

# SECURITIES AND EXCHANGE COMMISSION

## FORM 8-K

Current report filing

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### FILER

#### MIRAVANT MEDICAL TECHNOLOGIES

CIK: **933745** | IRS No.: **770222872** | State of Incorpor.: **DE** | Fiscal Year End: **1231**  
Type: **8-K** | Act: **34** | File No.: **000-25544** | Film No.: **04590141**  
SIC: **2834** Pharmaceutical preparations

Mailing Address  
336 BOLLAY DRIVE  
SANTA BARBARA CA 93117

Business Address  
336 BOLLAY DRIVE  
SANTA BARBARA CA 93117  
8056859880

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549-1004

FORM 8-K

CURRENT REPORT PURSUANT TO SECTION 13 OF

THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (date of earliest event reported): February 5, 2004

MIRAVANT MEDICAL TECHNOLOGIES

(Exact name of Registrant as specified in its charter)

Delaware	0-2554	77-0222872
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	I.R.S. Employer Identification Number)

336 Bollay Drive  
Santa Barbara, CA 93117

(Address of principal executive offices)

(805) 685-9880

(Registrant's telephone number, including area code)

ITEM 5. Other Events

Convertible Debt Financing

On February 5, 2004, we entered into an Unsecured Convertible Debenture Purchase Agreement, or the February 2004 Debt Agreement, with certain private accredited investors, or the 2004 Lenders. The 2004 February Debt Agreement has a maximum borrowing availability of \$2.0 million with interest accruing at 8% per year, due and payable quarterly, with the first interest payment due on April 1, 2004, and the principal maturing on February 5, 2008. On February 5, 2004, we issued \$2.0 million worth of convertible debentures under the February 2004 Debt Agreement pursuant to a private placement. At our option and subject to certain restrictions, we

may make interest payments in cash or in shares of our Common Stock, or the interest can be added to the outstanding principal of the note. Each convertible debenture issued pursuant to the February 2004 Debt Agreement is convertible at the holder's option into shares of our Common Stock. We are obligated to file a registration statement with the SEC covering the resale of the shares of Common Stock underlying these convertible debentures no later than April 30, 2004. In addition, these debentures may not be converted into Common Stock until we have received approval of our stockholders to increase the number of shares of Common Stock available for issuance sufficient to allow for any such conversion. The conversion price at which the debentures are convertible is currently \$2.00 per share, approximately a 22% discount to the closing price as of the date of issuance. Such conversion price is subject to adjustment for stock splits, stock dividends or similar events as well as upon certain dilutive issuances. The convertible debentures, following the registration of the underlying shares, can be prepaid at our option prior to the maturity date or their conversion in the event that the closing sale price of the Common Stock has been greater than 200% of the conversion price then in effect for 15 consecutive trading days or if we consummate a sale of Common Stock pursuant to a firm commitment underwritten public offering at an offering price greater than 200% of the conversion price then in effect and with gross proceeds to us in excess of \$20 million. Upon the occurrence of certain events of default, the holders of the convertible debentures may require that they be repaid prior to maturity. These events of default include our failure to pay amounts due under the debentures or to otherwise perform any material covenant in the February 2004 Debt Agreement or other related documents.

A copy of the February 2004 Debt Agreement, the related form of convertible promissory note and the related registration rights agreement relating to this transaction are filed as exhibits to this report and are incorporated by reference herein. The foregoing description of the above transactions and agreements does not purport to be complete and is qualified in their entirety by reference to the exhibits.

## ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS

Exhibit Number	Exhibit
Exhibit 4.1	Form of Convertible Promissory Note between the Registrant and the Purchaser.
Exhibit 4.2	Registration Rights Agreement dated February 5, 2004 between

the Registrant and the Purchaser.

Exhibit 10.1 Unsecured Convertible Debt Purchase Agreement dated February 5, 2004 between the Registrant and the Purchaser.

SIGNATURE

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

Miravant Medical Technologies  
(Registrant)

Date: February 12, 2004

By: /s/ John M. Philpott

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Name: John M. Philpott

Title: Chief Financial Officer

Exhibit Index

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Exhibit 4.2	Registration Rights Agreement dated February 5, 2004 between the Registrant and the Purchaser.
Exhibit 10.1	Unsecured Convertible Debt Purchase Agreement dated February 5, 2004 between the Registrant and the Purchaser.

NEITHER THIS DEBENTURE NOR ANY SHARES OF COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS DEBENTURE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER (THE "SECURITIES ACT"). THIS DEBENTURE AND THE COMMON STOCK ISSUABLE UPON CONVERSION OF THIS DEBENTURE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF REGISTRATION UNDER THE SECURITIES ACT OR UNLESS SUCH OFFER, SALE OR TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

MIRAVANT MEDICAL TECHNOLOGIES  
UNSECURED CONVERTIBLE DEBENTURE

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

February 5, 2004

MIRAVANT MEDICAL TECHNOLOGIES, a Delaware corporation (the "Maker"), for value received, hereby promises to pay to the order of \_\_\_\_\_, or its registered assigns (the "Holder"), at its offices located at 336 Bollay Drive, Santa Barbara, California 93117, or at such other place as the Holder may, from time to time, designate in writing, the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), together with interest thereon at the rate of Eight Percent (8%) per annum (the "Interest Rate"), calculated on the basis of a 360-day year and the actual number of days elapsed, until the principal hereof is paid. The principal of and interest on this Debenture shall be paid at such times as are specified herein. This Debenture shall be subject to the following additional terms and conditions:

1. Purchase Agreement. This Debenture is being issued by the Maker along with similar Unsecured Convertible Debentures (together with this Debenture, the "Debentures," and the holders thereof, together with the Holder, the "Holders") pursuant to that certain Unsecured Convertible Debenture Purchase Agreement dated February \_\_\_\_, 2004 (the "Purchase Agreement") by and among the Maker and the purchasers party thereto, and is entitled to the benefits of such Purchase Agreement. All capitalized terms that are used in this Debenture and are not otherwise defined herein are intended to have the meanings assigned to such terms in the Purchase Agreement.

2. Payment of Principal and Interest.

(a) Payment of Interest. All interest shall be due and payable quarterly on each January 1, April 1, July 1 and October 1 (each, an "Interest Payment Date"), commencing on April 1, 2004. The Maker shall have the option to pay any interest due hereunder (i) in cash, (ii) in duly authorized, validly issued, fully paid and non-assessable shares of its common stock, par value \$0.01 per share (the "Common Stock"), but only to the extent that there exists an effective registration statement under the Securities Act covering such shares of Common Stock (which registration statement is not subject to any stop order or otherwise unavailable for use by the Holder hereof); provided, however, that, for each particular Interest Payment Date, the Maker shall be required to make the same election for all Debentures then outstanding where the Maker has otherwise elected to pay the interest due on the Debentures in shares of Common

Stock), or (iii) the Maker shall be permitted to accrue the interest due and payable and add it to the principal amount due under the Debenture. In the event that the Maker elects to pay an installment of interest due hereunder in shares of Common Stock, the Maker shall give written notice to the Holders at least five (5) business days in advance of the applicable Interest Payment Date, and on such Interest Payment Date, the Maker shall issue to the Holder such number of shares of Common Stock as is equal to (A) the aggregate amount of interest due to such Holder on such Interest Payment Date divided by (B) the average Closing Sales Price (as defined in Section 10 below) of the Common Stock for the five (5) trading day period ending on the date immediately prior to the applicable Interest Payment Date.

(b) Payment of Principal. The entire unpaid principal of, and accrued but unpaid interest on, this Debenture shall be due and payable in full on February \_\_\_, 2008 (the "Maturity Date").

(c) Optional Prepayment. Except as expressly provided in this Section 2(c), no amounts of principal or interest due hereunder may be prepaid by the Maker without the prior written consent of the Holder. In the event that (i) the registration statement required to be filed by the Maker pursuant to the Registration Rights Agreement of even date herewith executed in connection with in the Purchase Agreement (the "Registration Rights Agreement") shall have been declared effective by the Securities and Exchange Commission and shall remain effective and (ii) either (A) the Closing Sales Price of the Common Stock has been greater than Two Hundred Percent (200%) of the Conversion Price then in effect for at least fifteen (15) consecutive trading days, or (B) the Maker shall have consummated the sale of its Common Stock in a firm commitment underwritten public offering in which the offering price per share of Common Stock was greater than Two Hundred Percent (200%) of the Conversion Price then in effect and the aggregate gross proceeds to the Maker were greater than TWENTY MILLION DOLLARS (\$20,000,000) (any such event meeting the criteria specified in clauses (i) and (ii) being referred to herein as a "Prepayment Trigger Event"), then the Maker shall be entitled to prepay, subject to the terms of this Section 2(c), any or all of the outstanding principal of and accrued but unpaid interest on the Debentures by giving written notice to the Holders at least thirty (30) days prior to the date fixed for the prepayment and, upon delivery of such prepayment notice to the Holders, such prepayment election shall be irrevocable; provided, however, that in the event that the Maker elects to prepay less than all of the then outstanding Debentures, such prepayment shall be allocated pro rata among all Holders based upon the proportion that the aggregate principal of and accrued but unpaid interest on the Debentures held by the Holder bears to the aggregate principal of and accrued but unpaid interest on all of the Debentures held by all Holders. Neither the occurrence of a Prepayment Trigger Event or an election by the Maker to prepay the Debentures shall affect the right of the Holder to exercise its Conversion Option with respect to this Debenture on or prior to the prepayment in full of this Debenture. The Company may prepay the Debentures as provided in this Section 2(c) in cash or in shares of the Company's Common Stock of equivalent fair market value to the accrued interest and principal due under the Debentures based on the value of the Common Stock for the five (5) trading day period ending on the date immediately prior to the applicable prepayment date.

(d) Payments in General. Except as otherwise provided herein, all sums payable hereunder shall be paid in lawful money of the United States of America which shall be legal tender for public and private debts at the time of payment. If the payment to be made hereunder shall be due on a day other than a Business Day (as defined in Section 10 below), such payment shall be made on the next succeeding Business Day. All payments on this Debenture shall be applied first to the payment of any costs, fees or other charges incurred by the Holder in connection with the indebtedness evidenced hereunder, next to the payment of accrued interest, and the remainder toward principal.

3. Default Rate. Notwithstanding any other provision in this Debenture to the contrary, any amount, whether of accrued interest or principal, that is not paid when due (whether at stated maturity, by acceleration or otherwise), shall bear interest, from the date on which such amount is due until such amount is paid in full, at Eleven Percent (11%) per annum.

4. Conversion Rights.

(a) Conversion at the Option of the Holder. Subject to the limitations on conversion set forth in this Debenture (including all accrued but unpaid interest) shall be convertible, in whole or in part, at any time and from time to time prior to the repayment of this Debenture in full (whether before or after the Maturity Date), at the option of the Holder (the "Conversion Option"), into a number of fully paid and non-assessable shares of Common Stock (the "Conversion Shares") equal to (i) the aggregate amount of principal and interest being so converted divided by (ii) the Conversion Price as then in effect. The "Conversion Price" shall initially equal TWO DOLLARS (\$2.00), but shall be subject to adjustment from time to time as provided in subsection (e) below.

(b) Conversion Mechanics. In order to exercise the Conversion Option, the Holder shall: (i) fax (or otherwise deliver) a copy of the fully executed Notice of Conversion attached hereto as Exhibit A to the Maker and (ii) surrender or cause to be surrendered to the Maker the original certificate(s) representing the Debentures being converted, along with the original manually executed Notice of Conversion as soon as practicable thereafter. Upon receipt by the Maker of a facsimile copy of a Notice of Conversion from the Holder, the Maker shall promptly send, via facsimile, a confirmation to the Holder stating that the Notice of Conversion has been received, the date upon which the Maker expects to deliver the Conversion Shares issuable upon such conversion and the name and telephone number of a contact person at the Maker regarding the conversion. Within two (2) Business Days following surrender of this Debenture for conversion, the Maker, at its expense, shall cause to be issued in the name of and delivered to the Holder the number of fully paid and non-assessable Conversion Shares to which the Holder shall be entitled upon such conversion, which Conversion Shares shall be issued in the manner set forth in the Purchase Agreement; provided, however, that the Holder shall, for all purposes, be deemed to have become the holder of record of such Conversion Shares on the date on which this Debenture, together with a duly executed Notice of Conversion, was surrendered, irrespective of the date of delivery of such Conversion Shares. In the event that this Debenture is converted in part, the Maker shall deliver to

the Holder a new Debenture in like tenor for the amount not converted. The Maker shall pay any and all taxes (other than securities transfer taxes or other taxes imposed on the Holder based upon a measure of the Holder's income) which may be imposed upon it with respect to the issuance and delivery of the Conversion Shares upon the conversion of this Debenture.

