The Parties agree and acknowledge that the Development Committee shall not have any authority to bind any of the Parties to any contractual obligations or to otherwise amend this Agreement.

SECTION 4
DEVELOPMENT OF THE FINAL PRODUCT(S)

4.1 Joint Development. Immediately following the Effective Date, the Developers shall commence

development of Final Product(s) in accordance with, and as described in further detail in, the Development Plan.

4.2 Disclosure of Olympus IP. Subject to the terms, conditions and limitations set forth in this Agreement, Olympus shall to its best knowledge deliver and disclose to NewCo, and NewCo shall be entitled to share with Cytori, all Olympus IP that is incorporated into or with the Final Product(s), NewCo shall provide Cytori with any other technical information and assistance in this regard, as set forth in the Development Plan.

4.3 Disclosure of Cytori IP. Subject to the terms, conditions and limitations set forth in this Agreement, Cytori shall deliver and disclose to NewCo, and NewCo shall be entitled to share with Olympus, all Cytori IP that is necessary or useful for (or related to) the development of Final Product(s), or which is necessary or useful for NewCo's or Olympus' performance of its obligations under this Agreement. NewCo shall provide Olympus with any other technical information and assistance in this regard, as set forth in the Development Plan.

4.4 Changes to Development Plan. The Development Plan and Specifications shall set forth the base requirements and specifications for each Final Product. If the requirements or specifications for the Final Product(s) need to be amended in order to further the Developers' objectives hereunder, the Developers will use their own respective commercially reasonable efforts to negotiate such necessary amendments to the Development Plan, while minimizing the impact to the cost and timing of the development of the Final Product(s).

4.5 Third Party Assistance. In performing its obligations under this Agreement (more specifically, in developing and manufacturing the Final Product(s) and in providing each Deliverable), a Developer shall not cooperate or collaborate with any third party without the prior written consent of the other Developer, which consent may be withheld at the other Developer's sole discretion, provided that, either Developer may retain subcontractors or may subcontract in performing its obligations under this Agreement. For the avoidance of doubt, either Developer may hire contract-based engineers as needed for its performance under this Agreement.

4.6 Exclusivity. Each Developer shall not, during the term of this Agreement, the JVA or for a two (2) year period thereafter, (a) engage in or otherwise participate in (i) product development activities with or on behalf of any third party that are the same as the activities set forth in the Development Plan, or (ii) development of any product that is the same (or performs a substantially similar function using adipose tissue) as the Final Product(s), or (b) enter into any agreement or understanding with any third party to engage in or otherwise participate in such development activities. For the avoidance of doubt, this Section 4.6 is and remains subject to the reservation of rights by Cytori set forth in Section 2.1.5 of the License/ Commercial Agreement.

4.7 Regulatory Filings. The Parties shall discuss in good faith the responsibilities of each Party with respect to all appropriate, prudent and necessary governmental filings, including, without limitation, Japan's Yakuji application, Food and Drug Administration applications and CE mark applications, provided that, in cooperation and collaboration with Olympus, Cytori shall be responsible for using commercially reasonable efforts to seek Food and Drug Administration approval in the Licensed Field for the Prototype of Celution set forth in Schedule 1 of the Joint Venture Agreement.

4.8 Manufacturing Capabilities. Olympus (or a third party acting on behalf of Olympus) shall be responsible for acquiring and/or developing all necessary Final Product(s) manufacturing capabilities, including equipment and facilities, as provided in the Development Plan.

4.9 Responsibilities. The Parties agree and acknowledge that each Developer shall be solely responsible for

the performance of its respective duties and responsibilities set forth in this Agreement and the Development Plan. Except as otherwise set forth in this Agreement, neither Developer shall have any liability whatsoever with respect to any failure by the other Developer to fulfill its obligations under this Agreement and the Development Plan in a timely manner. Without limiting the generality of the foregoing, the Parties agree and acknowledge that neither Developer shall be responsible to the other Developer or to NewCo for any delays in meeting any milestones or other agreed upon development schedule or objectives, if such delay is caused by the other Developer or by NewCo's failure to perform its obligations in a timely fashion.

SECTION 5
ACCEPTANCE

5.1 Acceptance by NewCo. NewCo shall conduct the Acceptance Procedures at its sole cost and expense. NewCo shall complete all the Acceptance Procedures within ninety (90) days from its receipt of each proposed Final Product from the Developers. NewCo shall record the results of all Acceptance Procedures in sufficient detail and on appropriate logging sheets, and shall provide such results to the Developers within thirty (30) days after the conclusion thereof.

5.2 Issuance of Acceptance Certificate. If Acceptance Procedures conducted by NewCo pursuant to Section 5.1 indicate that the relevant Specifications have been satisfied within the tolerances set forth in the Acceptance Procedures, then NewCo shall, within ten (10) days after the conclusion of such Acceptance Procedures, issue an appropriate Acceptance Certificate to the Developers. The Acceptance Certificate shall be conclusive evidence of NewCo's acceptance and acknowledgment of the satisfaction of the Specificationswithin the tolerances set forth in the Acceptance Procedures, and shall be binding upon NewCo for all purposes. If NewCo fails to conduct the Acceptance Procedures and/or fails to inform the Developers of the results thereof in accordance with and within the timeframes specified in the Acceptance Procedures, an Acceptance Certificate shall be deemed to have been issued by NewCo.

SECTION 6
PAYMENT FOR DEVELOPMENT ACTIVITIES

6.1 Payment by NewCo to Olympus. For and in consideration of the development activities to be undertaken by Olympus hereunder, NewCo shall, within ninety (90) days of the Effective Date, pay to Olympus the Olympus Development Fees in immediately available funds, by wire transfer to the bank account designated by Olympus.

6.2 Payment by NewCo to Cytori. For and in consideration of the development activities undertaken by Cytori, and upon receipt by Cytori of the EC design examination certificate in accordance with Annex II of Directive93/42/EEC ("CE Mark") for the Prototype Celution Device (as described in Exhibit 1C), NewCo shall immediately pay to Cytori the Cytori Development Fee.

SECTION 7
OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership. All Intellectual Property Rights arising from the joint research and development of Licensed Product(s) under this Agreement, including the transferability thereof, shall be as set forth on Exhibit 7.1.

7.2 Cytori IP Outside of the Licensed Field. The Parties agree and acknowledge that all Intellectual Property Rights in and to the Cytori IP outside of the Licensed Field, if any, shall at all times belong exclusively to Cytori.

SECTION 8
DELIVERY

8.1 Delivery of the Deliverables. The Developers shall deliver any and all Deliverables to NewCo in accordance with and in the manner set forth in the Development Plan.

SECTION 9
REPORTING

9.1 Reporting. Each Developer shall provide to the other Parties project progress reports, as set forth in the Development Plan.

SECTION 10
REPRESENTATIONS AND WARRANTIES

10.1 Olympus Representations and Warranties. Olympus represents and warrants to each of Cytori and NewCo that:

10.1.1 It is a corporation duly organized, validly existing and in good standing under the laws of its place of incorporation, and that it has full power and authority, and has taken all action necessary, to execute and deliver this Agreement, and to fulfill its obligations under, and to consummate the transactions contemplated by, this Agreement;

10.1.2 The execution, delivery and performance of this Agreement by it will not result in any breach or violation of, or conflict with, any contract, agreement, undertaking, judgment, decree, order, law, regulation or rule to which it is a party, or by which it or any of its assets are bound; and

10.1.3 This Agreement has been duly and validly executed and delivered by it and is binding upon and enforceable against it in accordance with its terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the rights of creditors and except as enforceability may be limited by rules of law governing specific performance, injunctive relief or other equitable remedies.

10.2 Cytori Representations and Warranties. Cytori represents and warrants to each of Olympus and NewCo that:

10.2.1 It is a corporation duly organized, validly existing and in good standing under the laws of its place of incorporation, and that it has full power and authority, and has taken all action necessary, to execute and deliver this Agreement and to fulfill its obligations under, and to consummate the transactions contemplated by, this Agreement;

10.2.2 The execution, delivery and performance of this Agreement by it will not result in any breach or violation of, or conflict with, any contract, agreement, undertaking, judgment, decree, order, law, regulation or rule to which it is a party, or by which it or any of its assets are bound; and

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10.2.3 This Agreement has been duly and validly executed and delivered by it and is binding upon and enforceable against it in accordance with its terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the rights of creditors and except as enforceability may be limited by rules of law governing specific performance, injunctive relief or other equitable remedies.

10.3 Cytori Intellectual Property. Cytori represents and warrants that it owns, or has the right to use, any and all Cytori IP which is or may be used in the performance of its obligations under this Agreement.

10.4 Olympus Intellectual Property. Olympus represents and warrants that it owns, or has the right to use, any and all Olympus IP which is or may be used in the performance of its obligations under this Agreement.

SECTION 11

INDEMNIFICATION

11.1 Indemnification. Each Party ("**Indemnifying Party**") agrees to indemnify, defend and hold harmless each other Party ("**Indemnified Party**"), together with such other Party's officers, directors, shareholders, employees, agents or affiliates, from and against any and all damages, losses, liabilities, costs and expenses, whether or not involving a third party claim, including, but not limited to, legal fees and reasonable attorney costs, interest, penalties and disbursements, asserted against, resulting to, imposed upon or incurred by the Indemnified Party, its officers, directors,

shareholders, employees, agents or affiliates, by reason of or resulting from a breach by the Indemnifying Party of any of its obligations or its representations and warranties under this Agreement.

11.2 Cytori Intellectual Property Indemnification Obligation. In addition to the indemnification obligations set forth in Section 11.1, Cytori shall indemnify Olympus, NewCo and their respective officers, directors, shareholders, employees, agents or affiliates (the "**Olympus Indemnitees**"), from and against any and all damages, losses, liabilities, costs and expenses, whether or not involving a third party claim, including, but not limited to, legal fees and reasonable attorney costs, interest, penalties and disbursements, and royalities or other license payments, asserted against, resulting to, imposed upon or incurred by the Olympus Indemnitees in any manner arising out of, in connection with, with respect to or relating to any Intellectual Property Rights infringement claims asserted or claimed by a third party(ies) asserting infringement of such third party's(ies') Intellectual Property Rights or any other proprietary right by use or practice of the Cytori IP.