(c) Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of this Debenture, but the Maker shall pay a cash adjustment in respect of any fractional share which would otherwise be issuable in an amount equal to the same fraction of the Closing Sales Price of the Common Stock on the date of such conversion.

(d) Reservation of Conversion Shares. Subject to impending approval by the shareholders of the Company provided in the Convertible Debenture Purchase Agreement of even date hereto, the Maker shall at all times reserve and keep available, solely for the issuance and delivery upon the conversion of this Debenture, such number of Conversion Shares and other stock, securities and property, as from time to time shall be issuable upon the conversion of this Debenture.

(e) Adjustments to Conversion Price. The Conversion Price shall be subject to adjustment from time to time as follows:

(i) Stock Splits, Stock Dividends, Etc. If, at any time and from time to time, the number of

outstanding shares of Common Stock is increased by a stock split, stock dividend, combination, reclassification or other similar event, the Conversion Price shall be proportionately reduced, or if the number of outstanding shares of Common Stock is decreased by a reverse stock split, combination, reclassification or other similar event, the Conversion Price shall be proportionately increased. In such event, the Maker shall notify the Maker's transfer agent of such change on or before the effective date thereof.

(ii) Corporate Change. If, at any time and from time to time, there shall be (A) any reclassification

or change in the terms of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), (B) any consolidation or merger of the Maker with any other entity (other than a merger in which the Maker is the surviving or continuing entity and its capital stock is unchanged), (C) any sale or transfer of all or substantially all of the assets of the Maker, or (D) any share exchange or other transaction pursuant to which all of the outstanding shares of Common Stock are converted into other securities or property (each of (A) - (D) above being a "Corporate Change"), then the Holder shall thereafter have the right to receive upon conversion, in lieu of the Conversion Shares otherwise issuable, such shares of stock, securities and/or other property as would have been issued or payable in such Corporate Change with respect to or in exchange for the number of Conversion Shares which would have been issuable upon conversion had such Corporate Change

not taken place, and in any such case, appropriate provisions (in form and substance reasonably satisfactory to the Holder) shall be made with respect to the rights and interests of the Holder to the end that the economic value of the Conversion Option is in no way diminished by such Corporate Change. The Maker shall not effect any Corporate Change unless (x) the Holder has received written notice of such transaction at least thirty (30) days prior thereto, but in no event later than five (5) days prior to the record date for the determination of stockholders entitled to vote with respect thereto, and (y) the resulting successor or acquiring entity (if not the Maker) assumes by written instrument (in form and substance reasonable satisfactory to the Holder) the obligations of the Maker under this Debenture.

(iii) Distributions. If, at any time and from time to time, the Maker shall declare or make any

distribution of its assets (or rights to acquire its assets) to holders of Common Stock as a partial liquidating dividend, by way of return of capital or otherwise (including any dividend or distribution to the Maker's stockholders in cash or shares (or rights to acquire shares) of capital stock of a subsidiary (i.e., a spin-off)) (a "Distribution"), then the Holder shall be entitled, upon any exercise of the Conversion Option after the date of record for determining stockholders entitled to such Distribution (or if no such record is taken, the date on which such Distribution is declared or made), to receive the amount of such assets which would have been payable to the Holder with respect to the Conversion Shares issuable upon such conversion had the Holder been the holder of such Conversion Shares on the record date for the determination of stockholders entitled to such Distribution (or if no such record is taken, the date on which such Distribution is declared or made).

(iv) Anti-Dilution Rights. If, at any time and from time to time, the Maker issues any securities or

other instruments which are convertible into or exercisable or exchangeable for Common Stock ("Convertible Securities") or options, warrants or other rights to purchase or subscribe for Common Stock or Convertible Securities ("Purchase Rights") for net proceeds of greater than \$1,000,000 to the Company for a per share price less than the Conversion Price, then the Conversion Price shall be adjusted to be equal to such share per share price.

(v) Other Action Affecting Conversion Price. If, at any time and from time to time, the Maker takes

any action affecting the Common Stock that would be covered by this Section 4(e), but for the manner in which such action is taken or structured, which would in any way diminish the value of the Conversion Option, then the Conversion Price shall be adjusted in such manner as the Maker's board of directors shall in good faith determine to be equitable under the circumstances.

(vi) Notice of Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion

Price pursuant to this Section 4(e) amounting to a more than one percent (1%) change in such Conversion Price, or any change in the number or type of stock, securities and/or other property issuable upon exercise hereof, the Maker, at its expense, shall promptly compute such adjustment or readjustment or change and prepare and furnish to the Holder a certificate setting forth such adjustment or readjustment or change and showing in detail the facts upon which such adjustment or readjustment or change is based.

5. Events of Default. In the event (each of the events described in subsections (a)-(k) below, following the expiration of any applicable cure period, being referred to herein as an "Event of Default") that:

(a) the Maker shall fail to pay any amounts (including, without limitation, any principal or interest which cannot be accrued pursuant to Section 2(a)) due hereunder, whether at maturity, upon acceleration or otherwise, within five (5) days of the due date therefor; or

(b) except with respect to the matters covered by clause (a) above, as to which such clause shall apply, the Maker shall breach or fail to observe or perform any material covenant or agreement hereunder or under the Purchase Agreement or any of the other Transaction Documents and, if such breach or failure to observe or perform is capable of cure, shall fail to cure such breach or failure within twenty (20) days after written demand by the Holder resulting from the specific breach or failure; or

(c) any material representation or warranty made by the Maker in the Purchase Agreement or in any of the other Transaction Documents shall not have been true and correct when made; or

(d) the Maker shall authorize, approve or otherwise commence its dissolution or liquidation; or

(e) the Maker or any of its Subsidiaries shall make an assignment for the benefit of creditors or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed; or

(f) the Maker or any of its Subsidiaries shall file a petition under any chapter of the United States Bankruptcy Code or any other bankruptcy law or shall otherwise institute bankruptcy, reorganization or insolvency proceeding or other proceeding for relief under any law relating to bankruptcy, bankruptcy reorganization, insolvency or relief of debtors; or

(g) any involuntary petition under any chapter of the United States Bankruptcy Code or any other bankruptcy law shall be filed, or any bankruptcy, reorganization or insolvency proceeding or other proceeding for relief under any law relating to bankruptcy, bankruptcy reorganization, insolvency or relief of debtors shall be instituted, in any such case against the Maker or any of its Subsidiaries, which petition or proceeding is not dismissed within thirty (30) days from the date on which it is filed or

instituted; or

(h) there shall not be effective under the Securities Act, by June 30, 2004, a registration statement registering the resale of the Registrable Securities (as defined in the Registration Rights Agreement), or if such registration statement is no longer effective, there shall not have been filed a new (or amended) registration statement such that there shall not be effective under the Securities Act, not more than twenty (20) days after termination of the effectiveness of the prior registration statement, a registration statement registering the resale of the Registrable Securities;

then, upon the occurrence and during the continuance thereof, at the option of the Holder, exercisable in whole or in part at any time and from time to time during the continuance thereof by delivery of written notice to such effect to the Maker, all sums owing and to become owing hereon shall become immediately due and payable.

6. Attorneys' Fees; Waiver of Demand; Other Costs and Expenses. If action is instituted to collect any amounts due under this Debenture, the Maker shall pay all costs and expenses, including reasonable attorneys' fees, incurred in connection with such action upon resolution of such dispute in favor of the Holder. The obligations to make the payments provided for in this Debenture are absolute and unconditional and not subject to any defense, set-off, counterclaim, rescission, recoupment or adjustment whatsoever. The Maker hereby expressly waives demand and presentment for payment, notice of nonpayment, notice of default, dishonor, protest, notice of protest, bringing of suit and diligence in taking any action to collect any amount called for hereunder, and shall be directly and primarily liable for the payment of all sums owing and to be owing hereon, regardless of and without any notice, diligence, act or omission with respect to the collection of any amount called for hereunder.

7. Assignment. Neither this Debenture nor any of the rights, interests or obligations hereunder may be assigned, by operation of law or otherwise, in whole or in part, by the Maker without the Holder's prior written consent (which consent may be given or withheld in the sole and absolute discretion of the Holder); provided, however, that such consent shall not be required in connection with any Change of Control or other Corporate Change in which the Maker is not the surviving entity provided that the resulting successor or acquiring entity assumes by written instrument (in form and substance reasonable satisfactory to the Holder) the obligations of the Maker under this Debenture. This Debenture, including all rights hereunder, is freely transferable by the Holder, without the consent of the Maker, subject to any limitations on transfer set forth in the Purchase Agreement.

8. No Waiver; Amendments; Remedies; Etc. Neither acceptance by the Holder of partial or delinquent payment, nor any failure on the part of the Holder to exercise, or any delay in exercising, any right under this Debenture or under applicable law, shall operate as a waiver of any obligation of the Maker or any right of the Holder, and no single or partial exercise of any right under this Debenture shall preclude any other or further exercise thereof or the exercise of any other right. No waiver, amendment, alteration or other

modification of any provision of this Debenture shall in any event be effective unless the same shall be in writing and signed by the Holder. The remedies provided in this Debenture are cumulative and not exclusive of any remedies provided by law. All of the covenants, provisions, and conditions herein contained are made on behalf of, and shall apply to and bind, the respective distributees, personal representatives, successors, and assigns of the parties hereto, jointly and severally.

9. Notices of Certain Transactions. In addition to any other notices required by this Debenture, in the event: (a) the Maker shall take a record of the holders of its capital stock (or other securities at the time deliverable upon the exercise of this Debenture) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or (b) of any capital reorganization of the Maker, any reclassification of the capital stock of the Maker, any consolidation or merger of the Maker with or into another entity, or any transfer of all or substantially all of the assets of the Maker, or (c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Maker, or (d) of any redemption of any of the outstanding capital stock of the Maker, or (e) the Maker pays a dividend or makes a distribution on any of its capital stock payable otherwise than in cash out of earnings or earned surplus (determined in accordance with generally accepted accounting principles) except for a stock dividend payable in shares of such capital stock, then, and in each such case, the Maker shall mail or cause to be mailed to the Holder of this Debenture a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

10. Definitions. For purposes of this Debenture, the following terms shall have the following respective meanings:

"Business Day" means any day other than a Saturday, Sunday, or a day on which banking institutions in the State of Delaware are authorized or required to close.

"Change of Control" means (i) the sale of all or substantially all of the assets of the Maker to any person or entity (the presentation of any such transaction for stockholder approval being conclusive evidence that such transaction involves the sale of all or substantially all of the assets of the Maker) or (ii) the merger or consolidation of the Maker with or into any person or entity, in each case that results in either (A) the holders of the voting securities of the Maker immediately prior to such transaction holding or having

the right to direct the voting of fifty percent (50%) or less of the total outstanding voting securities of the Maker or such other surviving or acquiring person or entity immediately following such transaction or (B) the members of the board of directors or other governing body of the Maker comprising fifty percent (50%) of less of the members of the board of directors or other governing body of the Maker or such other surviving or acquiring person or entity immediately following such transaction.

"Closing Sales Price" means, for any security as of any date, the last sales price of such security on the Nasdaq SmallCap Market or other principal trading market where such security is listed or traded as reported by Bloomberg Financial Markets (or a comparable reporting service of national reputation selected by the Maker, "Bloomberg"), or if the foregoing does not apply, the last reported sales price of such security on a national exchange or in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no such price is reported for such security by Bloomberg, the average of the bid prices of all market makers for such security as reported in the "pink sheets" by the National Quotation Bureau, Inc., in each case for such date or, if such date was not a trading day for such security, on the next preceding date which was a trading day. If the Closing Sales Price cannot be calculated for such security as of either of such dates on any of the foregoing bases, the Closing Sales Price of such security on such date shall be the fair market value as reasonably determined by an investment banking firm selected by the Maker and reasonably acceptable to the Holder, with the costs of such appraisal to be borne by the Maker.

11. Governing Law; Jurisdiction. This Debenture shall be construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions of the State of Delaware or of any other state. The Maker irrevocably consents to the jurisdiction of the United States federal courts and state courts located in the County of New Castle in the State of Delaware in any suit or proceeding based on or arising under this Debenture and irrevocably agrees that all claims in respect of such suit or proceeding may be determined in such courts. The Maker irrevocably waives the defense of an inconvenient forum to the maintenance of such suit or proceeding in such forum. The Maker further agrees that service of process upon the Maker mailed by the first class mail in accordance with Section 12 shall be deemed in every respect effective service of process upon the Maker in any suit or proceeding arising hereunder. Nothing herein shall affect the Holder's right to serve process in any other manner permitted by law. The Maker agrees that a final non-appealable judgment in any such suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on such judgment or in any other lawful manner. The Maker irrevocably waives any right to a trial by jury under applicable law.

12. Notice. Any notices required or permitted to be given under the terms of this Debenture shall be sent by certified or registered mail (return receipt requested) or delivered personally or by courier or by confirmed telecopy, and shall be effective five days after being placed in the mail, if mailed, or upon receipt or refusal of receipt, if delivered personally or by courier or confirmed telecopy, in each case addressed to a party. The addresses for such communications shall be:

If to the Maker:

Miravant Medical Technologies  
336 Bollay Drive  
Santa Barbara, CA 93117  
Attention: Gary S. Kledzik  
Facsimile: (805) 685-7981

with a copy simultaneously transmitted by like means  
(which transmittal shall not constitute notice  
hereunder) to:

Sheppard Mullin Richter & Hampton, LLP  
800 Anacapa Street  
Santa Barbara, CA 93101  
Attention: Joseph E. Nida, Esq.  
Facsimile: (805) 568-1955

If to the Holder, to the address set forth under the Holder's  
name on the signature page to the Purchase Agreement executed by the Holder, or  
to any other address specified by the Holder in writing to the Maker.

13. Denominations. At the request of the Holder, upon surrender of this  
Debenture, the Maker shall promptly issue new Debentures in the aggregate  
outstanding principal amount hereof, in the form hereof, in such denominations  
of at least \$10,000 as the Holder shall request.

14. Lost or Stolen Debentures. Upon receipt by the Maker of (a)  
evidence of the loss, theft, destruction or mutilation of any Debenture and (b)  
(i) in the case of loss, theft or destruction, of indemnity (without any bond or  
other security) reasonably satisfactory to the Maker, or (ii) in the case of  
mutilation, upon surrender and cancellation of such mutilated Debenture, the  
Maker shall execute and deliver a new Debenture of like tenor and date.

15. Severability. If any provision of this Debenture shall be  
prohibited or invalid, under applicable law, it shall be ineffective only to  
such extent, without invalidating the remainder of this Debenture.

16. Maximum Interest Rate. If the effective interest rate on this  
Debenture would otherwise violate any applicable usury law, then the interest  
rate shall be reduced to the maximum permissible rate and any payment received  
by the Holder in excess of the maximum permissible rate shall be treated as a  
prepayment of the principal of this Debenture.

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IN WITNESS WHEREOF, the Maker has caused this Debenture to be executed as of the date first above written.

MIRAVANT MEDICAL TECHNOLOGIES

By: /s/ Gary S. Kledzik

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Gary S. Kledzik  
Chief Executive Officer

Address: 336 Bollay Drive  
Santa Barbara, CA 93117  
Attn: Chief Executive Officer

Exhibit A

NOTICE OF OPTIONAL CONVERSION

To: MIRAVANT MEDICAL TECHNOLOGIES  
336 Bollay Drive  
Santa Barbara, CA 93117  
Facsimile: (\_\_\_\_) \_\_\_\_-\_\_\_\_

Attention: Chief Executive Officer

The undersigned hereby irrevocably elects to convert the amount of principal and interest set forth below of the Unsecured Convertible Debenture dated \_\_\_\_\_ (the "Debenture"), into shares of common stock (the "Common Stock") of MIRAVANT MEDICAL TECHNOLOGIES (the "Company") according to the conditions of the Debenture, as of the date written below (the "Conversion"). If securities are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. No fee will be charged to the holder for any conversion, except for transfer taxes, if any. A copy of the Debenture is attached hereto (or evidence of loss, theft or destruction thereof).

The Company shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee (which is \_\_\_\_\_) with DTC through its Deposit Withdrawal Agent Commission System ("DTC Transfer").

In the event of partial conversion, please reissue an appropriate Debenture(s) for the principal balance which shall not have been converted.

Check Box if Applicable:

In lieu of receiving the shares of Common Stock issuable pursuant to this Notice of Conversion by way of DTC Transfer, the undersigned hereby requests that the Company issue and deliver to the undersigned or its nominee (if applicable) physical certificates representing such shares of Common Stock.

Date of Conversion:

Applicable Conversion Price:

Amount of Principal to be converted:

Amount of Accrued and Unpaid Interest on  
the Principal Amount to be converted, if any:

Number of Shares of

Common Stock to be Issued:

Signature:

Name:

Address:

UNSECURED CONVERTIBLE DEBENTURE

PURCHASE AGREEMENT

THIS UNSECURED CONVERTIBLE DEBENTURE PURCHASE AGREEMENT (the "Agreement") is entered into as of February 5, 2004, by and between MIRAVANT MEDICAL TECHNOLOGIES, a Delaware corporation (the "Company"), with headquarters located at 336 Bollay Drive, Santa Barbara, California 93117, and each of the purchasers (individually, a "Purchaser," and, collectively, the "Purchasers") set forth on the execution pages hereof (each, an "Execution Page," and, collectively, the "Execution Pages").

RECITALS

A. The parties hereto have agreed to the term and provisions of a Letter of Intent entitled "Summary of Key Terms - Convertible Note" dated January 29, 2004 (the "Term Sheet") which will be superseded in its entirety by this Agreement.

B. The Company and the Purchasers are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by the provisions of Regulation D ("Regulation D"), as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "Securities Act");

C. Subject to the terms and conditions stated in this Agreement, the Company desires to issue and sell to the Purchasers, and each Purchaser desires to purchase an Unsecured Convertible Debenture, in the form attached hereto as Exhibit A (collectively, the "Debentures"), which Debentures shall be convertible into shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"), at an initial conversion rate of TWO DOLLARS (\$2.00) per share. The shares of Common Stock issuable upon conversion of or otherwise pursuant to the Debentures, including, without limitation, any shares of Common Stock issued as interest payments under the Debentures, are referred to herein as the "Conversion Shares." The Debentures and the Conversion Shares are collectively referred to herein as the "Securities" and each of them may individually be referred to herein as a "Security;"

D. The Debentures shall be junior to those certain unsecured convertible notes issued by the Company in accordance with a Convertible Debt Purchase Agreement dated December 19, 2002, as amended and a Convertible Debenture and Warrant Purchase Agreement dated August 28, 2003 (the "Existing Notes"), and the Company shall obtain the consent of the holders of the Existing Notes to the offering of the Securities if necessary; and

E. Contemporaneously with the execution and delivery of this Agreement, the parties hereto are executing and delivering a Registration Rights Agreement, in the form attached hereto as Exhibit B (the "Registration Rights Agreement"), pursuant to which the Company has agreed to provide certain registration rights

under the Securities Act, the rules and regulations promulgated thereunder and applicable state securities laws. This Agreement, the Debentures, and the Registration Rights Agreement are collectively referred to herein as the "Transaction Documents."

NOW, THEREFORE, in consideration of their respective promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Purchasers, intending to be legally bound, hereby agree as follows:

## ARTICLE I

### PURCHASE AND SALE OF debentures

1.1 Purchase and Sale of Units. Subject to the terms and conditions of this Agreement, at the Closing (as defined in Section 1.2 below), the Company shall issue and sell to each Purchaser, and each Purchaser, severally and not jointly, shall purchase from the Company, such Debenture as is set forth on such Purchaser's Execution Page, for a purchase price as set forth in each Debenture (the "Purchase Price"). The aggregate principal amount of Debentures to be issued and sold by the Company to all Purchasers pursuant to this Agreement shall not exceed TWO MILLION DOLLARS (\$2,000,000.00).

1.2 The Closing. Subject to the satisfaction (or waiver) of the conditions set forth in Articles VI and VII below, the closing of the transactions contemplated hereby (the "Closing") shall take place at the offices of Sheppard, Mullin, Richter & Hampton LLP at 800 Anacapa Street, Santa Barbara, California 93101 at 10:00 a.m., California time, on the date hereof, or at such other time or place as the Company and the Purchasers may mutually agree (the "Closing Date").

1.3 Form of Payment. Each Purchaser shall pay the Purchase Price indicated in the Debenture being purchased by such Purchaser by wire transfer to the account designated by the Company.

## ARTICLE II

### PURCHASER REPRESENTATIONS AND WARRANTIES

Each Purchaser severally, but not jointly, represents and warrants to the Company, as of the date hereof and as of the Closing, as follows:

2.1 Investment Purpose. Each Purchaser is purchasing the Securities for such Purchaser's own account for investment purposes only and not with a present view toward or in connection with the public sale or distribution thereof, except pursuant to sales that are exempt from the registration requirements of the Securities Act and/or sales registered under the Securities Act. Such Purchaser understands that such Purchaser must bear the economic risk of this investment indefinitely, unless the Securities are registered pursuant to the Securities Act and any applicable state securities laws or an exemption from such registration is available, and that the Company has no present intention of registering any such Securities other than as contemplated by the Registration

Rights Agreement. Notwithstanding anything in this Section 2.1 to the contrary, by making the representations herein, such Purchaser does not agree to hold the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption from the registration requirements under the Securities Act and applicable state securities laws.

2.2 Accredited Investor Status. Such Purchaser is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

2.3 Reliance on Exemptions. Such Purchaser understands that the Securities are being offered and sold to such Purchaser in reliance upon specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and each Purchaser's compliance with, the representations, warranties, agreements, acknowledgments and understandings of such Purchaser set forth herein in order to determine the availability of such exemptions and the eligibility of such Purchaser to acquire the Securities.

2.4 Information. Such Purchaser and its counsel, if any, have been furnished all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities which have been specifically requested by such Purchaser or its counsel, including, without limitation, the Company's Select SEC Documents (as defined in Section 3.6 below). Such Purchaser has been afforded the opportunity to ask questions of the Company, was permitted to meet with the Company's officers and has received what such Purchaser believes to be complete and satisfactory answers to any such inquiries. Notwithstanding the foregoing, neither such inquiries nor any other due diligence investigation conducted by such Purchaser or its counsel or any of their representatives shall modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in Article III hereof. Such Purchaser understands that such Purchaser's investment in the Securities involves a high degree of risk, including, without limitation, the risks and uncertainties disclosed in the Select SEC Documents.

2.5 Governmental Review. Such Purchaser understands that no United States federal or state agency or any other government or governmental agency has passed upon or made any recommendation or endorsement of the Securities.

2.6 Transfer or Resale. Such Purchaser understands that (a) except as provided in the Registration Rights Agreement, the sale or resale of the Securities have not been and are not being registered under the Securities Act or any state securities laws, and the Securities may not be offered, sold, pledged or otherwise transferred unless subsequently registered thereunder or an exemption from such registration is available (which exemption the Company expressly agrees may be established as contemplated in clauses (b), (c) or (d) of Section 5.2 hereof); (b) any sale of such Securities made in reliance on Rule 144 under the Securities Act (or a successor rule) ("Rule 144") may be made only in accordance with the terms of Rule 144 and further, if Rule 144 is not applicable, any resale of such Securities without registration under the Securities Act under circumstances in which the seller may be deemed to be an

underwriter (as that term is defined in the Securities Act) may require compliance with some other exemption under the Securities Act or the rules and regulations of the SEC thereunder in order for such resale to be allowed; (c) the Company is under no obligation to register such Securities under the Securities Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder (in each case, other than pursuant to this Agreement and the Registration Rights Agreement); (d) the Company has agreed to register the resale of the Conversion Shares as provided in the Registration Rights Agreement; and (e) notwithstanding the foregoing or anything else contained herein to the contrary, the Securities may be pledged as collateral in connection with a bona fide margin account or other lending arrangement, provided such pledge is consistent with applicable laws, rules and regulations and the provisions of the Transaction Documents.

2.7 Legends. Such Purchaser understands that, subject to Article V hereof and until such time as the Securities have been registered under the Securities Act as contemplated by the Registration Rights Agreement or otherwise may be sold by such Purchaser pursuant to Rule 144, the certificates for the Securities will bear a restrictive legend (the "Legend") in the following form:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. THE SECURITIES REPRESENTED HEREBY MAY NOT BE OFFERED OR SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER APPLICABLE SECURITIES LAWS OR UNLESS OFFERED, SOLD OR TRANSFERRED PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THOSE LAWS. THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF A UNSECURED CONVERTIBLE DEBENTURE PURCHASE AGREEMENT, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY, AND MAY BE OBTAINED BY HOLDER WITHOUT CHARGE.

2.8 Authorization: Enforcement. This Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of such Purchaser and are valid and binding agreements of such Purchaser enforceable against such Purchaser in accordance with their respective terms.

2.9 Residency. Such Purchaser is a resident of the jurisdiction set forth under such Purchaser's name on the Execution Page hereto executed by such Purchaser.

Each Purchaser's representations and warranties made in this Article II are made solely for the purpose of permitting the Company to make a determination that the offer and sale of the Securities pursuant to this Agreement comply with applicable United States federal and state securities laws and not for any other purpose. Accordingly, the Company may not rely on such representations and warranties for any other purpose. No Purchaser has made or hereby makes any other representations or warranties, express or implied, to the Company in connection with the transactions contemplated hereby.