11.3 Olympus Intellectual Property Indemnification Obligation. In addition to the indemnification obligations set forth in Section 11.1, Olympus shall indemnify Cytori, NewCo and their respective officers, directors, shareholders, employees, agents or affiliates (the "**Cytori Indemnitees**"), from and against any and all damages, losses, liabilities, costs and expenses, whether or not involving a third party claim, including, but not limited to, legal fees and reasonable attorney costs, interest, penalties and disbursements, asserted against, resulting to, imposed upon or incurred by the Cytori Indemnitees in any manner arising out of, in connection with, with respect to or relating to any Intellectual Property Rights infringement claims asserted or claimed by a third party(ies) asserting infringement of such third party's(ies') Intellectual Property Rights or any other proprietary right by use or practice of the Olympus IP.

11.4 Developers Intellectual Property Indemnification Obligation. In addition to the indemnification obligations set forth in Section 11.1, the Developers shall jointly and severally indemnify NewCo and its officers, directors, shareholders, employees or agents (the "**NewCo Indemnitees**"), from and against any and all damages, losses, liabilities, costs and expenses, whether or not involving a third party claim, including, but not limited to, legal fees and reasonable attorney costs, interest, penalties and disbursements, asserted

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against, resulting to, imposed upon or incurred by the NewCo Indemnitees in any manner arising out of, in connection with, with respect to or relating to any Intellectual Property Rights infringement claims asserted or claimed by a third party(ies) asserting infringement of such third party's(ies') Intellectual Property Rights or any other proprietary right by manufacture, use or practice of the Final Product(s), but specifically excluding such claims that are provided for under Sections 11.2 and 11.3.

11.5 Administration of Indemnification. For purposes of administering the indemnification provisions set forth in Sections 11.1, 11.2, 11.3 and 11.4, the following procedure shall apply:

11.5.1 Whenever a claim (each, an "**Indemnity Claim**") shall arise for indemnification under this Section 11.5, the Indemnified Party shall, reasonably promptly after acquiring knowledge of the Indemnity Claim, give written notice (each, an "**Indemnity Claim Notice**") to the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, setting forth in reasonable detail, to the extent then available, the facts concerning the nature of the Indemnity Claim and the basis upon which the Indemnified Party, Cytori, Olympus or the Developers, as the case may be, believes that it is entitled to indemnification under this Section 11.

11.5.2 In the event of any Indemnity Claim resulting from or in connection with any claim by a third party, the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, shall be entitled, at its sole expense, either (a) to participate in defending against such claim or (b) to assume the entire defense with counsel who is selected by it and who is reasonably satisfactory to the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, provided that (A) the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, agrees in writing that it does not and will not contest its responsibility for indemnifying the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, in respect of such claim or proceeding, and (B) no settlement shall be made and no judgment consented to without the prior written consent of the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, which consent shall not be unreasonably withheld, conditioned or delayed (except that no such consent shall be required if the claimant is entitled under the settlement to only monetary damages actually paid by the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be). If, however, (i) the claim, action, suit or proceeding would, if successful, result in the imposition of damages for which the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, would not be responsible, or (ii) representation of both the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, and the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, by the same counsel would otherwise be inappropriate due to actual or potential differing interests between them, then the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, shall not be entitled to assume the entire defense, and each Party shall be entitled to retain counsel who shall cooperate with one another in defending against such claim. In the case of item (i) of the preceding sentence, the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, shall be obligated to bear only that portion of the expense of the Indemnified Party's, Cytori's, Olympus' or the Developers', as the case may be, counsel that is in proportion to the claimed damages indemnifiable by the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, compared to the total amount of the third-party claim against the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be.

11.5.3 If, within ten (10) days after receipt of an Indemnity Claim Notice, the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, fails to give the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, written notice of the Indemnifying Party's, Cytori's, Olympus' or the Developers', as the case may be, election to undertake the defense of the related Indemnity Claim, or if the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, subsequently fails to diligently prosecute such defense, the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, may defend in such manner as it reasonably deems appropriate or settle the claim (after giving notice thereof to the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be) on

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such terms as the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, may deem appropriate, and the Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, shall be entitled to periodic reimbursement of defense expenses incurred and prompt indemnification from the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, in accordance with this Section 11.

11.5.4 Failure or delay by an Indemnified Party, Cytori Indemnitees or Olympus Indemnitees, as the case may be, to give a reasonably prompt notice of any Indemnity Claim (if given prior to expiration of the applicable Survival Period) shall not release, waive or otherwise affect an Indemnifying Party's, Cytori's, Olympus' or the Developers', as the case may be, obligations with respect to the Indemnity Claim, except to the extent that the Indemnifying Party, Cytori, Olympus or the Developers, as the case may be, can demonstrate actual loss or prejudice as a result of such failure or delay.

11.6 This Section 11 shall survive the expiration or sooner termination of this Agreement, and shall continue for a period of five (5) years from the date of expiration or sooner termination hereof, as applicable (the "**Survival Period**").

SECTION 12
LIMITATION ON RECOVERABLE DAMAGES

12.1 Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANY PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICE, DOWNTIME, PERSONAL PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR IN ANY WAY RELATED TO THE PARTIES' PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED OTHERWISE IN THIS AGREEMENT, ALL REMEDIES PROVIDED FOR HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO TERMINATE THIS AGREEMENT AND ALL OF THE REMEDIES PROVIDED BY LAW (AND NOT EXCLUDED PURSUANT TO THE FOREGOING SENTENCE), SHALL BE DEEMED CUMULATIVE AND NON EXCLUSIVE.

SECTION 13
FURTHER RIGHTS UPON TERMINATION

13.1 Accrued Liabilities. The expiration or earlier termination of this Agreement for any cause shall not release any Party hereto from any liability which, at the time of such expiration or termination, has already accrued against such Party (or which thereafter may accrue against such Party in respect of any act or omission occurring prior to such expiration or termination), nor shall any such expiration or termination of this Agreement affect in any way the survival of any right, duty or obligation of any Party hereto which is

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expressly stated elsewhere in this Agreement to survive expiration or earlier termination hereof.

SECTION 14
MISCELLANEOUS PROVISIONS

14.1 Export Regulations. Each Party shall be responsible for observing and abiding by any and all export control laws and regulations (including, without limitation, any and all costs associated therewith) applicable to the Cytori IP, Olympus IP, NewCo IP, the Deliverables and/or the Final Product(s), as applicable.

14.2 Governing Law. This Agreement shall be governed in all respects by the laws of New York without regard to provisions regarding choice of laws.

14.3 Dispute Resolution. All disputes arising out of or in connection with this Agreement, or any relationship created by or in accordance with this Agreement, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "**Rules**") by three arbitrators. Judgment on the award rendered by the panel of arbitrators shall be binding upon the Parties and may be entered in any court having jurisdiction thereof. Olympus shall nominate one arbitrator and Cytori shall nominate one arbitrator. The arbitrators so nominated by Cytori and Olympus, respectively, shall jointly nominate the third arbitrator within fifteen (15) days following the confirmation of arbitrators nominated by Cytori and Olympus. If the arbitrators nominated by Cytori and Olympus cannot agree on the third arbitrator, then such third arbitrator shall be selected as provided in the Rules. The place of the arbitration and all hearings and meetings shall be in Singapore unless the parties to the arbitration otherwise agree. In addition to the Rules and except as otherwise provided herein, the Parties agree that the arbitration shall be conducted according to the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration. The arbitrators may order pre-hearing production or exchange of documentary evidence, and may require written submissions from the relevant parties hereto, but may not otherwise order pre-hearing depositions or discovery. The arbitrators shall apply the laws of the state of New York as set forth in this Section 16.3; provided, however, that the Federal Arbitration Act shall govern. The language of the arbitral proceedings shall be English. The arbitrators shall not issue any award, grant any relief or take any action that is prohibited by or inconsistent with the provisions of this Agreement.

No arbitration pursuant to this Section 16.3 shall be commenced until the Party intending to request arbitration has first given thirty (30) days written notice of its intent to the other Party or Parties, as the case may be, and has offered to meet and confer with one or more responsible executives of such other Party or Parties, as the case may be, in an effort to resolve the dispute(s) described in detail in such written notice. If one or more of such responsible executives agree, within thirty (30) days after receipt of such written notice, to meet and confer with the requesting Party, then no arbitration shall be commenced until the Parties have met and conferred in an effort to resolve the dispute(s) or until sixty (60) days have elapsed from the date such written notice has been given.

14.4 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the Parties hereto whose rights or obligations hereunder are affected by such amendments. Neither this Agreement nor any right, license, privilege or obligation provided herein may be assigned or transferred by either Party without the other Party's prior written consent, and any such assignment or transfer shall constitute a Change of Control of either Cytori or Olympus.

14.5 Entire Agreement. This Agreement, including the attachments, schedules and exhibits hereto and the Ancillary Agreements contemplated by the JVA, all of which are hereby expressly incorporated herein by this reference, together with the Confidentiality Agreement (as defined in the JVA), constitutes the entire

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understanding and agreement among the Parties with regard to the subject matter hereof; and supersedes in its entirety all prior agreements and understandings, express or implied, oral or written among them with respect thereto. No alteration, modification, interpretation or amendment of this Agreement shall be binding on the Parties unless in writing designated as an amendment hereto, and executed with equal formality by each of the Parties.

14.6 Notices. Except as may be otherwise provided herein, all notices, requests, waivers and other communications made pursuant to this Agreement shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other Party(ies); (b) when received, if sent by facsimile at the address and number set forth below, with a written confirmation copy of such facsimile sent the next business day in accordance with (c) below; (c) the third business day after deposit with an international courier service, postage prepaid, addressed to the other Party(ies) as set forth below, provided that the sending Party receives a confirmation of delivery from the courier service provider, or (d) if earlier, when actually received.

To Cytori:

3020 Callan Road, San Diego, CA 92121,
U.S.A.

Attn: Christopher J. Calhoun
Fax: 858-458-0995

To Olympus:

2-3 Kuboyama-cho,
Hachioji-shi, Tokyo, 192-8512, Japan

Attn: Yasunobu Toyoshima
Fax: +81-426-91-7350

To NewCo:

3020 Callan Road, San Diego, CA 92121,
U.S.A.

Attn: Christopher J. Calhoun
Fax: 858-458-0995

2-3 Kuboyama-cho,
Hachioji-shi, Tokyo, 192-8512, Japan

Attn: Masaaki Terada
Fax: +81-426-91-7350

A Party hereto may change or supplement its address set forth above, or may designate additional addresses, for purposes of this Section 16.6 by giving the other Parties hereto written notice of the new address in the manner set forth above.

14.7 Amendments and Waivers. No term or provision of this Agreement may be amended, waived, discharged or terminated orally but only by an instrument in writing signed by the Party against whom the enforcement of such amendment, waiver, discharge or termination is sought. Any waiver shall be effective only in accordance with its express terms and conditions.

14.8 Cumulative Remedies. Unless expressly so stated in this Agreement in respect of any particular right or remedy, the rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

14.9 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

14.10 Relationship of Parties. This Agreement shall not be deemed to constitute any Party, the agent, the partner, the licensee, the affiliate or the representative of another Party, and a Party shall not represent to any third party that it has any such relationship or right of representation.

14.11 Press Release. No public announcements or press releases shall be issued by any Party regarding this Agreement or any of the activities engaged in by the Parties pursuant to this Agreement, the JVA and/or any Ancillary Agreement without the prior written approval of the other Parties; provided, however, that any Party shall have the right to make such public disclosure as may be necessary or appropriate to comply with applicable securities or other laws.

14.12 Counterparts. This Agreement may be executed by facsimile signature in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

14.13 Severability. Should any provision of this Agreement be determined to be illegal or unenforceable, such determination shall not affect the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this License/ Joint Development Agreement as of the Effective Date.

CYTORI THERAPEUTICS, INC.

By: /s/ Christopher J. Calhoun

Title: CEO

Date: November 4, 2005

Olympus Corporation

By: /s/ Tsuyoshi Kikukawa

Title: President

Date: November 4, 2005

OLYMPUS-CYTORI, INC.

By: /s/ Masaaki Terada

Title: CEO

Date: November 4, 2005

EXHIBIT 10.30

SHAREHOLDERS AGREEMENT

THIS SHAREHOLDERS AGREEMENT (this "**Agreement**"), is entered into as of this 4th day of November, 2005, (the "**Effective Date**"), by and among **CYTORI, THERAPEUTICS, INC.** (*formerly **MACROPORE BIOSURGERY, INC.***), a Delaware corporation with its principal place of business located at #3020 Callan Road, San Diego, CA 92121, U.S.A. ("**Cytori**"), and **OLYMPUS CORPORATION**, a Japanese corporation with its principal office at 2-43-2 Hatagaya Shibuya-ku, Tokyo, Japan] ("**Olympus**").

(Cytori and Olympus may each be individually referred to herein as a "**Shareholder**" and collectively as the "**Shareholders**".)

RECITALS

A. Cytori has acquired and possesses, through the expenditure of considerable time, effort and money, certain intellectual property rights (including patents, patent applications and technical information) to regenerative cell technology, including scientific equipment used to carry out regenerative cell therapies and treatments.

B. Olympus is a leading developer and manufacturer of medical and scientific equipment and has acquired and possesses, through the expenditure of considerable time, effort and money, certain intellectual property rights (including patents, patent applications and technical information) related to medical and scientific equipment.

C. Olympus and Cytori entered into a confidentiality agreement dated November 30, 2004 (the "**Confidentiality Agreement**").

D. Olympus and Cytori entered into a stock purchase agreement dated April 28, 2005 pursuant to which Olympus acquired 1,100,000 common shares of Cytori.

E. Olympus and Cytori entered into a Joint Venture Agreement dated as of November 4, 2005 (the "**JVA**") that, among other things, sets forth the terms and conditions on which Olympus will purchase shares of NewCo stock so that NewCo will be equally owned by Cytori and Olympus.

F. In accordance with Sections 7 and 8 of the JVA, the Shareholders and NewCo desire to enter into this Agreement to set forth, among other things, certain terms regarding the operation and management of NewCo.

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth herein, the parties hereto hereby agree as follows:

SECTION 1
DEFINITIONS

1.1 Defined Terms. As used in this Agreement, all capitalized terms shall have the meanings ascribed to them as set forth in Attachment 1.

1.2 References. In this Agreement, a reference to:

(a) A Section, Sub-section, Recital, Attachment, Schedule or Exhibit is, unless the context otherwise requires, a reference to a section or sub-section of, or a recital, schedule or exhibit to, this Agreement;

(b) This Agreement (or any specific provision hereof) or any other document shall be construed as references to this Agreement, that provision or that other document as amended, varied or modified from time to time; and

1.3 Headings. Headings in this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.4 Attachments, Schedules and Exhibits. The Attachments, Schedules and Exhibits attached hereto form a part of this Agreement.

1.5 Construction. In construing this Agreement, words denoting the singular include the plural and vice versa and words denoting one gender include all genders.

SECTION 2
SHAREHOLDER MEETINGS

2.1 General Principles. The Shareholders agree to (i) take all actions reasonably necessary, including, without limitation, voting their Shares, to cause NewCo to be managed in accordance with the terms of this Agreement, and (ii) use their reasonable commercial efforts, including, without limitation, voting their Shares, to cause NewCo to timely satisfy, perform and fulfill all of its obligations set forth in this Agreement. The Shareholders acknowledge that the provisions of this Section 2 shall in no way affect or diminish their obligations arising pursuant to any and all other sections of this Agreement. NewCo shall, at all times and in good faith, cooperate and assist in performing all the provisions of this Agreement, and shall take all such actions as may be necessary or appropriate in order to effectuate the provisions and intentions of this Agreement.

2.2 Shareholders' Meetings.

(c) Meetings. Meetings of the Shareholders shall be held regularly (and in any event not less than once every year) and at any time upon the written request of any Shareholder given to the other Shareholder. NewCo shall give not less than forty five (45) days' written notice to each Shareholder of the date, time, location, agenda and means of communication of each of meeting of the Shareholders. Unless otherwise agreed by the Shareholders, all such meetings shall be conducted in English and shall take place at 3020 Callan Road, San Diego, CA 92121, U.S.A., and may be held by means of teleconference or video conference.

(f) Quorum. In order for resolutions of a Shareholders' meeting to be valid, there must be represented, in person or by proxy, at any such meeting a quorum consisting of seventy-five percent (75%) of the total issued and outstanding Shares, unless or except to the extent the representation of a greater percentage of the issued and outstanding Shares is required by Laws.

(g) Shareholders' Resolutions. Other than those matters requiring approval by both Shareholders set forth in Section 2.2(d) below, all actions and resolutions of the Shareholders at a Shareholders' meeting shall be made by the requisite vote provided under the laws of the State of Delaware or as otherwise provided in the Certificate of Incorporation. Any such votes by a Shareholder shall be lawfully cast at a duly convened meeting by the holders of the Shares present in person, or by telephone or audio/video conference, or by proxy. Shareholders shall have one vote for each Share that it owns. A resolution in writing signed by duly authorized representatives of each Shareholder shall be treated in all respects as if such resolution had been made at a duly convened meeting of the Shareholders. Resolutions of the Shareholders may be passed without a meeting

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through written consents of each Shareholder that are duly executed by the duly authorized representative of each respective Shareholder.

(h) Matters Requiring Approval of Both Shareholders. The following matters require the approval of both Shareholders. Provided however, that the approval by Olympus shall only be deemed to have been given upon delivery of Olympus in writing that is duly signed by the then current president. To the extent approval of both Shareholders is not obtained for any such matter, each Shareholder shall, and NewCo shall, use its best efforts to prevent such matter from being effectuated by or with regard to NewCo.

(i) any amendment to the Certificate of Incorporation or any amendment, adoption or repeal of By-Laws;

(ii) any reorganization, merger (whether or not NewCo is the surviving company), liquidation, migration, dissolution, consolidation or sale or similar disposition of all or substantially all of the assets of NewCo;

(iii) any initial public offering of Shares;

(iv) except as specifically provided in Section 4.4, any private placement or issuance, sale, transfer, pledge, encumbrance or other disposal of any capital stock, voting securities, or any other equity interest in NewCo, or grant, permit or otherwise authorize any option, agreement, arrangement, commitment, understanding or other right pursuant to which any third party has the right or ability to acquire, split, reclassify or change the rights and privileges of, or redeem, repurchase or otherwise acquire (whether pursuant to any employee stock option plan or otherwise) any equity interest in NewCo;

(v) any declaration or payment of a dividend or distribution in the form of assets other than cash, or of any cash dividend which is extraordinary in size or timing;

(vi) subject to Section 2.3(d), removal of directors of NewCo, other than by the Shareholder which appointed the director to be removed;

(vii) election or removal of NewCo's independent auditors;

(viii) any borrowing of money or issuance of any debt instrument or guaranty by NewCo;

(ix) any change of NewCo's fiscal year;

(x) conducting any business other than the Business;

(xi) any contract or transaction with a Shareholder or an Affiliate of a Shareholder;

(xii) any license-out, sublicense-out or assignment of any Intellectual Property Rights, or any disclosure of proprietary information is such a way as to prevent a future claim of trade secret status;

(xiii) any capital expenditure (or series of related capital expenditures) above $250,000;

(xiv) any change in the authorized number of directors of NewCo;

(xv) any formation of any Affiliate entity;

(xvi) any acquisition of any equity interest in or transfer of any assets or rights to any entity which is, after the transaction, an Affiliate of Newco;

(xvii) any security interest in any NewCo asset; or

(xviii) any Insolvency filing.