### ARTICLE III

## COMPANY REPRESENTATIONS AND WARRANTIES

The Company represents and warrants to each Purchaser, as of the date hereof and as of the Closing, as follows:

3.1 Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the jurisdiction in which it is incorporated, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction where the failure so to qualify or be in good standing would have a Material Adverse Effect. For purposes of this Agreement, "Material Adverse Effect" means any effect which, individually or in the aggregate with all other effects, reasonably would be expected to be materially adverse to (a) the Securities, (b) the ability of the Company to perform its obligations under this Agreement or the other Transaction Documents, or (c) the business, operations, properties, financial condition, operating results or prospects of the Company, taken as a whole on a consolidated basis.

3.2 Authorization; Enforcement. Except for the authorization of the shareholders of the Conversion Shares which is expected within ninety (90) days after the date of this Agreement, (a) the Company has the requisite corporate power and authority (i) to enter into and perform its obligations under this Agreement and the other Transaction Documents, (ii) to issue, sell and perform its obligations with respect to the Securities in accordance with the terms hereof and thereof, and (iii) to issue the Conversion Shares upon conversion of the Debentures in accordance with the terms thereof; (b) the execution, delivery and performance of this Agreement and the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby (including, without limitation, the issuance and reservation for issuance of the Conversion Shares) have been duly authorized by all necessary corporate action and, except as set forth on Schedule 3.2 hereto, no further consent or authorization of the Company, its board of directors (or any committee thereof), its stockholders or any other person, body or agency is required with respect to any of the transactions contemplated hereby or thereby; (c) this Agreement and the other Transaction Documents have been duly executed and delivered by the Company; and (d) this Agreement and the other Transaction Documents (including, without limitation, the Securities) constitute legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms.

3.3 Capitalization. The capitalization of the Company as of the date hereof, including the authorized capital stock, the number of shares issued and outstanding, the number of shares issuable and reserved for issuance pursuant to the Company's stock option plans, the number of shares issuable and reserved for issuance pursuant to securities (other than the Debentures) exercisable or exchangeable for, or convertible into, any shares of capital stock is set forth on Schedule 3.3 hereto. All of such outstanding shares of capital stock have been, or upon issuance will be, validly issued, fully paid and non-assessable. No shares of capital stock of the Company (including the Conversion Shares) are subject to preemptive rights or any other similar rights of the stockholders of

the Company or any liens or encumbrances. Except as disclosed in Schedule 3.3 hereto, (a) there are no outstanding options, warrants, scrip, rights to subscribe for, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exercisable or exchangeable for, any shares of capital stock of the Company, or contracts, commitments, understandings or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, nor are any such issuances, contracts, commitments, understandings or arrangements contemplated, (b) there are no outstanding securities or instruments of the Company which contain any redemption or similar provisions and there are no contracts, commitments, understandings or arrangements by which the Company is or may become bound to redeem or otherwise acquire any security of the Company, and (c) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its or their securities under the Securities Act (except the Registration Rights Agreement). Schedule 3.3 hereto sets forth all of the securities or instruments of the Company that contain anti-dilution or similar provisions, and, except as and to the extent set forth thereon, the sale and issuance of the Securities will not trigger any anti-dilution adjustments to any such securities or instruments. The Company will make available upon request to each Purchaser true and correct copies of the Company's Certificate of Incorporation as in effect on the date hereof ("Certificate of Incorporation"), the Company's Bylaws as in effect on the date hereof (the "Bylaws") and all other instruments and agreements governing securities convertible into or exercisable or exchangeable for capital stock of the Company, all of which instruments and agreements are set forth on Schedule 3.3 hereto. The Company has the unrestricted right to vote and, subject to limitations imposed by applicable law, to receive dividends and distributions on all securities of its subsidiaries as owned by the Company. The Existing Notes are held by those parties listed on Schedule 3.3 hereto.

3.4 Issuance of Securities. The Debentures are duly authorized and, upon issuance in accordance with the terms of this Agreement, (a) will be validly issued, fully paid and non-assessable, and free from all taxes, liens, claims and encumbrances, (b) will not be subject to preemptive rights, rights of first refusal or other similar rights of stockholders of the Company or any other person that have not been duly and properly waived or complied with, and (c) will not impose personal liability on the holder thereof. The Conversion Shares are not currently authorized and not reserved for issuance. Upon approval by the shareholders of the Company, the Conversion Shares will be duly authorized and reserved for issuance, and, upon conversion of the Debentures in accordance with the terms thereof, (i) will be validly issued, fully paid and non-assessable, and free from all taxes, liens, claims and encumbrances, (ii) will not be subject to preemptive rights, rights of first refusal or other similar rights of stockholders of the Company or any other person, and (iii) will not impose personal liability on the holder thereof.

3.5 No Conflicts. The execution, delivery and performance of this Agreement and the other Transaction Documents by the Company and the consummation by the Company of transactions contemplated hereby and thereby (including, without limitation, the issuance of the Debentures and reservation for issuance of the Conversion Shares) do not and will not (a) result in a violation of the

Certificate of Incorporation or Bylaws, (b) conflict with, or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or (c) result in a violation of any law, rule, regulation, order, judgment or decree (including U.S. federal and state securities laws, rules and regulations and rules and regulations of any self-regulatory organizations to which either the Company or its securities are subject) applicable to the Company, or by which any property or asset of the Company is bound or affected (except, with respect to clauses (b) and (c), for such possible conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The Company is not in violation of its Certificate of Incorporation, Bylaws or other organizational documents, and the Company is not in default (and no event has occurred which has not been waived which, with notice or lapse of time or both, would put the Company in default) under, nor has there occurred any event giving others (with notice or lapse of time or both) any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party (including, without limitation, the Contracts (as defined in Section 3.6 below)), except for possible violations, defaults or rights as would not, individually or in the aggregate, have a Material Adverse Effect. The businesses of the Company is not being conducted, and shall not be conducted so long as any Purchaser owns any of the Securities, in violation of any law, ordinance or regulation of any governmental entity, except for possible violations the sanctions for which either individually or in the aggregate would not have a Material Adverse Effect. The Company possess all certificates, authorizations and permits issued by the appropriate federal, state, provincial or foreign regulatory authorities that are material to the conduct of their businesses, and the Company has not received any notice of proceeding relating to the revocation or modification of any such certificate, authorization or permit. Except (i) as may be required under the Securities Act in connection with the performance of the Company's obligations under the Registration Rights Agreement, (ii) for the filing of a Form D with the SEC, (iii) as may be required for compliance with the state securities or Blue Sky laws of applicable jurisdictions, or (iv) as otherwise set forth on Schedule 3.5 hereto, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency or any regulatory or self-regulatory agency in order for it to execute, deliver or perform any of its obligations under this Agreement or the other Transaction Documents or to perform its obligations in accordance with the terms hereof or thereof.

3.6 SEC Documents. Since December 31, 1998, the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein, the "SEC Documents"). The Company has made available to each Purchaser true and complete copies of the SEC Documents. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the

Exchange Act or the Securities Act, as applicable, and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. None of the statements made in any such SEC Documents which is required to be updated or amended under applicable law has not been so updated or amended in subsequent filings made prior to the date hereof. As of their respective dates, the consolidated financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the rules and regulations of the SEC applicable with respect thereto. Such consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP"), consistently applied, and the rules and regulations of the SEC during the periods involved (except (i) as may be otherwise indicated in such consolidated financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they do not include footnotes or are condensed or summary statements) and present accurately and completely the consolidated financial position of the Company as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal, immaterial year-end audit adjustments). Except as set forth in a manner clearly evident to a sophisticated institutional investor in the consolidated financial statements or the notes thereto of the Company included in the Select SEC Documents (as defined below), the Company has no liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business consistent with past practice subsequent to the date of such financial statements and (ii) obligations under contracts and commitments incurred in the ordinary course of business consistent with past practice and not required under GAAP to be reflected in such financial statements, which liabilities and obligations referred to in clauses (i) and (ii) are not, individually or in the aggregate, material to the financial condition or operating results of the Company. To the extent required by the rules of the SEC applicable thereto, the Select SEC Documents contain a complete and accurate list of all material undischarged written or oral contracts, agreements, leases or other instruments to which the Company is a party or by which the Company is bound or to which any of the properties or assets of the Company is subject (each a "Contract"). Except as set forth in the Select SEC Documents, the Company, is not to the best knowledge of the Company, in breach or violation of any Contract, which breach or violation would have a Material Adverse Effect. For purposes of this Agreement, "Select SEC Documents" means the Company's (i) Proxy Statement for its 2003 Annual Meeting, (ii) Annual Report on Form 10-K for the fiscal year ended December 31, 2002, (iii) Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2003, June 30, 2003 and September 30, 2003 and (iv) Current Reports on Form 8-K filed since December 31, 2002.

3.7 Absence of Certain Changes. Except as set forth in the Select SEC Documents, since September 30, 2003, to the best of the Company's knowledge there has been no material adverse change and no material adverse development in the business, properties, operations, financial condition, results of operations or prospects

of the Company, taken as a whole, other than extensions or waivers of the Existing Notes. The Company has not taken any steps, and does not currently expect to take any steps, to seek protection pursuant to any bankruptcy or receivership law, nor does the Company have any knowledge or reason to believe that its creditors intend to initiate involuntary bankruptcy proceedings with respect to the Company.

3.8 Absence of Litigation. Except as disclosed in the Select SEC Documents, to the best of the Company's knowledge there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, or self-regulatory organization or body (including, without limitation, the SEC) pending or, to the knowledge of the Company, threatened against or affecting the Company, or any of their respective directors or officers in their capacities as such, which could reasonably be expected to result in an unfavorable decision, ruling or finding which would have a Material Adverse Effect. There are no facts known to the Company (other than as disclosed in the Select SEC Documents) which, if known by a potential claimant or governmental authority, could reasonably be expected to give rise to a claim or proceeding which, if asserted or conducted with results unfavorable to the Company, could reasonably be expected to have a Material Adverse Effect.

3.9 Disclosure. All information relating to or concerning the Company set forth in this Agreement or provided to the Purchasers pursuant to this Agreement or otherwise in connection with the transactions contemplated hereby is true and correct in all material respects and the Company has not omitted to state any material fact necessary in order to make the statements made herein or therein, in light of the circumstances under which they were made, misleading. Except for the execution and performance of this Agreement, no event or circumstance has occurred or exists with respect to the Company or its businesses, properties, prospects, operations or financial conditions, which has not been publicly disclosed but, under applicable law, rule or regulation, would be required to be disclosed by the Company in a registration statement filed on the date hereof by the Company under the Securities Act with respect to a primary issuance of the Company's securities.

3.10 Acknowledgment Regarding Each Purchaser's Purchase of the Securities. The Company acknowledges and agrees that each Purchaser is acting solely in the capacity of arm's length purchaser with respect to this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby, and that no Purchaser is (a) an officer or director of the Company, or (b) an "affiliate" of the Company (as defined in Rule 144). The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement or the other Transaction Documents or the transactions contemplated hereby or thereby, and that any statement made by any Purchaser or any of its representatives or agents in connection with this Agreement or the other Transaction Documents and the transactions contemplated hereby and thereby is not advice or a recommendation, is merely incidental to such Purchaser's purchase of the Securities and has not been relied upon as such in any way by the Company, its officers or directors (except for the representations and warranties of such Purchaser in Article II hereof, which may be relied upon by the Company to the

extent provided therein). The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents and to consummate the transactions contemplated hereby and thereby have been based solely on an independent evaluation by the Company and its representatives.

3.11 No General Solicitation. Neither the Company nor any distributor participating on the Company's behalf in the transactions contemplated hereby (if any) nor any person acting for the Company or any such distributor has conducted any "general solicitation" (as defined in Regulation D) with respect to any of the Securities being offered hereby.

3.12 No Integrated Offering. Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf, has directly or indirectly made any offers or sales of any security or solicited any offers to buy any security under circumstances that would require registration of the Securities being offered hereby under the Securities Act or cause this offering of the Securities to be integrated with any prior offering of securities of the Company for purposes of the Securities Act, which result of integration would require registration of the Securities under the Securities Act. The transactions contemplated hereby are exempt from the registration requirements of the Securities Act, assuming the accuracy of the representations and warranties of each Purchaser set forth in Article II hereof.

3.13 No Brokers. The Company has taken no action which would give rise to any claim by any person for brokerage commissions, finder's fees or similar payments by any Purchaser relating to this Agreement or the transactions contemplated hereby.