2.3 Board of Directors.

(a) Composition Board of Directors. NewCo shall be managed by a board of directors of NewCo (the "**Board of Directors**"), which shall consist of five (5) directors (each, a "**Director**" and collectively the "**Directors**"). Olympus shall have the right to appoint three (3) Directors ("**Olympus Director(s)**") and Cytori shall have the right to appoint two (2) Directors ("**Cytori Director(s)**"). The right of a Shareholder to appoint Directors under this Section 2.1 shall be subject to such Shareholder retaining at least [thirty percent (30%)] of the then issued and outstanding Shares (including its Affiliates' holdings) (the "**Threshold Percentage**"). If a Shareholder's holdings of Shares (including its Affiliates' holdings) falls below the Threshold Percentage, then such Shareholder shall only have the right to appoint one (1) Director under this Section 2.1, and the other Shareholder shall have right to appoint all other Directors. The initial Cytori Directors and the initial Olympus Directors shall be as provided for in Schedule 2.3(a). The Shareholders shall,

promptly following the Effective Date, but in no event later than thirty (30) days following the Effective Date, vote their respective Shares and take all other actions necessary to elect the initial Olympus Directors and the initial Cytori Directors so that following such election of the initial Olympus Directors and the initial Cytori Directors, the Directors will be composed of the directors listed in Schedule 2.3(a).

(i) Right to Removal and Replacement. Each Shareholder shall have the right, exercisable in its sole discretion and with or without cause, to remove and replace at any time, any Director appointed by it pursuant to Section 2.3(a). For the avoidance of doubt, the Shareholders shall vote their respective Shares to effectuate any such removal and/or replacement.

(j) Fitness of Appointed Directors. Neither NewCo, the Shareholders, nor any officer, director, shareholder, partner, employee or agent of such party, makes any representation or warranty as to the fitness or competence of the appointee of any Shareholder hereunder to serve on the Board of Directors by virtue of such party's execution of this Agreement or by the act of such party in voting for such appointee pursuant hereto.

(k) Removal Pursuant to Laws. Any Director may be removed for cause in accordance with applicable Laws.

(l) Chairman. Olympus shall appoint the chairman of the Board of Directors ("**Chairman**").

(m) Quorum. No business shall be transacted at any meeting of the Board of Directors unless there shall be present throughout such meeting a quorum of Directors. Attendance by four (4) Directors at a meeting of the Board of Directors shall constitute a quorum for the transaction of business thereat. If a quorum does not exist for any duly noticed meeting of the Board of Directors, the Directors in attendance at such meeting shall re-schedule the meeting for a date no earlier than three (3) weeks after such meeting and notify each Directors of such rescheduled meeting. For such re-scheduled meeting of the Board of Directors three (3) members of the Board of Directors in attendance shall constitute a quorum for the transaction of business thereat.

(n) Board of Directors' Meetings. Board of Directors' meetings shall be conducted in English and held in accordance with the laws of State of Delaware and convened no less than once each calendar

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quarter unless otherwise agreed by the Shareholders. Not less than fourteen (14) days notice (or such other period of notice as may be agreed from time to time by the Shareholders) of each meeting of the Board of Directors specifying the date, time and place of the meeting and business to be transacted thereat shall be given to all Directors. Directors may participate and vote in person, by telephone or by audio/video conference. The dates and places of Board of Directors meetings shall be agreed upon by the Directors (or, in the case of a re-scheduled meeting, by the Directors in attendance at a Board of Directors meeting for which a quorum did not exist) or, in the absence of such agreement, by the Chairman in accordance with By-Laws.

(o) Board of Directors' Resolutions. All actions taken at a meeting of the Board of Directors shall be by the requisite vote provided under the laws of the State of Delaware. Resolutions of the Board of Directors may be passed without a meeting by unanimous written resolution executed by all Directors. All matters that do not require unanimous approval of the Shareholders as provided under Section 2.2(d) or Shareholders' approval under the laws of the state of Delaware may be determined by Board of Directors' resolution.

(p) Remuneration of Directors. The remuneration (if any) of the Directors shall be determined by, and subject to the approval of, both Shareholders.

(q) Attendance by Invitees. If the Board so authorizes or requests, auditors, consultants, advisers and employees shall be permitted to attend and speak at meetings of the Board, but not to vote.

2.4 Officers.

(a) Appointment of Officers. Unless otherwise agreed by the Shareholders, each Shareholder shall have the right to nominate officers in accordance with Schedule 2.4(a). Each Shareholder shall procure that each of its appointed Directors shall take the necessary and appropriate actions, including, without limitation, voting at Board of Directors meetings, to effectuate the appointment of the persons so nominated.

(r) Removal of Officers. Each Shareholder shall have the right, exercisable in its sole discretion and with or without cause, to remove and replace at any time, any officer nominated by it pursuant to Section 2.4(a). Each Shareholder shall procure that each of its appointed Directors shall take the necessary and appropriate actions, including, without limitation, voting at Board of Directors meetings, to effectuate any such removal or replacement of an officer pursuant to this Section 2.4(b).

2.5 Company Name.

(a) Deletion of "Olympus". If Olympus either: (i) in its sole discretion informs the other Shareholder(s) of its desire to cease use by NewCo of any Olympus trademarks (whether as a trademark or in NewCo's company name), or (ii) the shareholding of Olympus (including its Affiliates' holdings) becomes less than thirty percent (30%) of the outstanding shares of NewCo, then the Shareholders shall take and shall cause NewCo to take, all actions necessary to:

(i) change NewCo's corporate name so as to delete "Olympus" therefrom; and

(ii) cease use of and make null and void any trademark registration owned by NewCo of trademarks including any trademarks of Olympus,

within a reasonable period of time, which in no event shall be longer than three (3) months from (Y) the date on which Olympus notifies the other Shareholders of its desire for NewCo to cease use of any Olympus trademarks, (Z) the date on which Olympus (including its Affiliates' holdings) no longer holds thirty percent (30%) shareholding in NewCo.

(b) Deletion of "Cytori". If Cytori either: (i) in its sole discretion informs the other Shareholder(s) of its desire to cease use by NewCo of any Cytori trademarks (whether as a trademark or in NewCo's company name), or (ii) the shareholding of Cytori (including its Affiliates' holdings) becomes less than thirty percent (30%) of the outstanding shares of NewCo, then the Shareholders shall take and shall cause NewCo to take, all actions necessary to:

(i) change NewCo's corporate name so as to delete "Cytori" therefrom; and

(ii) cease use of and make null and void any trademark registration owned by NewCo of trademarks including any trademarks of Cytori (other than any trademark registrations concerning the Licensed Products that do not include "Cytori"),

within a reasonable period of time, which in no event shall be longer than three (3) months from (Y) the date on which Cytori notifies the other Shareholders of its desire for NewCo to cease use of any Cytori trademarks, (Z) the date on which Cytori (including its Affiliates' holdings) no longer holds thirty percent (30%) shareholding in NewCo.

For the avoidance of doubt, NewCo is not granted any right or authority to use trademarks including any trademarks of Olympus and/or Cytori unless otherwise expressly authorized by Olympus and/or Cytori in writing.

SECTION 3
OPERATION OF NEWCO

3.1 Purpose, Company Name and Business Plan. The purpose of NewCo shall be to engage in the Business. The Shareholders shall cause the Board of Directors of NewCo to adopt as its five (5) year business plan the Initial Business Plan attached hereto as Attachment 2 (the "**Initial Business Plan**"). The Shareholders intend the Initial Business Plan to be a planning document only and not to constitute a binding commitment of any of the parties hereto. The Shareholders shall cause the Board of Directors to formulate each year an Annual Business Plan in a manner that is consistent with the Initial Business Plan, with each such Annual Business Plan to be approved by the Board of Directors in accordance with the By-laws and Sections 2.3(f) and (h), and if an Annual Business Plan would result in NewCo taking any of the actions set forth in Section 2.2(d), the approval of the Shareholders shall (if given) be in accordance with Sections 2.2(b), (c) and (d). The officers of NewCo shall through their performance of their respective duties conduct and implement any such Annual Business Plan so approved. The Shareholders shall procure that the Annual Business Plan for the first fiscal year of NewCo attached hereto as Schedule 3.1, is approved and adopted by the Board of Directors within two (2) months from the Effective Date.

3.2 Fiscal Year. The fiscal year of NewCo shall commence on April 1st and end on March 31st of each calendar year.

3.3 Financial Statements. NewCo shall, at its cost and expense, prepare consolidated balance sheets, profit and loss statements and statements of cash flow on a quarterly and annual basis in accordance with US GAAP consistently applied (and, to the extent practicable, consistent with the accounting principles and method of presentation used in Cytori's financial statements) and provide copies of the same to each Shareholder within thirty (30) and forty-five (45) days after the end of each quarterly and annual period, respectively, as applicable. If requested by Olympus, NewCo shall, at its cost and expense, prepare consolidated balance sheets, profit and loss statements and statements of cash flow on a quarterly and annual basis in accordance with Japan's accounting principals consistently applied (and, to the extent practicable, consistent with the accounting principles and method of presentation used in Olympus' financial statements) and provide copies of the same to each Shareholder within thirty (30) and forty-five (45) days after the end of each quarterly and annual period, respectively, as applicable.Annual consolidated financial statements shall, at NewCo's cost and expense, be audited by an accounting firm of international standing and repute in accordance with the generally accepted auditing principles applicable in the

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United States, and the audit report shall be provided to each Shareholder within sixty (60) days after the end of the relevant fiscal year.

3.4 Reporting. In addition to Section 3.3 and all other information to which a Shareholder may have the right to receive under the laws of the State of Delaware, within fifteen (15) days after the end of each month, NewCo shall, at its cost and expense, provide each Shareholder with the following monthly unaudited financial statements: (a) balance sheet, (b) profit & loss and (c) cash flow. Upon the reasonable request of a Shareholder, NewCo shall, at the cost and expense of such requesting Shareholder, promptly provide such Shareholder any additional statements and information requested by such Shareholder (including, without limitation, such additional statements and information as may be reasonably necessary in order for a Shareholder to comply with its obligations under applicable Laws, including, without limitation, securities Laws and the rules and regulations of relevant stock exchanges).

3.5 Rights of Inspection. The Shareholders (subject to the Three-Way NDA) shall have the right to inspect NewCo's books and records; provided that (i) the fees of such inspection and all other costs associated with such inspection shall be borne by the Shareholder conducting the inspection, and (ii) such examination shall take place during normal business hours and in a manner that is not disruptive to the business of NewCo.

3.6 Books and Records. NewCo shall at all times maintain complete, accurate and up to date books of account and records of all its operations and accounts, in full compliance with US GAAP. Such books of account and records shall be retained by NewCo for at least seven (7) years after the fiscal year to which they pertain.

3.7 International Accounting Firm. The independent auditor of NewCo shall be an accounting firm of international standing and repute, and shall be subject to the prior written approval of both Shareholders as provided under Section 2.2(d)(vii).

SECTION 4
SHARES, RESTRICTIONS ON TRANSFERS, ADDITIONAL CAPITAL CONTRIBUTIONS AND RELATED MATTERS

4.1 Shares. NewCo shall ensure that all Shares shall be represented by stock certificates that shall contain the following legend:

"The sale or transfer of the shares represented by this certificate is restricted by the terms of a Shareholders' Agreement among Olympus-Cytori, Inc. and its Shareholders, a copy of which may be inspected at the principal office of the Company. THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH TRANSFER MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933."

and any additional legends that may be required by applicable Laws.

4.2 Restrictions on Share Transfers.

(a) Neither Shareholder shall sell, assign, or otherwise transfer all or any portion of its Shares to any third party on or before *** . Any and all sales, assignments and transfers of a Shareholder's Shares after *** to any third party shall be subject to this Section 4.2.

(s) After *** , a Shareholder may, upon prior written consent of the other Shareholder, sell, assign or otherwise transfer its Shares to its Affiliates that agree in writing to assume all of the obligations of such transferring Shareholder under this Agreement arising from and after the effective date of any such transfer ("**Permitted Transfers**"), provided that such consent shall not be unreasonably withheld. In the case of any Permitted Transfer of some or all of a Shareholder's Shares, for all purposes of this Agreement, all of the Shares shall be treated as if they were still owned only by the Shareholder. The Shareholder shall procure that any of its Affiliates which own Shares (each a "**Permitted Transferee**") shall sign written consent actions and vote consistently with the Shareholder, in order to ensure formal compliance with corporate governance Laws.

(t) Except for Permitted Transfers, any and all sale, assignment or transfer of any Shares after *** shall be subject to the following:

If any Shareholder (or such Shareholder's Permitted Transferee) proposes to sell, assign or otherwise transfer any or all of its Shares to any Person that is not an Affiliate of such Shareholder (or if any Person that is not an Affiliate of such Shareholder proposes to buy the Shares held by a Shareholder), such transferring Shareholder (the "**Transferor**") shall first offer the Shares that the Transferor desires to sell (the "**Offered Shares**") to the other Shareholder (the "**Offeree Shareholder**"). Such offer shall be made by delivery of a written offer (the "**Offer**"), within thirty (30) days of the original offer to or by the Transferor for the proposed transfer setting forth: (i) a description of the proposed transfer; (ii) the name and address of each bona fide prospective purchaser (the "**Transferee**") (including in the case of any Transferee who is not an individual, the names and addresses of the Person(s) directly or indirectly controlling such Transferee; and (iii) any and all other material terms (the "**Terms**") of the proposed transfer, including without limitation, the purchase price for the Offered Shares offered by each Transferee ("**Transfer Price**"), the manner in which the Transfer Price shall be paid, and the date on which such proposed transfer will be completed or consummated. The Offeree Shareholder may elect to purchase such Offered Shares by giving written notice to the Transferor within forty (40) days of the date the Offeree Shareholder received the Offer. Such written notice from the Offeree Shareholder must indicate that the Offeree Shareholder is willing to purchase up to one hundred percent (100%) of the Offered Shares at the Transfer Price and on the Terms (as near as may be), or the Offeree Shareholder shall not have the right to purchase any of the Offered Shares. If the Offeree Shareholder provides such notice, the Offeree Shareholder shall purchase and the Transferor shall sell the Offered Shares in accordance with the Terms. If the Offeree Shareholder does not provide such notice within such forty (40) day period, the Transferor may sell the Offered Shares but only in accordance with the Terms. If the Transferor fails or is otherwise unable to consummate the transfer to the Offered Shares in accordance with the Terms within ninety (90) days thereafter, any subsequent proposed transfer shall be subject to this Section 4.2. In the event of any transfers of all or substantially all (i.e., over 85%) of the Shareholder's Shares to a non-Affiliate pursuant to this Section 4.2(c), Transferor shall, prior to any such transfer of Shares, deliver to the Offeree Shareholder a written document, effective as of the date of completion of such transfer, duly and validly executed by the proposed Transferee and Transferor, which provides that, to the extent consistent with the number of Shares transferred:

(A) Transferor assigns and delegates to Transferee all rights and obligations arising under this Shareholders Agreement after the transfer of Shares pursuant to Section 4.2(c) (it being understood that assignor also remains responsible for its obligations hereunder); and

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

(B) Transferee accepts such assignment and delegation from the Transferor and agrees to become a party to the Shareholders Agreement, entitled to any and all benefits and advantages imposed in connection therewith, and agrees to observe, duly perform and be liable under and bound by each and every covenant, agreement and condition to be observed or performed under this Shareholders Agreement, as if the Transferee was an original signatory hereto (it being understood that assignor also remains responsible for its obligations hereunder).

(C) The Transferor and Transferee agree to be jointly and severally liable for any and all liabilities arising from or in connection with (i) Shareholders Agreement or the Ancillary Agreement, regardless as of whether such liability arise from any circumstance, occurrence or event that occur on, before or after the transfer of Share pursuant to this Section 4.2 (c) and (ii) Transferror's status as a shareholder of NewCo prior to such transfer.

4.3 Additional Capital Contributions. Neither Cytori nor Olympus shall have any obligation to subscribe to any newly issued Shares or make any capital contributions or to provide loans or loan guarantees to or on behalf of NewCo, except as expressly set forth in this Agreement.

4.4 Future Capital Requirements. The Shareholders anticipate that NewCo shall require additional capital and operating funds in the future in connection with the joint venture business as contemplated herein. Subject to Section 4.3, the Shareholders contemplate that any such additional capital and operating funds shall be obtained from the following sources as may be approved by both Shareholders from time to time: (a) loans obtained by NewCo from appropriate banks or other lenders, (b) increases in share capital of NewCo, or (c) loans or guarantees provided by the Shareholders, whether jointly or separately, in proportion to their share ownership of NewCo. The details of all such additional capital and operating funds requirements of NewCo shall be provided for in the Annual Business Plans to be formulated in accordance with Section 3.1, and if such Annual Business Plans call for NewCo to take any of the actions set forth in Section 2.2(d), any such Annual Business Plan shall be subject to the requirement of approval by both of the Shareholders in accordance with Sections 2.2(b), (c) and (d). For all additional capital and operating funds that the Shareholders both agree that NewCo requires, each Shareholder shall have the right (but not the obligation) to respectively loan, guarantee loans to or subscribe for additional equity (subject to Section 4.6(b)), as jointly agreed, in proportion to their Share ownership of NewCo.

4.5 Conversion Right of Guarantor. Notwithstanding any provision to the contrary herein, in the event any debt financing is provided by a Shareholder in favor of NewCo, then such Shareholder shall have the right to convert any debt instrument issued to such Shareholder into Shares of NewCo

(the "**Conversion**"), such Conversion to be at the per Share price at the time of such Conversion or at the time of such loan, whichever is higher, as such per Share prices may be determined by the appraisal method specified in Section 4.7. The other Shareholder hereby unconditionally and irrevocably agrees to consent to such Conversion and agrees to cause NewCo to implement the same in the event that such funding Shareholder exercises its right under this Section 4.5. Such funding Shareholder shall have the right to exercise its right to Conversion under this Section 4.5 in addition to any other rights in favor of such funding Shareholder in respect to the loan provided by such funding Shareholder, in its sole discretion; provided, however, that to the extent that the right to Conversion provided in this Section 4.5 is exercised by such funding Shareholder, then the obligations owing from NewCo to such funding Shareholder in relation to the loan provided by the funding Shareholder shall be reduced by the amount so converted.

4.6 Preemptive Rights.

(a) If the Board of Directors determines that additional funding is necessary and authorizes the issuance of any new Shares, after obtaining the approval of both Shareholders in accordance with Sections 2.2(b), (c) and (d), NewCo shall offer to each Shareholder and each Shareholder may elect, to subscribe to that number of new Shares, such that the Shareholder is able to maintain the same percentage ownership (on a fully-diluted basis including all outstanding options warrants, convertible securities, and other capital stock of NewCo) of

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the outstanding Shares, which it possessed by virtue of its ownership of Shares immediately prior to the issuance of the new Shares. The Shareholders will be entitled to subscribe for the new Shares at the same price and upon the same terms as such shares are being offered to any other Persons.

(u) If any Shareholder does not elect to subscribe to the full number of Shares it is entitled to subscribe to pursuant to Section 4.6(a), then the other Shareholder may purchase any new Shares that such Shareholder elected not to subscribe to.

(v) The per Share subscription price for any new Shares issued by NewCo under this Section 4.6 shall be determined by the appraisal method specified in Section 4.7, and the aggregate subscription price therefor shall be paid by wire transfer of immediately available funds to the bank account designated by NewCo, unless otherwise agreed in writing by such subscribing Shareholders. If the price is not paid within thirty (30) days after the offer, the offer shall be conclusively deemed to have been declined.

(w) A Shareholder may not assign or otherwise transfer its pre-emptive right to subscribe for new shares to another Person without the prior written consent of the other Shareholder.

4.7 Appraisal Procedure.

(a) For matters for which this Agreement directs an appraisal pursuant to Section 4.7, each of the Shareholders shall select one (1) person (an "**Appraiser**") with sufficient current experience to meet the standard of care for such profession in appraising the valuation of companies similar to the NewCo. Each Shareholder shall pay the fee of the Appraiser selected by such Shareholder. NewCo and the Shareholders shall cooperate fully with the Appraisers, including providing all information necessary or appropriate to such appraisal, requested by either of the Appraisers. All information provided to one Appraiser shall be provided to all Appraisers, NewCo and the Shareholders, subject to appropriate confidentiality agreements.