3.14 Intellectual Property. To the best of its knowledge the Company owns or is duly licensed (and, in such event, has the unfettered right to grant sublicenses) to use all patents, patent applications, trademarks, trademark applications, trade names, service marks, copyrights, copyright applications, licenses, permits, inventions, discoveries, processes, scientific, technical, engineering and marketing data, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) and other similar rights and proprietary knowledge (collectively, "Intangibles") necessary for the conduct of its business as now being conducted and as presently contemplated to be conducted in the future as described in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2003. To the best of its knowledge the Company does not infringe on nor is it in conflict with any right of any other person with respect to any Intangibles, nor is there any claim of infringement made by a third party against or involving the Company, which infringement, conflict or claim, individually or in the aggregate, could reasonably be expected to result in an unfavorable decision, ruling or finding which would have a Material Adverse Effect. The Company has not entered into any consent agreement, indemnification agreement, forbearance to sue or settlement agreement with respect to the validity of the Company's ownership of or right to use its Intangibles and there is no reasonable basis for any such claim to be successful. The Intangibles are valid and enforceable and no registration relating thereto has lapsed, expired or been abandoned or

canceled or is the subject of cancellation or other adversarial proceedings, and all applications therefor are pending and in good standing. The Company has complied, in all material respects, with their respective contractual obligations relating to the protection of the Intangibles used pursuant to licenses. No person is infringing on or violating the Intangibles owned or used by the Company.

3.15 Key Employees. No Key Employee (as defined below) is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and the continued employment of each Key Employee does not subject the Company to any liability with respect to any of the foregoing matters. No Key Employee has, to the best knowledge of the Company, any intention to terminate or limit his employment with, or services to, the Company, nor is any such Key Employee subject to any constraints which would cause such Key Employee to be unable to devote his full time and attention to such employment or services. For purposes of this Agreement, "Key Employee" means each of Gary S. Kledzik, Chairman of the Board and Chief Executive Officer, David E. Mai, President, and John M. Philpott, Chief Financial Officer and Treasurer.

3.16 Transactions With Affiliates. Except as set forth in the Select SEC Documents, none of the officers, directors, or employees of the Company is presently a party to any material transaction with the Company (other than for ordinary course services solely in their capacity as officers, directors or employees), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any such officer, director or employee or any corporation, partnership, trust or other entity in which any such officer, director, or employee has an ownership interest of five percent or more or is an officer, director, trustee or partner.

3.17 Tax Status. Except as set forth in the Select SEC Documents, the Company has made or filed all foreign, U.S. federal, state, provincial and local income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject (unless and only to the extent that the Company has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes) and has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations (except those being contested in good faith), and has set aside on its books provisions reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim. The Company has not executed a waiver with respect to any statute of limitations relating to the assessment or collection of any foreign, federal, state, provincial or local tax. None of the Company's tax returns is, to the best knowledge of the Company, presently the subject of any material audit proceedings by any taxing authority.

3.18 Employee Relations. The Company is not involved in any material union labor

dispute nor, to the knowledge of the Company is any such dispute threatened. The Company believes that its relations with its employees are good. No executive officer (as defined in Rule 501(f) of the Securities Act) has notified the Company that such officer intends to leave the Company or otherwise terminate such officer's employment with the Company. The Company is in compliance with all federal, state, local and foreign laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, result in a Material Adverse Effect.

3.19 Insurance. The Company has in force fire, casualty, product liability and other insurance policies, with extended coverage, sufficient in amount to allow it to replace any of its material properties or assets which might be damaged or destroyed or sufficient to cover liabilities to which the Company may reasonably become subject, and such types and amounts of other insurance with respect to its business and properties, on both a per occurrence and an aggregate basis, as are customarily carried by persons engaged in the same or similar business as the Company. No default or event has occurred that could give rise to a default under any such policy.

3.20 Environmental Matters. There is no environmental litigation or other environmental proceeding pending or, to the best knowledge of the Company, threatened by any governmental regulatory authority or others with respect to the current or any former business of the Company or any partnership or joint venture currently or at any time affiliated with the Company. No state of facts exists as to environmental matters or Hazardous Substances (as defined below) that involves the reasonable likelihood of a material capital expenditure by the Company or that may otherwise have a Material Adverse Effect. No Hazardous Substances have been treated, stored or disposed of, or otherwise deposited, in or on the properties owned or leased by the Company or by any partnership or joint venture currently or at any time affiliated with the Company is in violation of any applicable environmental laws. The environmental compliance programs of the Company comply in all respects with all environmental laws, whether foreign, federal, state, provincial or local, currently in effect. For purposes of this Agreement, "Hazardous Substances" means any substance, waste, contaminant, pollutant or material that has been determined by any governmental authority to be capable of posing a risk of injury to health, safety, property or the environment.

3.21 Anti-Takeover Provisions. The Company and its board of directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under the shareholders rights plan that the Company presently has in effect) or other similar anti-takeover provision under its Certificate of Incorporation or the laws of the state of its incorporation which is or could become applicable to any Purchaser as a result of the transactions contemplated by this Agreement, including without limitation, the Company's issuance of the Securities or any other securities pursuant to the terms of this Agreement and any and all Purchaser's ownership of the Securities or any such other securities.

3.22 Acknowledgment Regarding Securities. The number of Conversion Shares

issuable upon conversion of the Debentures may increase in certain circumstances. The Company's directors and executive officers have studied and fully understand the nature of the Securities being sold hereunder. The Company acknowledges that its obligation to issue Conversion Shares upon conversion of the Debentures in accordance with the terms thereof is absolute and unconditional, regardless of the dilution that such issuance may have on the ownership interests of other stockholders and the availability of remedies provided for in any of the Transaction Documents relating to a failure or refusal to issue Conversion Shares. Taking the foregoing into account, the Company's board of directors has determined in its good faith business judgment that the issuance of the Debentures hereunder and the consummation of the other transactions contemplated hereby are in the best interests of the Company and its stockholders.

3.23 S-2 Registration. The Company is currently eligible to register the resale by each Purchaser of the Conversion Shares on a registration statement on Form S-2 under the Securities Act, however the Conversion Shares must first be authorized by the shareholders of the Company. The Company will use its commercially reasonable best efforts to obtain authorization from the shareholders for the Conversion Shares as soon as possible after the Closing.

#### ARTICLE IV

##### COVENANTS

4.1 Best Efforts. The parties shall use their respective commercially reasonable best efforts to timely satisfy each of the conditions described in Articles VI and VII of this Agreement.

4.2 Securities Laws. The Company shall file a Form D with respect to the Securities with the SEC as required under Regulation D within fifteen (15) days after the Closing Date and provide a copy thereof to each Purchaser promptly after such filing. The Company shall, on or prior to the Closing Date, take such action as is necessary to qualify the Securities for sale to each Purchaser under applicable securities laws of the states of the United States or to obtain an exemption therefrom.

4.3 Reporting Status. So long as any Purchaser beneficially owns any of the Securities, the Company shall timely file all reports required to be filed with the SEC pursuant to the Exchange Act, and the Company shall not terminate its status as an issuer required to file reports under the Exchange Act even if the Exchange Act or the rules and regulations thereunder would permit such termination.

4.4 Reservation of Shares. The Company warrants, after authorization by the shareholders, that it will maintain as authorized and reserved for the purpose of issuance a sufficient number of shares of Common Stock to provide for the full conversion of the Debentures and issuance of the Conversion Shares in connection therewith and as may otherwise be required under the terms of the Debentures (including, without limitation, in order to make interest payments thereunder in shares of Common Stock) (the "Issuance Obligations"). In the event

such number of shares becomes insufficient to satisfy the Issuance Obligations, the Company shall take all necessary action to authorize and reserve such additional shares of Common Stock necessary to satisfy the Issuance Obligations.

4.5 Information. The Company shall send (via electronic transmission or otherwise), to each Purchaser until such Purchaser transfers, assigns or sells all of its Securities in transactions in which the transferee is (unless such transferee is an affiliate of the Company) not subject to securities law resale restrictions, within one (1) business day after release, copies of all press releases issued by the Company. The Company further agrees to promptly provide to any Purchaser any information with respect to the Company, its properties, or its business or any Purchaser's investment as such Purchaser may reasonably request in writing; provided, however, that the Company shall not be required to give any Purchaser any material nonpublic information. If any information requested by a Purchaser from the Company contains material nonpublic information, the Company shall inform such Purchaser in writing that the information requested contains material nonpublic information and shall in no event provide such information to such Purchaser without the express written consent of such Purchaser after being so informed.

4.6 Prospectus Delivery Requirement. Each Purchaser understands that the Securities Act may require delivery of a prospectus relating to the Common Stock in connection with any sale thereof by such Purchaser pursuant to a registration statement under the Securities Act covering the resale by the Purchasers of the Conversion Shares being sold, and such Purchaser shall comply with the applicable prospectus delivery requirements of the Securities Act in connection with any such sale.

4.7 Corporate Existence. So long as any Purchaser beneficially owns any Securities, the Company shall maintain its corporate existence, and in the event of a merger, consolidation or sale of all or substantially all of the Company's assets, the Company shall ensure that the surviving or successor entity in such transaction (a) assumes the Company's obligations hereunder and under the other Transaction Documents and (b) is a publicly traded corporation.

4.8 Use of Proceeds. The Company shall use the proceeds from the sale and issuance of the Debentures of approximately TWO MILLION DOLLARS (\$2,000,000) for general corporate purposes and working capital.

4.9 Listing. The Company shall use its commercially reasonable best efforts to secure the listing of the Conversion Shares upon each national securities exchange or automated quotation system, if any, upon which shares of Common Stock become listed or quoted (subject to official notice of issuance upon conversion of the Debentures) and shall maintain, so long as any other shares of Common Stock shall be so listed or quoted, such listing of all Conversion Shares from time to time issuable upon the conversion of the Debentures. The Company shall comply in all material respects with the reporting, filing and other obligations under the bylaws or rules of any such national securities exchange or automated quotation system on which its shares of Common Stock are listed or quoted. The Company shall promptly provide to each holder of Debentures copies of any notices it receives regarding the continued eligibility of the Common

Stock for trading on any national securities exchange or automated quotation system on which securities of the same class or series issued by the Company are then listed or quoted, if any.

4.10 No Integrated Offerings. The Company shall not make any offers or sales of any security (other than the Securities) under circumstances that would require registration of the Securities being offered or sold hereunder under the Securities Act or cause this offering of the Securities to be integrated with any other offering of securities by the Company for purposes of any stockholder approval provision applicable to the Company or its securities.

4.11 Legal Compliance. The Company shall conduct its business and the business of its subsidiaries in compliance with all laws, ordinances or regulations of governmental entities applicable to such businesses, except where the failure to do so would not have a Material Adverse Effect.

4.12 Pledge of Securities. The Company acknowledges and agrees that the Securities may be pledged by any Purchaser in connection with a bona fide margin agreement or other loan or financing arrangement that is secured by the Securities. The pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities hereunder, and no Purchaser effecting a pledge of Securities shall be required to provide the Company with any notice thereof or otherwise make any delivery to the Company pursuant to this Agreement or any other Transaction Document. The Company shall execute and deliver such documentation as a pledgee of the Securities may reasonably request in connection with a pledge of the Securities to such pledgee by a Purchaser.

4.13 Confidential Agreement. Except for any disclosure required by applicable law or rules of the SEC, the Company and each Purchaser shall, and shall direct its respective representatives to, hold in confidence all information concerning this Agreement and the transactions contemplated hereby until the earlier of such time as (a) the Company has made a public announcement concerning the Agreement and the transactions contemplated hereby or (b) this Agreement is terminated.

## ARTICLE V

### SECURITY TRANSFER MATTERS

5.1 Conversion of Debentures. Upon conversion of the Debentures by any person and after the Conversion Shares have been authorized and registered by the Company and its shareholders, (a) if the DTC Transfer Conditions (as defined below) are satisfied, the Company shall cause its transfer agent to electronically transmit all Conversion Shares by crediting the account of such person or its nominee with the Depository Trust Company ("DTC") through its Deposit Withdrawal Agent Commission system; or (b) if the DTC Transfer Conditions are not satisfied, the Company shall issue and deliver, or instruct its transfer agent to issue and deliver, certificates (subject to the Legend and other applicable provisions hereof and the Debentures), registered in the name of such person its nominee, physical certificates representing the Conversion Shares, as applicable. Even if the DTC Transfer Conditions are satisfied, any

person effecting a conversion of Debentures may instruct the Company to deliver to such person or its nominee physical certificates representing the Conversion Shares, as applicable, in lieu of delivering such shares by way of DTC Transfer. For purposes of this Agreement, "DTC Transfer Conditions" means that (i) the Company's transfer agent is participating in the DTC Fast Automated Securities Transfer program and (ii) the certificates for the Conversion Shares required to be delivered do not bear the Legend and the person effecting such conversion or exercise is not then required to return such certificate for the placement of the Legend thereon.