(b) Each Appraiser shall provide to the Shareholder who retained such Appraiser, and such Shareholder shall provide to NewCo and the other Shareholder within sixty (60) days of the Appraisal Start Date, an appraised value of the Shares, which value may not be in the form of a range of values but shall be a set price per Share. If the higher appraised value of the Shares is less than one hundred fifteen percent (115%) of the lower appraised value, the two appraised values shall be averaged and the fair market value of the Shares shall be that averaged value.

(c) If the higher appraised value of the Shares is greater than one hundred fifteen percent (115%) of the lower appraised value, either Shareholder may request that a third Appraiser be appointed by the two existing Appraisers, in lieu of using an average of the appraisals of the first two Appraisers to set the share price. The fee for the third Appraiser shall be paid equally by the Shareholders, provided that such fee shall not exceed the average of the fee paid to the two initial Appraisers, who shall cooperate fully with such third Appraiser. If all three Appraisers agree on a valuation after consultation, such agreed value shall be the fair market value of the Shares.

(d) If all three Appraisers cannot agree on a valuation after consultation, the third Appraiser shall provide an independent valuation of the shares, which value may not be in the form of a range of values but shall be a set price per share. Such valuation shall be delivered to NewCo and each of the Shareholders within ninety (90) days of the Appraisal Start Date. The fair market value of the Shares shall be the average of all three appraisals, with the third Appraiser's finding weighted at twice the finding of the initial two Appraisers.

4.8 No Liens. Without the prior written consent of the other Shareholder, no Shareholder shall pledge or otherwise subject its Shares to any Liens. To the extent that the Shares held by either Shareholder shall become subject to any Lien, such Shareholder shall immediately take all necessary steps to eliminate such Lien.

SECTION 5
PROCEDURE IN THE EVENT OF DEADLOCK

5.1 Definition of Deadlock. This Section 5 applies in any case where the two Shareholders disagree as to a proposed resolution in relation to a matter listed in Section 2.2(d) that either Shareholder believes is under the relevant circumstance essential to the continuing operation of the Business, at the Shareholders meeting called in relation thereto. Any such case is referred to as a "**Deadlock**" and, for the purpose of this Section 5.1, the date on which the Deadlock arises shall be the date on which the two Shareholders disagree on such resolution at the relevant Shareholders meeting referred to in this Section 5.1

5.2 Senior Executive Resolution. In any case of Deadlock, each of the Shareholders shall, within seven (7) days of the date on which the Deadlock arises, cause its representatives, who may be but need not be its appointees on the Board, to prepare and circulate to the other Shareholder or Shareholders and other Directors a memorandum or other form of statement setting out its position on the matter in dispute and its reasons for adopting that position. Each memorandum or statement shall be considered by senior directors or executives of each of the Shareholders to which it is addressed who shall

endeavour to resolve the Deadlock. If the senior directors or executives of the Shareholders agree upon a resolution or disposition of the matter, they shall execute a statement setting out the agreed terms. The Shareholders shall exercise their respective voting rights and other powers available to them in relation to NewCo to procure that the terms agreed upon between the Shareholders are fully and promptly carried into effect.

5.3 Mediation. If the Deadlock is not resolved or disposed of in accordance with Section 5.2 within twenty-one (21) days after expiration of the seven (7) day period, or such longer period as the Shareholders agree in writing, the Shareholders shall, within seventy two (72) hours, appoint an independent third-party mediator to attempt, for a period of fourteen (14) days from the appointment of such mediator (the "**Mediation Period**"), to mediate an agreement between the Shareholders to resolve the Deadlock. The Shareholders shall each be responsible for one-half of all costs in relation to the appointment of such mediator. In the event that the Shareholders are unable to agree on the third party to be appointed as the mediator within seventy two (72) hours, the Shareholders shall request that the International Chamber of Commerce in Singapore recommend a mediator, and the Shareholders agree to accept such recommendation. During the Mediation Period, the Shareholders shall make their best efforts to co-operate with such mediator to resolve the Deadlock. If a Deadlock cannot be resolved during the Mediation Period, the Shareholders shall cause NewCo to be dissolved in accordance with laws of the State of Delaware.

SECTION 6
INDEMNITY

6.1 Cytori's Indemnification of Olympus. Cytori shall indemnify, defend and hold harmless Olympus, and Olympus' Affiliates, directors, officers, employees, agents, successors and assigns ("**Olympus Indemnitees**") from and against, and pay or reimburse each of them for and with respect to, any and all Losses incurred or suffered by Olympus or Olympus Indemnitees, whether or not resulting from third party claims, relating to, arising out of or resulting from any breach by Cytori of any provision in this Agreement or the Ancillary Agreements.

6.2 Olympus's Indemnification. Olympus shall indemnify, defend and hold harmless Cytori, Cytori's Affiliates, directors, officers, employees, agents, successors and assign ("**Cytori Indemnitees**") from and against, and pay or reimburse each of them for and with respect to, any and all Losses incurred or suffered by Cytori or Cytori Indemnitees, whether or not resulting from third party claims, relating to, arising out of or resulting from any breach by Olympus of any provision in this Agreement or the Ancillary Agreement.

6.3 Administration of Indemnification. For purposes of administering the indemnification provisions set forth in Sections 6.1 and 6.2, the following procedure shall apply:

(a) Whenever a claim (each, an "**Indemnity Claim**") shall arise for indemnification under this Section 6, the party entitled to indemnification (the "**Indemnified Party**") shall, reasonably promptly after acquiring knowledge of the Indemnity Claim, give written notice (each, an "**Indemnity Claim Notice**") to the party from whom indemnification is sought (the "**Indemnifying Party**") setting forth in reasonable detail, to the extent then available, the facts concerning the nature of the Indemnity Claim and the basis upon which the Indemnified Party believes that it is entitled to indemnification under this Section 6.

(b) In the event of any Indemnity Claim resulting from or in connection with any claim by a third party, the Indemnifying Party shall be entitled, at its sole expense, either (i) to participate in defending against such claim or (ii) to assume the entire defense with counsel who is selected by it and who is reasonably satisfactory to the Indemnified Party, provided that (i) the Indemnifying Party agrees in writing that it does not and will not contest its responsibility for indemnifying the Indemnified Party in respect of such claim or proceeding, and (ii) no settlement shall be made and no judgment consented to without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed (except that no such consent shall be required if the claimant is entitled under the settlement to only monetary damages actually paid by the Indemnifying Party). If, however, (I) the claim, action, suit or proceeding would, if successful, result in the imposition of damages for which the Indemnifying Party would not be responsible, or (II) representation of both the Indemnified Party and Indemnifying Party by the same counsel would otherwise be inappropriate due to actual or potential differing interests between them, then the Indemnifying Party shall not be entitled to assume the entire defense and each Party shall be entitled to retain counsel who shall cooperate with one another in defending against such claim. In the case of item (I) of the preceding sentence, the Indemnifying Party shall be obligated to bear only that portion of the expense of the Indemnified Party's counsel that is in proportion to the claimed damages indemnifiable by the Indemnifying Party compared to the total amount of the third-party claim against the Indemnified Party.

(c) If, within ten (10) days after receipt of an Indemnity Claim Notice, the Indemnifying Party fails to give the Indemnified Party written notice of the Indemnifying Party's election to undertake the defense of the related Indemnity Claim, or if the Indemnifying Party subsequently fails to diligently prosecute such defense, the Indemnified Party may defend in such manner as it reasonably deems appropriate or settle the claim (after giving notice thereof to the Indemnifying Party) on such terms as the Indemnified Party may deem appropriate, and the Indemnified Party shall be entitled to periodic

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reimbursement of defense expenses incurred and prompt indemnification from the Indemnifying Party in accordance with this Section 6.

(d) Failure or delay by an Indemnified Party to give a reasonably prompt notice of any Indemnity Claim (if given prior to expiration of the applicable Survival Period) shall not release, waive or otherwise affect an Indemnifying Party's obligations with respect to the Indemnity Claim, except to the extent that the Indemnifying Party can demonstrate actual Loss or prejudice as a result of such failure or delay.

SECTION 7
COVENANTS OF CYTORI

7.1 Patent Applications. Cytori shall provide Olympus with copies of all correspondence between Cytori and relevant patent offices regarding the Patent Applications, and in Cytori's discretion, shall provide such additional information concerning such Patent Applications as Olympus may reasonably request.

SECTION 8
DEFAULT AND TERMINATION

8.1 Term. This Agreement shall be effective as of the Effective Date and shall remain in full force and effect indefinitely unless pursuant to Section 8.2 and 8.3.

8.2 Events of Default. The following constitute events of default ("**Default Events**"):

(a) material breach of any representation, warranty, covenant or agreement in this Agreement or the Ancillary Agreements by Olympus that is not cured within sixty (60) days of receipt of written notice of such breach;

(b) material breach of any representation, warranty, covenant or agreement in this Agreement or the Ancillary Agreements by Cytori that is not cured within sixty (60) days of receipt of written notice of such breach;

(c) Bankruptcy and Equity Exception of Olympus;

(d) Bankruptcy and Equity Exception of Cytori;

(e) Failure to resolve Deadlock within the Mediation Period;

(f) Change of Control (of Olympus); and

(g) Change of Control (of Cytori).

8.3 Rights Upon Default.

(a) Upon an Event of Default described in Sections 8.2 (a) and (b), this Agreement shall terminate and the Shareholder not subject to the Default Event ("**Non-Defaulting Party**"), shall, in addition to any other rights or remedies available to such party pursuant to this Agreement or at Law or in equity, have the right to (i) put its Shares to the Shareholder that is subject to the Default Event ("**Defaulting Party**"), or (ii) call the Shares

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of the Defaulting Party at the fair market value thereof as determined in accordance with Section 4.7 by the Accountants, exercisable by sending a written notice to the Defaulting Party within sixty (60) days after the occurrence of the Default Event.

(b) Upon an Event of Default described in Sections 8.2 (d) and (g), this Agreement shall terminate and Olympus (as the Non-Defaulting Party), shall, in addition to any other rights or remedies available to such party pursuant to this Agreement or at Law or in equity, have the right to (i) put its Shares to Cytori (as the Defaulting Party) at the per Share purchase price at which Olympus acquired its Share for the price of *** Dollars (US$ ***) or the fair market value thereof as determined in accordance with Section 4.7 by the Accountants, whichever comes higher, or (ii) call the Shares of Cytori at the fair market value thereof as determined in accordance with Section 4.7 by the Accountants which become higher, exercisable by sending a written notice to Cytori within sixty (60) days after the occurrence of the Default Event.

(c) Upon an Event of Default described in Sections 8.2 (c) and (f), this Agreement shall terminate and Cytori (as the Non-Defaulting Party), shall, in addition to any other rights or remedies available to such party pursuant to this Agreement or at Law or in equity, have the right to (i) terminate any and all license granted to Olympus and/or NewCo under the Ancillary Agreements, or (ii) call the Shares of Olympus at the fair market value thereof as determined in accordance with Section 4.7 by the Accountants, exercisable by sending a written notice to Olympus within sixty (60) days after the occurrence of the Default Event.

(d) If the Non-Defaulting Party exercises its put right under Section 8.3(a) and (b), such Non-Defaulting Party shall sell and the Defaulting Party shall purchase all Shares owned by the Non-Defaulting Party within sixty (60) days from the date on which the Defaulting Party receives written notice from the Non-Defaulting Party of its exercise of its put right under Section 8.3(a) and (b).

(e) If the Non-Defaulting Party exercises its call right under Section 8.3(a), (b) and (c), such Non-Defaulting Party shall purchase and the Defaulting Party shall sell all Shares owned by the Defaulting Party within sixty (60) days from the date on which the fair market value of such Shares have been determined in accordance with the provisions of Section 4.7.

(f) The transfer of Shares under Section 8.3(d) and (e) shall be consummated by payment of the relevant Share purchase price by wire transfer of immediately available funds to the bank account designated by the transferring Shareholder against delivery of the relevant Share by the transferring Shareholder.

Upon an Event of Default described in Sections 8.2(e), the Shareholders shall meet with a view to discussing whether or not to continue NewCo. If the Shareholders are unable to reach an agreement within ninety (90) days after commencement of such discussions, then this Agreement shall terminate and the Shareholders shall dissolve and liquidate NewCo in accordance with laws of the State of Delaware.

8.4 Dissolution and Liquidation of NewCo. If NewCo is to be dissolved and liquidated under 8.3(g) above, the Shareholders agree that Olympus shall have the sole option to either: (i) elect to terminate all licenses granted to NewCo by either party, in addition to the termination of all of Joint Venture Agreement and the Ancillary Agreements and distribute all other assets of NewCo equally between the parties, **or** (ii) elect to (a) receive to for its own account the licenses granted by Cytori to NewCo under the License/ Commercial Agreement, and any NewCo IP, and assume all of the rights and responsibilities of NewCo under the License/Commercial Agreement, and (b) assume NewCo's rights and responsibilities under the Joint Development Agreement, and (c) distribute all other proceeds of such liquidation (excluding items (a) and (b) of this Section 8.4) and distribute such among the parties in accordance with applicable Law. For avoidance of any doubt, in no event shall Olympus be obligated to exercise

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*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

any of option under this Section 8.4.

SECTION 9. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANY PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICE, DOWNTIME, PERSONAL PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR IN ANY WAY RELATED TO THE PARTIES' PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED OTHERWISE IN THIS AGREEMENT, ALL REMEDIES PROVIDED FOR HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO TERMINATE THIS AGREEMENT AND ALL OF THE REMEDIES PROVIDED BY LAW (AND NOT EXCLUDED PURSUANT TO THE FOREGOING SENTENCE), SHALL BE DEEMED CUMULATIVE AND NON EXCLUSIVE.

SECTION 10
MISCELLANEOUS

10.1 Expenses. Except as otherwise expressly provided in this Agreement, each of the parties shall bear its own expenses, including the fees of any attorneys and accountants engaged by such party, in connection with the transactions contemplated by this Agreement.

10.2 Notices. Except as may be otherwise provided herein, all notices, requests, waivers and other communications made pursuant to this Agreement shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other Party; (b) when received, if sent by facsimile at the address and number set forth below, with a written confirmation copy of such facsimile sent the next business day in accordance with (c) below; (c) the second business day after deposit with a national overnight delivery service, postage prepaid, addressed to the other Party as set forth below, provided that the sending Party receives a confirmation of delivery from the delivery service provider; or (d) if earlier, when actually received.

To Cytori:

3020 Callan Road, San Diego, CA 92121, U.S.A

Attn: Christopher J. Calhoun
Fax: 858-458-0995

To Olympus:

2-3 Kuboyama-cho,
Hachioji-shi, Tokyo, 192-8512, Japan

Attn: Yasunobu Toyoshima
Fax: +81-426-91-7350

To NewCo:

3020 Callan Road, San Diego, CA 92121, U.S.A

Attn: Christopher J. Calhoun
Fax: 858-458-0995

2-3 Kuboyama-cho,
Hachioji-shi, Tokyo, 192-8512, Japan

Attn: Terada Masaaki
Fax: +81-426-91-7350

A party hereto may change or supplement its address set forth above, or may designate additional addresses, for purposes of this Section 10.2, by giving the other parties hereto written notice of the new address in the manner set forth above.

10.3 Amendments and Waivers. No term or provision of this Agreement may be amended, waived, discharged or terminated orally but only by an instrument in writing signed by the party against whom the enforcement of such amendment, waiver, discharge or termination is sought. Provided however, that the approval by Olympus shall only be deemed to have been given upon delivery of Olympus in writing that is duly signed by the then current president. Any waiver shall be effective only in accordance with its express terms and conditions.

10.4 Entire Agreement. This Agreement, including the Attachments, Schedules and Exhibits hereto and the Ancillary Agreements contemplated by the JVA, all of which are hereby expressly incorporated herein by this reference, together with the Confidentiality Agreement, constitutes the entire understanding and agreement among the parties with respect to the subject matter hereof, and supersedes in its entirety all prior agreements and understandings, express or implied, oral or written among them with respect thereto. No alteration, modification, interpretation or amendment of this Agreement shall be binding on the parties unless in writing designated as an amendment hereto, and executed with equal formality by each of the parties.

10.5 Binding Effect. Except as otherwise provided in this Agreement, the terms and provisions of this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors or permitted assigns, and nothing in this Agreement, express or implied, shall confer on any Person, other than the parties to this Agreement and their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

10.6 Interpretation. The titles of the Articles and Sections have been included as a matter of convenience and shall not control or affect the meaning or interpretation of any of the terms or provisions hereof.

10.7 Severability. Any provision of this Agreement that is unenforceable under applicable Laws shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions of this Agreement. To the extent permitted by applicable Laws, the parties waive any current or future provision of Laws which renders any provision of this Agreement unenforceable in any respect. The parties agree that any unenforceable provision shall be construed or reformed so as to enforceably effectuate, to the maximum possible extent, the parties' expressed intent.

10.8 Counterparts. This Agreement shall be executed in three (3) counterparts, by original or facsimile signature, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same legal document.

10.9 Languages. This Agreement and any amendments, waivers or other modifications hereof shall be executed in the English language. In the event of a conflict between the English and any other language versions of this Agreement, the English language version shall prevail.

10.10 Governing Law and Dispute Resolution. This Agreement shall in all respects be governed by and construed in accordance with the laws of New York without reference to principles of conflicts of laws that would require the application of the Laws of another jurisdiction. All disputes arising out of or in connection with this Agreement, or any relationship created by or in accordance with this Agreement, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "**Rules**") by three arbitrators. Judgment on the award rendered by the panel of arbitrators shall be binding upon the Parties and may be entered in any court having

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jurisdiction thereof. Olympus shall nominate one arbitrator and Cytori shall nominate one arbitrator. The arbitrators so nominated by each Shareholder respectively shall jointly nominate the third arbitrator within fifteen (15) days following the confirmation of arbitrators nominated by each Shareholder. If the arbitrators nominated by each respective Shareholder cannot agree on the third arbitrator, then such third arbitrator shall be selected as provided in the Rules. The place of the arbitration and all hearings and meetings shall be Singapore. unless the parties to the arbitration otherwise agree. In addition to the Rules and except as otherwise provided herein, the parties agree that the arbitration shall be conducted according to the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration. The arbitrators may order pre-hearing production or exchange of documentary evidence, and may require written submissions from the relevant parties hereto, but may not otherwise order pre-hearing depositions or discovery. The arbitrators shall apply the laws of New York as set forth in this 10.10. The language of the arbitral proceedings shall be English. The arbitrators shall not issue any award, grant any relief or take any action that is prohibited by or inconsistent with the provisions of this Agreement.

No arbitration pursuant to this Section 10.10 shall be commenced until the party intending to request arbitration has first given thirty (30) days written notice of its intent to the other parties and has offered to meet and confer with one or more responsible executives of such other parties in an effort to resolve the dispute(s) described in detail in such written notice. If one or more responsible executives agree, within thirty (30) days after receipt of such written notice, to meet and confer with the requesting party, then no arbitration shall be commenced until such parties have met and conferred in an effort to resolve the dispute(s) or until sixty (60) days have elapsed from the date such written notice has been given.

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, caused this Shareholders Agreement to be executed as of the Effective Date.

Cytori
Cytori Therapeutics, Inc.

By: /s/ Christopher J. Calhoun
Name: Christopher J. Calhoun
Title: CEO

Olympus
Olympus Corporation

By: /s/ Tsuyoshi Kikukawa
Name: Tsuyoshi Kikukawa
Title: President

LIST OF ATTACHMENTS

Attachment 1: Definitions
Attachment 2: Initial Business Plan

LIST OF SCHEDULES

Schedule 1: By-laws
Schedule 2.3(a): List of Initial Directors
Schedule 2.4(a): List of Initial Officers
Schedule 3: Certificate of Incorporation
Schedule 3.1: Initial Annual Business Plan

ATTACHMENT 1
DEFINITIONS

"**Affiliate**" shall mean, as to any party to this Agreement, any Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such party, where "control" (including, with its correlative meanings, "controlled by" and "under common control with") means (a) the beneficial ownership of fifty percent (50%) or more of the outstanding voting securities of such party, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of such party, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"**Agreement**" shall have the meaning set forth in the Preamble.