5.2 Removal of Legend. The Legend shall be removed and the Company shall issue a certificate without such Legend to the holder of any Security upon which it is stamped, or a certificate for a Security shall be originally issued without the Legend, if, (a) the sale of such Security is registered under the Securities Act, (b) the holder of such Security provides the Company with an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions (the reasonable cost of which shall be borne by the Company if, after one (1) year, neither an effective registration statement under the Securities Act or Rule 144 is available in connection with such sale) to the effect that a public sale or transfer of such Security may be made without registration under the Securities Act pursuant to an exemption from such registration requirements, (c) such Security can be sold pursuant to Rule 144 and the holder provides the Company with reasonable assurances that the Security can be so sold without restriction, or (d) such Security can be sold pursuant to Rule 144(k). Each Purchaser agrees to sell all Securities, including those represented by a certificate(s) from which the Legend has been removed, or which were originally issued without the Legend, pursuant to an effective registration statement, in accordance with the manner of distribution described in such registration statement, and to deliver a prospectus in connection with such sale, or in compliance with an exemption from the registration requirements of the Securities Act. In the event the Legend is removed from any Security or any Security is issued without the Legend and the Security is to be disposed of other than pursuant to an effective registration statement or pursuant to an exemption from the registration requirements of the Securities Act, then prior to, and as a condition to, such disposition such Security shall be relegended as provided herein in connection with any disposition if the subsequent transfer thereof would be restricted under the Securities Act. Also, in the event the Legend is removed from any Security or any Security is issued without the Legend and thereafter the effectiveness of a registration statement covering the resale of such Security is suspended or the Company determines that a supplement or amendment thereto is required by applicable securities laws, then upon reasonable advance notice to Purchaser holding such Security, the Company may require that the Legend be placed on any such Security that cannot then be sold pursuant to an effective registration statement or Rule 144 or with respect to which the opinion referred to in clause (b) next above has not been rendered, which Legend shall be removed when such Security may be sold pursuant to an effective registration statement or Rule 144 or such holder provides the opinion with respect thereto described in clause (b) next above.

5.3 Transfer Agent Instructions. The Company shall instruct its transfer agent to issue certificates, registered in the name of each Purchaser, or its nominee,

for the Securities in such amounts determined in accordance with the terms of the Securities. Such certificates shall bear the Legend only to the extent provided by Section 5.2 above. The Company covenants that no instruction other than such instructions referred to in this Article V, and stop transfer instructions to give effect to Section 2.6 hereof in the case of the transfer of the Conversion Shares prior to registration thereof under the Securities Act or without an exemption therefrom, shall be given by the Company to its transfer agent and that the Securities shall otherwise be freely transferable on the books and records of the Company. Nothing in this Section shall affect in any way such Purchaser's obligations and agreement set forth in Section 5.2 hereof to resell the Securities pursuant to an effective registration statement and to deliver a prospectus in connection with such sale or in compliance with an exemption from the registration requirements of applicable securities laws.

5.4 Transfers of Securities. If (a) a Purchaser provides the Company with an opinion of counsel, which opinion of counsel shall be in form, substance and scope customary for opinions of counsel in comparable transactions (the reasonable cost of which shall be borne by the Company if, after one (1) year, neither an effective registration statement under the Securities Act or Rule 144 is available in connection with such sale), to the effect that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from registration, or (b) a Purchaser provides the Company with reasonable assurances that such Securities may be sold under Rule 144, the Company shall permit the transfer, and, in the case of the Conversion Shares, promptly instruct its transfer agent to issue one or more certificates in such name and in such denomination as specified by such Purchaser.

5.5 Breach by Company. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to a Purchaser by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Article V will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Article V, that each Purchaser shall be entitled, in addition to all other available remedies, to an injunction restraining any breach and requiring immediate issuance and transfer, without the necessity of showing economic loss and without any bond or other security being required.

## ARTICLE VI

### CONDITIONS TO THE COMPANY'S OBLIGATION TO SELL

The obligation of the Company hereunder to issue and sell the Units to each Purchaser at the Closing is subject to the satisfaction, as of the Closing Date, of each of the following conditions as to such Purchaser, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion:

6.1 Execution of Transaction Documents. Each Purchaser shall have executed such Purchaser's Execution Page to this Agreement and each other Transaction Document to which such Purchaser is a party and delivered the same to the Company.

6.2 Payment of Purchase Price. Each Purchaser shall have delivered the full amount of such Purchaser's Purchase Price to the Company by wire transfer to the account designated by the Company.

6.3 Representations and Warranties True; Covenants Performed. The representations and warranties of each Purchaser shall be true and correct as of the date hereof and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such date), and such Purchaser shall have performed, satisfied and complied with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by such Purchaser at or prior to the Closing Date.

6.4 No Legal Prohibition. No statute, rule, regulation, executive order, decree, ruling, injunction, action or proceeding shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which restricts or prohibits the consummation of any of the transactions contemplated by this Agreement.

## ARTICLE VII

### CONDITIONS TO EACH PURCHASER'S OBLIGATION TO PURCHASE

The obligation of each Purchaser hereunder to purchase the Units for which it is subscribing from the Company hereunder at the Closing is subject to the satisfaction, as of the Closing Date, of each of the following conditions, provided that these conditions are for each Purchaser's individual and sole benefit and may be waived by any Purchaser as to such Purchaser at any time in such Purchaser's sole discretion:

7.1 Execution of Transaction Documents. The Company shall have executed such Purchaser's Execution Page to this Agreement and each other Transaction Document to which the Company is a party and delivered executed originals of the same to such Purchaser.

7.2 Delivery of Securities. The Company shall have delivered to such Purchaser duly executed Debentures for the number of Units being purchased by such Purchaser (each in such denominations as such Purchaser shall request), registered in such Purchaser's name.

7.3 Representations and Warranties True; Covenants Performed. The representations and warranties of the Company shall be true and correct as of the date hereof and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such date), and the Company shall have performed, satisfied and complied with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to the Closing Date.

7.4 No Legal Prohibition. No statute, rule, regulation, executive order, decree, ruling, injunction, action or proceeding shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which restricts or prohibits the consummation of any of the transactions contemplated by this Agreement.

7.5 Corporate Approvals. Such Purchaser shall have received a copy of resolutions, duly adopted by the board of directors of the Company, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents and the consummation by the Company of the transactions contemplated hereby and thereby. Notwithstanding the foregoing, the Company will obtain shareholder approval for authorization and registration of the Conversion Shares after the Closing.

## ARTICLE VIII

### GOVERNING LAW; MISCELLANEOUS

8.1 Governing Law: Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in the State of Delaware. The parties hereto irrevocably consent to the jurisdiction of the United States federal courts and state courts located in the County of New Castle in the State of Delaware in any suit or proceeding based on or arising under this Agreement or the transactions contemplated hereby and irrevocably agree that all claims in respect of such suit or proceeding may be determined in such courts. The Company and each Purchaser irrevocably waives the defense of an inconvenient forum to the maintenance of such suit or proceeding in such forum. The Company and each Purchaser further agrees that service of process upon the Company or such Purchaser, as applicable, mailed by the first class mail in accordance with Section 8.6 shall be deemed in every respect effective service of process upon the Company or such Purchasers in any suit or proceeding arising hereunder. Nothing herein shall affect each Purchaser's right to serve process in any other manner permitted by law. The parties hereto agree that a final non-appealable judgment in any such suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on such judgment or in any other lawful manner. The parties hereto irrevocably waive any right to a trial by jury under applicable law.

8.2 Counterparts. This Agreement may be executed in two or more counterparts, including, without limitation, by facsimile transmission, all of which counterparts shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other parties hereto. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause the original manually executed signature pages to be physically delivered to the other parties as soon as practicable, but in any event within five (5) days thereafter, provided that the failure to so deliver any original manually executed signature page shall not affect the validity or enforceability of this

Agreement.

8.3 Construction. Whenever the context requires, the gender of any word used in this Agreement includes the masculine, feminine or neuter, and the number of any word includes the singular or plural. Unless the context otherwise requires, all references to articles and sections refer to articles and sections of this Agreement, and all references to schedules are to schedules attached hereto, each of which is made a part hereof for all purposes. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

8.4 Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

8.5 Entire Agreement: Amendments. This Agreement and the other Transaction Documents (including any schedules and exhibits hereto and thereto) contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Purchaser makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived other than by an instrument in writing signed by the party to be charged with enforcement and no provision of this Agreement may be amended other than by an instrument in writing signed by the Company and each Purchaser.

8.6 Notice. Any notice herein required or permitted to be given shall be in writing and may be personally served, sent by certified or registered mail (postage prepaid and return receipt requested) or delivered by nationally-recognized overnight courier or by facsimile transmission with confirmation of receipt, and shall be deemed delivered five days after being placed in the mail, if mailed, or at the time and date of receipt or refusal of receipt, if delivered personally or by overnight courier or facsimile transmission. The initial addresses for such communications shall be as follows, and each party shall provide notice to the other parties of any change in such party's address:

(a) if to the Company:

Miravant Medical Technologies  
336 Bollay Drive  
Santa Barbara, CA 93117  
Attention: Gary S. Kledzik  
Facsimile: (805) 685-7981

with a copy simultaneously transmitted by like means  
(which transmittal shall not constitute notice

hereunder) to:

Sheppard Mullin Richter & Hampton, LLP  
800 Anacapa Street  
Santa Barbara, CA 93101  
Attention: Joseph E. Nida, Esq.  
Facsimile: (805) 568-1955

(b) if to any Purchaser, to the address set forth under such Purchaser's name on the Execution Page hereto executed by such Purchaser.

8.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder. Subject to the Company's prior written consent, any Purchaser may assign or transfer the Securities pursuant to the terms of this Agreement and of such Securities, or assign such Purchaser's rights hereunder to any other person or entity.

8.8 Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

8.9 Survival. The representations and warranties of the Company and the agreements and covenants set forth in Articles III, IV, V and VIII hereof shall survive the Closing hereunder notwithstanding any due diligence investigation conducted by or on behalf of any Purchaser.

8.10 Indemnification. In consideration of each Purchaser's execution and delivery of this Agreement and the other Transaction Documents and purchase of the Securities hereunder, and in addition to all of the Company's other obligations under this Agreement and the other Transaction Documents, from and after the Closing, the Company shall defend, protect, indemnify and hold harmless each Purchaser and each other holder of the Securities and all of their stockholders, partners, members, officers, directors, employees and direct or indirect investors and any of the foregoing persons' agents or other representatives (including, without limitation, those retained in connection with the transactions contemplated by this Agreement, collectively, the "Indemnitees") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (the "Indemnified Liabilities"), incurred by any Indemnitee as a result of, or arising out of, or relating to (a) any misrepresentation or breach of any representation or warranty made by the Company in this Agreement, any other Transaction Document or any other certificate, instrument or document contemplated hereby or thereby, (b) any breach of any covenant, agreement or obligation of the Company contained in this Agreement, any other Transaction Document or any other certificate, instrument or document contemplated hereby or thereby or (c) any cause of action, suit or claim brought or made against such Indemnitee by a third party (including for

these purposes a derivative action brought on behalf of the Company) and arising out of or resulting from (i) the execution, delivery, performance or enforcement of this Agreement, any other Transaction Document or any other certificate, instrument or document contemplated hereby or thereby, (ii) any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of the issuance and sale of the Securities, (iii) any disclosure made by such Purchaser pursuant to Section 2.2 or 2.6 hereof, or (iv) the status of such Purchaser or holder of the Securities as an investor in the Company. To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. Except as otherwise set forth herein, the mechanics and procedures with respect to the rights and obligations under this Section 8.10 shall be the same as those set forth in Section 7(c) of the Registration Rights Agreement.

8.11 Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

8.12 Remedies. No provision of this Agreement providing for any remedy to a Purchaser shall limit any remedy which would otherwise be available to such Purchaser at law or in equity. Nothing in this Agreement shall limit any rights a Purchasers may have with any applicable federal or state securities laws with respect to the investment contemplated hereby. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Purchasers by vitiating the intent and purpose of the transactions contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a material breach of its obligations under this Agreement will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Agreement, that each Purchaser shall be entitled, in addition to all other available remedies, to an injunction restraining any breach and requiring immediate compliance, without the necessity of showing economic loss and without any bond or other security being required.

8.13 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser hereunder or pursuant to any of the other Transaction Documents or any Purchaser enforces or exercises its rights hereunder or thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

8.14 Joint Participation in Drafting. Each party to this Agreement has participated in the negotiation and drafting of this Agreement and the other Transaction Documents. As such, the language used herein and therein shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party to this Agreement.

8.15 Knowledge. As used in this Agreement, the term "knowledge" of any person or entity shall mean and include (a) actual knowledge and (b) that knowledge which a reasonably prudent business person could have obtained in the management of his or her business affairs after making due inquiry and exercising due diligence which a prudent business person should have made or exercised, as applicable, with respect thereto.

8.16 Exculpation Among Purchasers; No "Group". Each Purchaser acknowledges that it has independently evaluated the merits of the transactions contemplated by this Agreement and the other Transaction Documents, that it has independently determined to enter into the transactions contemplated hereby and thereby, that it is not relying on any advice from or evaluation by any other Purchaser, and that it is not acting in concert with any other Purchaser in making its purchase of securities hereunder or in monitoring its investment in the Company. The Purchasers and, to its knowledge, the Company agree that the Purchasers have not taken any actions that would deem such Purchasers to be members of a "group" for purposes of Section 13(d) of the Exchange Act, and the Purchasers have not agreed to act together for the purpose of acquiring, holding, voting or disposing of equity securities of the Company.

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IN WITNESS WHEREOF, the undersigned Purchaser and the Company have caused this Agreement to be duly executed as of the date first above written.

COMPANY:

MIRAVANT MEDICAL TECHNOLOGIES:

By:/s/ Gary S. Kledzik

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Name: Gary S. Kledzik

Title: Chief Executive Officer

PURCHASER:

(Print or Type Name of Purchaser)

By:

-----

Name:

Title:

RESIDENCE:

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ADDRESS:

Telephone:

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Facsimile:

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Attention:

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AGGREGATE SUBSCRIPTION AMOUNT:

Purchase Price (\$\_\_\_\_\_):

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Exhibit A

To

Unsecured Convertible Debenture Purchase Agreement

UNSECURED CONVERTIBLE DEBENTURE

-26-

Exhibit B

To

Unsecured Convertible Debenture Purchase Agreement

REGISTRATION RIGHTS AGREEMENT

List of Schedules

to

Unsecured Convertible Debenture Purchase Agreement

- Schedule 3.2 - Authorization; Enforcement
- Schedule 3.3 - Capitalization
- Schedule 3.5 - Conflicts

EXHIBIT B

TO

UNSECURED CONVERTIBLE DEBENTURE

PURCHASE AGREEMENT

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT, dated as of February 5, 2004 (the "Agreement"), is made by and among MIRAVANT MEDICAL TECHNOLOGIES, a Delaware corporation (the "Company"), with headquarters located at 336 Bollay Drive, Santa Barbara, California 93117, and the purchasers whose names appear on the signature pages hereto (collectively, the "Purchasers").

W I T N E S S E T H:

WHEREAS, in connection with the Unsecured Convertible Debenture Purchase Agreement of even date herewith among the Purchasers and the Company (the "Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of said Purchase Agreement, to issue and sell to the Purchasers the Company's Unsecured Convertible Debentures (the "Debentures") that are convertible into shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"); and

WHEREAS, to induce the Purchasers to execute and deliver the Purchase Agreement, and to consummate the transactions contemplated thereby, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "Securities Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Company and the Purchasers hereby agree as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

(a) "Purchasers" means the Purchasers and any transferee or assignee of any Purchaser who agrees to become bound by the provisions of this Agreement in accordance with Section 10 hereof.

(b) "Registrable Securities" means (i) the shares of Common Stock issued or

issuable upon conversion of or otherwise pursuant to the Debentures, including, without limitation, any shares of Common Stock issued or issuable by the Company as the payment of interest due on the Debentures, (ii) any additional shares of Common Stock or other securities (including any shares of Common Stock issuable upon conversion or exchange of any such other securities) issued to Purchasers in accordance with Section 3.4 of the Purchase Agreement or Section 4 of the Debentures, and (iii) any shares of Common Stock or other securities issued or issuable from time to time as a dividend or other distribution on or in exchange or otherwise with respect to any of the foregoing (including the Debentures and any other securities contemplated by the foregoing clause (ii)); provided, however, that the Purchasers cannot convert their Debentures unless and until such time as the Company has obtained shareholder approval for authorization of a sufficient amount of Conversion Shares and, accordingly, the term "Registrable Securities" shall not include any of the shares of Common Stock or other securities referenced in clauses (i) - (iii) of this definition to the extent such shares of Common Stock have not been authorized by the shareholders of the Company.

(c) "Registration Period" means the period between the date at which the Registrable Securities are authorized and reserved by the Company and its shareholders and the earlier of (i) the date on which all of the Registrable Securities have been sold in transactions where the transferee is not subject to securities law resale restrictions, or (ii) the date on which the Registrable Securities may be immediately sold to the public without registration and free of restrictions on transfer pursuant to Rule 144(k) under the Securities Act or any successor provision.

(d) "Registration Statement" means a registration statement of the Company filed with the Securities and Exchange Commission (the "SEC") under the Securities Act.

(e) The terms "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement in compliance with the Securities Act and applicable rules and regulations thereunder (including Rule 415 under the Securities Act), and the declaration or ordering of effectiveness of such Registration Statement by the SEC.

## 2. Registration.

(a) Mandatory Registration. Pursuant to the terms of this Section 2(a), the Company shall prepare promptly and file a Registration Statement with the SEC, registering at a sufficient number of shares to cover the Registrable Securities for resale, as soon as practicable, but in any event no later April 30, 2004. To the extent allowable under the Securities Act and the Rules promulgated thereunder (including Rule 416), the Registration Statement shall include such indeterminate number of additional shares of Common Stock as may become issuable upon conversion of the Debentures to prevent dilution resulting from stock splits, stock dividends, dilution or similar transactions as provided in the Purchase Agreement. The Registration Statement (and each amendment or supplement thereto) shall be provided to, and subject to the reasonable approval of, the Purchasers and their counsel prior to its filing or other submission. The

Company shall use its commercially reasonable best efforts to cause such Registration Statement to be declared effective by the SEC as soon as practicable following the filing thereof, but in any event no later than June 30, 2004.

(b) Warranty by the Company. If any Registration Statement (or any amendment or supplement to any Registration Statement) required to be filed pursuant to Section 2(a) or 3(c) hereof has not been filed by the Company with the SEC prior to April 30, 2004 (the "Initial Filing Deadline"), or the forty-fifth (45th) day following the applicable Registration Trigger Date (as defined in Section 3(c) below), in the case of a filing under Section 3(c) (a "Subsequent Filing Deadline"), or if the Company shall not have caused the Registration Statement to be declared effective by the SEC not later than June 30, 2004 (the "Initial Effectiveness Deadline"), or after a Registration Statement is first declared effective by the SEC, it ceases for any reason to remain continuously effective as to all Registrable Securities for which it is required to be effective, for in any such cases ten Business Days (which need not be consecutive days) in the aggregate during any 12-month period (each such day being a "Non-Effective Day"), then the Company shall use its commercially reasonable efforts to file and have the Registration Statement be declared effective by the Securities Exchange Commission.

(c) Piggy-Back Registrations. If, at any time and from time to time prior to the expiration of the Registration Period, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to each Purchaser written notice of such filing, and if, within fifteen (15) days after the date of such notice, such Purchaser shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities such Purchaser requests to be registered. Notwithstanding the foregoing, in the event that, in connection with any underwritten public offering, the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only such limited portion of the Registrable Securities with respect to which such Purchaser has requested inclusion hereunder as the underwriter shall permit; provided, however, that (i) the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not contractually entitled to inclusion of such securities in such Registration Statement or are not contractually entitled to pro rata inclusion with the Registrable Securities, (ii) after giving effect to the immediately preceding proviso, any such exclusion of Registrable Securities shall be made pro rata among the Purchasers seeking to include Registrable Securities and the holders of other securities having the contractual right to inclusion of their securities in such Registration Statement by reason of demand registration

rights, in proportion to the number of Registrable Securities or other securities, as applicable, sought to be included by each such Purchaser or other holder, and (iii) no such reduction shall reduce the amount of Registrable Securities included in the registration below twenty-five (25%) of the total amount of securities included in such registration. No right to registration of Registrable Securities under this Section 2(c) shall be construed to limit any registration required under Section 2(a) hereof. If an offering in connection with which a Purchaser is entitled to registration under this Section 2(c) is an underwritten offering, then each Purchaser whose Registrable Securities are included in such Registration Statement shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. Additional Obligations of the Company. In connection with the registration of the Registrable Securities, the Company shall have the following additional obligations:

(a) The Company shall respond promptly to any and all comments made by the staff of the SEC to any Registration Statement required to be filed hereunder, and shall submit to the SEC, before the close of business on the second (2nd) business day immediately following the business day on which the Company learns (either by telephone or in writing) that no review of such Registration Statement will be made by the SEC or that the staff of the SEC has no further comments on such Registration Statement, as the case may be, a request for acceleration of the effectiveness of such Registration Statement to a time and date as soon as practicable. The Company shall keep any such Registration Statement effective pursuant to Rule 415 under the Securities Act at all times during the Registration Period.

(b) Each Registration Statement required to be filed hereunder (including any amendments or supplements thereto and prospectuses contained therein and all documents incorporated by reference therein) filed by the Company (i) shall comply in all material respects with the requirements of the Securities Act and the rules and regulations promulgated thereunder and (ii) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading. The consolidated financial statements of the Company included in any such Registration Statement or incorporated by reference therein (A) shall comply as to form in all material respects with the applicable accounting requirements and the published rules and regulations of the SEC applicable with respect thereto, (B) shall be prepared in accordance with U.S. generally accepted accounting principles, consistently applied during the periods involved (except as may be otherwise indicated in such financial statements or the notes thereto or, in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed on summary statements) and (C) shall fairly present in all material respects the consolidated financial position of the Company and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of

unaudited statements, to immaterial year-end adjustments).

(c) The Company (i) shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to any Registration Statement required to be filed hereunder and the prospectus used in connection with any such Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and (ii) during the Registration Period, shall comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company covered by any such Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the sellers thereof as set forth in the Registration Statement. In the event the number of shares of Common Stock included in a Registration Statement filed pursuant to this Agreement is, for any three (3) consecutive trading days (the last of such three (3) trading days being the "Registration Trigger Date"), insufficient to cover all of the Registrable Securities, the Company shall provide each Purchaser written notice of such Registration Trigger Date within five (5) business days thereafter and shall amend, if permissible, the Registration Statement, and/or file a new Registration Statement (on the short form available therefor, if applicable), so as to cover all of the Registrable Securities as soon as practicable, but in no event more than twenty (20) days after the Registration Trigger Date. The Company shall use its commercially reasonable best efforts to cause such amendment(s) and/or new Registration Statement(s) to become effective as soon as practicable following the filing thereof.

(d) The Company shall furnish to each Purchaser whose Registrable Securities are included in the Registration Statement and such Purchaser's legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC or received by the Company, one copy of the Registration Statement and any amendment thereto; each preliminary prospectus and final prospectus and each amendment or supplement thereto; and, in the case of the Registration Statement required under Section 2(a) above, each letter written by or on behalf of the Company to the SEC and each item of correspondence from the SEC, in each case relating to such Registration Statement (other than any portion of any item thereof which contains information for which the Company has sought confidential treatment); (ii) on the date of effectiveness of any Registration Statement or any amendment thereto, a notice stating that the Registration Statement or amendment has been declared effective; and (iii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto, and such other documents as such Purchaser may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such Purchaser.

(e) The Company shall use its commercially reasonable best efforts to (i) register and qualify the Registrable Securities covered by the Registration Statement under such other securities or "blue sky" laws of such jurisdictions as the Purchasers reasonably request, (ii) prepare and file in those jurisdictions such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take

such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions. Notwithstanding the foregoing provision, the Company shall not be required in connection therewith or as a condition thereto to (A) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(e), (B) subject itself to general taxation in any such jurisdiction, (C) file a general consent to service of process in any such jurisdiction, (D) provide any undertakings that cause more than nominal expense or burden to the Company, or (E) make any change in its Certificate of Incorporation or Bylaws, which in each case the Board of Directors of the Company determines to be contrary to the best interests of the Company and its stockholders.

(f) In the event the Purchasers hold a majority in interest of the Registrable Securities being offered in an underwriter offering, the Company shall enter into and perform its obligations under an underwriting agreement in usual and customary form including, without limitation, customary indemnification and contribution obligations, with the managing underwriter of such offering. The Company shall be responsible for payment of the fees of such underwriters and the reasonable attorney fees and costs incurred by one law firm selected by the Purchasers to represent their respective interests in the underwritten offering. No Purchaser shall be obligated to participate in any such underwriting.

(g) The Company shall notify each Purchaser who holds Registrable Securities being sold pursuant to a Registration Statement of the happening of any event of which the Company has knowledge as a result of which the prospectus included in the Registration Statement as then in effect includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading (a "Suspension Event"). The Company (i) shall make such notification as promptly as practicable after the Company becomes aware of such Suspension Event, (ii) shall promptly, but in all events within five (5) business days, use its commercially reasonable best efforts to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and (iii) shall deliver such number of copies of such supplement or amendment to each Purchaser as such Purchaser may reasonably request.