"**Ancillary Agreements**" shall mean the License/ Joint Development Agreement, the Shareholders Agreement, the License/ Commercial Agreement, the Three-Way NDA, the Olympus Share Subscription Agreement, and the NewCo Share Subscription Agreement; provided, however, where the context herein would provide that NewCo is a party to the Ancillary Agreements, such usage of the term "Ancillary Agreements" shall be understood to exclude the Shareholders Agreement.

"**Annual Business Plan**" shall mean the business plan of NewCo for each fiscal year of NewCo, as determined and adopted by NewCo in accordance with Section 3.1.

"**Appraiser**" shall have the meaning set forth in Section 4.7(a).

"**Bankruptcy and Equity Exception**" means the extent to which enforceability of this Agreement (a) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws of general application affecting or relating to the enforcement of creditors' rights generally and (b) is subject to general principles of equity, whether considered in a proceeding at law of in equity.

"**Board of Directors**" shall have the meaning set forth in Section 2.3(a).

"**Business**" shall mean the development, modification, service, maintenance, manufacturing and sales of Licensed Products in the Licensed Field.

"**By-Laws**" shall mean the by-laws of NewCo attached hereto as Schedule 1, as may be amended from time to time.

"**Certificate of Incorporation**" shall mean the certificate of incorporation of NewCo attached hereto as Schedule 3, as it may be amended from time to time.

"**Chairman**" shall have the meaning set forth in Section 2.3(e).

"Change of Control (of Cytori)" shall mean an event in which (a) a Person, whether directly or indirectly through one or more intermediaries, becomes the owner or holder of fifty one percent (51%) or more of the voting power of Cytori, or such other shareholding in Cytori to as to enable such Person to direct or cause the direction of management or policies of Cytori, or (b) Neither Mr. Christopher Calhoun nor Mr. Marc Hedrick have a significant management role in Cytori.

"Change of Control (of Olympus)" shall mean an event in which (a) a Person, whether directly or indirectly through one or more intermediaries, becomes the owner or holder of fifty one percent (51%) or more of the voting power of Olympus, or such other shareholding in Olympus to as to enable such Person to direct or cause the direction of management or policies of Olympus.

"**Confidentiality Agreement**" shall have the meaning set forth in the Recitals.

"**Conversion**" shall have the meaning set forth in Section 4.5.

"**Cytori**" shall have the meaning set forth in the Preamble.

"**Cytori Directors**" shall have the meaning set forth in Section 2.3(a).

"**Cytori Indemnitees**" shall have the meaning set forth in Section 6.2.

"**Deadlock**" shall have the meaning set forth in Section 5.1.

"**Directors**" shall have the meaning set forth in Section 2.3(a).

"**Effective Date**" shall have the meaning set forth in the Preamble.

"**Governmental Authority**" shall mean any government, court, arbitrator, regulatory or administrative agency, commission or authority or other governmental instrumentality, federal, state or local, domestic, foreign or multinational, including, without limitation, the European Union and the departments, agencies, commissions and other bodies thereof.

"**Indemnified Party**" shall have the meaning set forth in Section 6.3(a).

"**Indemnifying Party**" shall have the meaning set forth in Section 6.3(a).

"**Indemnity Claim**" shall have the meaning set forth in Section 6.3(a).

"**Indemnity Claim Notice**" shall have the meaning set forth in Section 6.3(a).

"**Initial Business Plan**" shall have the meaning set forth in Section 3.1.

"**JVA**" shall have the meaning set forth in the Recitals.

"**Law(s)**" shall mean all laws of any jurisdiction (whether local, state, provincial, regional, national, foreign or otherwise) (including common law and civil law), statutes, ordinances, codes, rules, regulations, decrees and orders of Governmental Authorities.

"**Liability**" shall mean, as to any party to this Agreement, any debt, adverse claim, liability, obligation or commitment of such party of any kind or nature, whether direct or indirect, fixed, absolute or contingent, determined or determinable, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, due or to become due, asserted or unasserted, or known or unknown, and regardless of whether arising out of or based upon contract, tort, strict liability, statute or otherwise or whether required by US GAAP to be reflected as a liability on such party's balance sheet or disclosed in the related notes.

"**License/ Commercial Agreement**" shall mean the License/ Commercial Agreement dated [ ] entered into by and between NewCo and Cytori.

"**License/ Joint Development Agreement**" shall mean the License/ Joint Development Agreement dated [ ] entered into by and among Cytori, NewCo and Olympus.

"**Licensed Field**" shall mean the use of the Licensed IP for the purpose of designing, developing, manufacturing, testing and servicing Licensed Products, and selling Licensed Products exclusively to Cytori.

"**Licensed IP**" shall mean all Intellectual Property Rights owned or controlled by either Party which are necessary or useful to design, develop, manufacture, test, analyze, market, offer to sell to Cytori, sell to Cytori and service all current and future generations of the Licensed Product(s). The term "Licensed IP" shall include all Intellectual Property Rights licensed to NewCo by Cytori and by Olympus, whether pursuant to this Agreement, any Ancillary Agreement or otherwise.

"**Licensed Product(s)**" shall mean any automated devices (and related component parts) that *** separate and concentrate ******* cells (including stem cells and other regenerative cells) from harvested adipose tissue (fat tissue). The device components include, but are not limited to, *******
****
*******.

"**Liens**" shall mean all liens, pledges, charges, mortgages, deeds of trust, pledges, hypothecations, title defects, restrictions, conditions, easements, claims, options, leases, rights of possession or use, encumbrances, adverse rights or claims and security interests of any kind or nature whatsoever (including any restriction on the right to vote or transfer), whether voluntarily incurred or arising by operation of Law or otherwise, including, without limitation, any written or oral agreement to give or grant any of the foregoing.

"**Loss**" shall mean any claim, demand, Liability, loss, damage, deficiency, assessment, judgment, settlement, remediation and costs or expenses (including reasonable attorney, consultant and expert fees and expenses).

"**Mediation Period**" shall have the meaning set forth in Section 5.3.

*** Material has been omitted pursuant to a request for confidential treatment filed separately with the Securities and Exchange Commission.

"**NewCo**" shall have the meaning set forth in the Preamble.

"**Offer**" shall have the meaning set forth in Section 4.2(c).

"**Offered Shares**" shall have the meaning set forth in Section 4.2(c).

"**Offeree Shareholder**" shall have the meaning set forth in Section 4.2(c).

"**Olympus**" shall have the meaning set forth in the Preamble.

"**Olympus Directors**" shall have the meaning set forth in Section 2.3(a).

"**Olympus Indemnitees**" shall have the meaning set forth in Section 6.1.

"**Olympus Share Subscription Agreement**" shall mean the Share Subscription Agreement to be entered into by and between Olympus and NewCo concurrently with the License/ Joint Development Agreement.

"Permitted Transfers" shall have the meaning set forth in Section 4.2(b).

"Permitted Transferee" shall have the meaning set forth in Section 4.2(b).

"**Person**" shall mean an individual, a corporation, a limited liability company, a partnership, a joint venture, an association, a trust or any other entity, including a Governmental Authority, other than a party to this Agreement.

"**Rules**" shall have the meaning set forth in Section 9.10.

"**Shareholders**" shall mean Cytori and Olympus.

"**Shares**" shall mean shares of capital stock issued by NewCo.

"**Terms**" shall have the meaning set forth in Section 4.2(c).

"**Three-Way NDA**" shall mean the Three-Way Non-Disclosure Agreement, dated [ ], entered into by and among Cytori, Olympus and NewCo.

"**Threshold Percentage**" shall have the meaning set forth in Section 2.3(a).

"**Transfer Price**" shall have the meaning set forth in Section 4.2(c).

"**Transferee**" shall have the meaning set forth in Section 4.2(c).

"**Transferor**" shall have the meaning set forth in Section 4.2(c).

"**US GAAP**" shall mean United States generally accepted accounting principles.

EXHIBIT 23.1

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Cytori Therapeutics, Inc.:

We consent to the incorporation by reference in Registration Statement Nos. (333-82074 and 333-122691) on Form S-8 of Cytori Therapeutics, Inc., of our report dated March 24, 2006, with respect to the consolidated balance sheets of Cytori Therapeutics, Inc. and subsidiaries as of December 31, 2005 and 2004, and the related consolidated statements of operations and comprehensive loss, stockholders' equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 2005, and the related financial statement schedule, which report appears in the December 31, 2005 annual report on Form 10-K of Cytori Therapeutics, Inc. Our report on the consolidated financial statements refers to the Company deriving a substantial portion of its revenues from a related party.

/s/ KPMG LLP

San Diego, California
March 30, 2006

EXHIBIT 31.1

Certification of Chief 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, Christopher J. Calhoun, the Chief Executive Officer of Cytori Therapeutics, Inc., certify that:

1. I have reviewed this annual report on Form 10-K 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)) 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) 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

(c) 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 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: March 30, 2006
/s/ Christopher J. Calhoun
Christopher J. Calhoun,
Chief Executive Officer

EXHIBIT 31.2

Certification of Chief 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, Mark E. Saad, the Chief Financial Officer of Cytori Therapeutics, Inc., certify that:

1. I have reviewed this annual report on Form 10-K 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)) 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) 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

(c) 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 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: March 30, 2006
/s/ Mark E. Saad
Mark E. Saad,
Chief Financial Officer

EXHIBIT 32.1

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

In connection with the Annual Report on Form 10-K of Cytori Therapeutics, Inc. for the year ended December 31, 2005 as filed with the Securities and Exchange Commission on the date hereof, Christopher J. Calhoun, as Chief Executive Officer of Cytori Therapeutics, Inc., and Mark E. Saad, as Chief Financial Officer of Cytori Therapeutics, Inc., each hereby certifies, respectively, that:

1. The Form 10-K 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-K 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.

By: /s/ Christopher J. Calhoun
Christopher J. Calhoun
Chief Executive Officer

Dated: March 30, 2006

By: /s/ Mark E. Saad
Mark E. Saad
Chief Financial Officer

Dated: March 30, 2006