(h) The Company shall use its commercially reasonable best efforts (i) to prevent the issuance of any stop order or other suspension of effectiveness of any Registration Statement that includes Registrable Securities, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible time (including, in each case by amending or supplementing such Registration Statement), and (ii) to notify each Purchaser who holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

(i) The Company shall permit a single firm of counsel designated by the Purchasers who hold a majority in interest of the Registrable Securities being sold pursuant to such registration to review any Registration Statement required

to be filed hereunder and all amendments and supplements thereto (as well as all requests for acceleration or effectiveness thereof) a reasonable period of time prior to their filing with the SEC, and shall not file any document in a form to which such counsel reasonably objects.

(j) At the request of any Purchaser who holds Registrable Securities being sold pursuant to any registration hereunder, the Company shall furnish on the date that Registrable Securities are delivered to an underwriter for sale in connection with the Registration Statement (i) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the Purchasers; and (ii) an opinion, dated such date, from counsel representing the Company for purposes of such Registration Statement, in form and substance as is customarily given in an underwritten public offering, addressed to the underwriters and Purchasers.

(k) The Company shall make generally available to the Purchasers as soon as practicable, an earnings statement (in form complying with the provisions of Rule 158 under the Securities Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the effective date of the Registration Statement. The Company will be deemed to have complied with its obligations under this Section 3(k) upon the Company's filing, on an appropriate form, the appropriate report of the Company as required by the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "Exchange Act").

(l) The Company shall make available for inspection by (i) any Purchasers whose Registrable Securities are being sold pursuant to such registration, (ii) any underwriter participating in any disposition pursuant to the Registration Statement, and (iii) any attorney, accountant or other agent retained by any such Purchaser or underwriter (collectively, the "Inspectors"), all pertinent financial and other records, pertinent corporate documents and properties of the Company (collectively, the "Records"), as shall be reasonably necessary to enable each Inspector to exercise its due diligence responsibility, and cause the Company's officers, directors and employees to supply all information which any Inspector may reasonably request for purposes of such due diligence; provided, however, that each Inspector shall hold in confidence and shall not make any disclosure (except to a Purchaser) of any Record or other information which the Company determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless (A) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement, (B) the release of such Records is ordered pursuant to a subpoena or other order from a court or government body of competent jurisdiction, or such release is reasonably necessary in connection with litigation or other legal process or (C) the information in such Records has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company shall not be required to disclose any confidential information in such Records to any Inspector until and unless such Inspector shall have entered into confidentiality agreements (in form and substance satisfactory to the Company) with the Company with respect thereto, substantially in the form of this Section 3(l). The Purchasers agree

that they shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at the Company's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein shall be deemed to limit the Purchasers' ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

(m) The Company shall hold in confidence and shall not make any disclosure of information concerning any Purchaser provided to the Company pursuant hereto unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other order from a court or governmental body of competent jurisdiction, or such release is reasonably necessary in connection with litigation or other legal process or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning any Purchaser is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to such Purchaser and allow such Purchaser, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(n) The Company shall use its commercially reasonable best efforts to promptly cause all of the Registrable Securities covered by any Registration Statement to be listed or designated for quotation on the Nasdaq SmallCap Market, the Nasdaq National Market, the New York Stock Exchange, the American Stock Exchange or any other national securities exchange or automated quotation system and on each additional national securities exchange or automated quotation system on which securities of the same class or series issued by the Company are then listed or quoted, if any, if the listing or quotation of such Registrable Securities is then permitted under the rules of such exchange or automated quotation system, and in any event, without limiting the generality of the foregoing, to arrange for or maintain at least two market makers to register with the National Association of Securities Dealers, Inc. as such with respect to the Registrable Securities.

(o) The Company shall provide a transfer agent and registrar, which may be a single entity, for the Registrable Securities not later than the effective date of the Registration Statement required to be filed pursuant to Section 2(a) hereof.

(p) The Company shall cooperate with any Purchaser who holds Registrable Securities being sold and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates (not bearing any restrictive legends) representing Registrable Securities to be sold pursuant to any Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, and registered in such names, as the managing underwriter or underwriters, if any, or the Purchasers may reasonably request; and, within three (3) business days after a Registration

Statement which includes Registrable Securities is ordered effective by the SEC, the Company shall deliver, and shall cause legal counsel selected by the Company to deliver, to the transfer agent for the Registrable Securities (with copies to the Purchasers whose Registrable Securities are included in such Registration Statement) instructions to the transfer agent to issue new stock certificates without a legend and an opinion of such counsel that the Registrable Shares have been registered.

(q) The Company shall take all other reasonable actions necessary to expedite and facilitate disposition by the Purchasers of the Registrable Securities pursuant to the Registration Statement.

(r) At the request of any Purchaser, the Company shall promptly prepare and file with the SEC such amendments (including post-effective amendments) and supplements to any Registration Statement required to be filed hereunder and the prospectus used in connection with any such Registration Statement as may be necessary in order to change the plan of distribution set forth in such Registration Statement to conform to written information supplied to the Company by such Purchaser for such purpose.

(s) The Company shall comply with all applicable laws related to a Registration Statement and offering and sale of securities and all applicable rules and regulations of governmental authorities in connection therewith.

(t) From and after the date of this Agreement until the expiration of the Registration Period, except as set forth on Schedule 1 hereto, the Company shall not, and shall not agree to, allow the holders of any securities of the Company to include any of their securities which are not Registrable Securities in the Registration Statement required to be filed pursuant to Section 2(a) or 3(c) hereof without the consent of the holders of a majority in interest of the Registrable Securities.

4. Obligations of the Purchasers. In connection with the registration of the Registrable Securities, each Purchaser shall have the following obligations:

(a) It shall be a condition precedent to the obligations of the Company to effect the registration pursuant to this Agreement with respect to the Registrable Securities of a particular Purchaser that such Purchaser shall furnish to the Company such information regarding itself, the number of Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required by rules of the SEC to effect the registration of the Registrable Securities. The information so provided by the Purchasers shall be included without material alteration in the Registration Statement and shall not be modified without such Purchaser's written consent. At least ten (10) business days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Purchasers of the information the Company requires from each such Purchaser.

(b) Each Purchaser, by such Purchaser's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of any Registration

Statement required to be filed hereunder, unless such Purchaser has notified the Company in writing of such Purchaser's election to exclude all of such Purchaser's Registrable Securities from such Registration Statement.

(c) In the event the Purchasers holding a majority in interest of the Registrable Securities being registered determine to engage the services of an underwriter, each Purchaser agrees to enter into and perform such Purchaser's obligations under an underwriting agreement, in usual and customary form, including, without limitation, customary indemnification and contribution obligations, with the managing underwriter of such offering and take such other actions as are reasonably required in order to expedite or facilitate the disposition of the Registrable Securities, unless such Purchaser has notified the Company in writing of such Purchaser's election to exclude all of such Purchaser's Registrable Securities from the applicable Registration Statement. No Purchaser shall be obligated to participate in any such underwriting.

(d) Upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(g), 3(h) or 5(a) with respect to any Registration Statement covering Registrable Securities, each Purchaser shall immediately discontinue disposition of Registrable Securities pursuant to such Registration Statement until such Purchaser's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(g), 3(h) or 5(a), as applicable, and, if so directed by the Company, such Purchaser shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies, other than file copies, in such Purchaser's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice. Notwithstanding the foregoing or anything to the contrary in this Agreement, but subject to compliance with applicable laws, the Company shall cause the transfer agent for the Registrable Securities to deliver unlegended shares of Common Stock to a transferee of a Purchaser in accordance with the terms of the Debentures in connection with any sale of Registrable Securities with respect to which any such Purchaser has entered into a contract for sale prior to receipt of such notice and for which any such Purchaser has not yet settled.

(e) No Purchaser may participate in any underwritten registration hereunder unless such Purchaser (i) agrees to sell such Purchaser's Registrable Securities on the basis provided in any underwriting arrangements approved by the Purchasers entitled hereunder to approve such arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements, and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions and other fees and expenses of investment bankers and any manager or managers of such underwriting and legal expenses of the underwriter applicable with respect to its Registrable Securities, in each case to the extent not payable by the Company pursuant to the terms of this Agreement. Notwithstanding anything in this Section 4(e) to the contrary, this Section 4(e) is not intended to limit any Purchaser's rights under Sections 2(a) or 3(c) hereof.

## 5. Delay Periods.

(a) Delay Period. If, at any time prior to the expiration of the Registration Period, the Company's Board of Directors determines, in its reasonable good faith judgment, that the disposition of Registrable Securities would require the premature disclosure of material non-public information which may reasonably be expected to have an adverse effect on the Company, then the Company shall not be required to maintain the effectiveness of or amend or supplement the Registration Statement for a period (a "Disclosure Delay Period") expiring upon the earlier to occur of (i) the date on which such material information is disclosed to the public or ceases to be material or (ii) subject to Section 5(b) hereof, up to ten (10) trading days after the date on which the Company provides a notice to the Purchasers under Section 3(g) hereof stating that the failure to disclose such non-public information causes the prospectus included in the Registration Statement, as then in effect, to include an untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading (each, a "Disclosure Delay Period Notice"). For the avoidance of doubt, in no event shall a Disclosure Delay Period exceed ten (10) trading days.

(b) The Company shall give prompt written notice, in the manner prescribed by Section 12 hereof, to the Purchasers of each Disclosure Delay Period, which notice shall, if practicable, estimate the duration of such Disclosure Delay Period. Each Purchaser shall, upon receipt of a Disclosure Delay Period Notice prior to such Purchaser's disposition of all of its Registrable Securities, forthwith discontinue the disposition of such Registrable Securities pursuant to the Registration Statement, and will not deliver any prospectus forming a part thereof in connection with any sale of such Registrable Securities until the expiration of such Disclosure Delay Period. Notwithstanding anything in this Section 5 to the contrary, the Company shall not deliver more than two Disclosure Delay Period Notices in any one year period and there shall not be more than an aggregate of 15 calendar days in any 90 calendar day period during which the Company is in a Disclosure Delay Period.

6. Expenses of Registration. All expenses (other than underwriting discounts and commissions) incurred by the Company or the Purchasers in connection with registrations, filings or qualifications pursuant to Sections 2 and 3 (including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, and the reasonable fees and disbursements of one counsel selected by the Purchasers pursuant to Section 3(f) hereof), shall be borne by the Company. In addition, the Company shall pay each Purchaser's costs and expenses (including legal fees) incurred in connection with the enforcement of the rights of such Purchaser hereunder.

7. Indemnification. In the event any Registrable Securities are included in a Registration Statement under this Agreement:

(a) To the extent permitted by law, the Company shall indemnify, hold harmless and defend (i) each Purchaser who holds such Registrable Securities, (ii) the directors, officers, partners, members, employees and agents of each such Purchaser, (iii) each person, if any, who controls each such Purchaser within

the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, (iv) any underwriter (as defined in the Securities Act) for the Purchasers, (v) the directors, officers, partners, members, employees and agents of any such underwriter, and (vi) each person, if any, who controls any such underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each, a "Purchaser Indemnified Person"), against any losses, claims, damages, expenses or liabilities (joint or several) (collectively "Claims") to which any of them may become subject under the Securities Act, the Exchange Act or otherwise, insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (A) any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or any post-effective amendment thereof or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, (B) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (C) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law or any rule or regulation (the matters in the foregoing clauses (A) through (C) being, collectively, "Violations"). Subject to the restrictions set forth in Section 7(c) with respect to the number of legal counsel, the Company shall reimburse the Purchasers and each other Purchaser Indemnified Person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 7(a): (x) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Purchaser Indemnified Person expressly for use in the Registration Statement or any such amendment thereof or supplement thereto; (y) with respect to any preliminary prospectus, shall not inure to the benefit of any Purchaser Indemnified Person if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if a prospectus was timely made available by the Company pursuant to Section 3(d) hereof and the Purchaser Indemnified Person was promptly advised in writing not to use the incorrect prospectus prior to the use giving rise to the Violation and such Purchaser Indemnified Person, notwithstanding such advice, used it; and (z) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Purchaser Indemnified Persons and shall survive the transfer of the Registrable Securities by the Purchasers pursuant to Section 10.

(b) In connection with any Registration Statement in which a Purchaser is participating, (i) each such Purchaser shall, severally and not jointly,

indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 7(a), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each, a "Company Indemnified Person"), against any Claims to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claims arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished to the Company by such Purchaser expressly for use in connection with such Registration Statement, and (ii) subject to the restrictions set forth in Section 7(c), such Purchaser shall reimburse the Company Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal or other reasonable expenses incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnification obligations contained in this Section 7(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Purchaser, which consent shall not be unreasonably withheld; provided further, however, that the Purchasers shall be liable under this Agreement (including this Section 7(b) and Section 8) for only that aggregate amount as does not exceed the net proceeds actually received by such Purchaser as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Company Indemnified Person and shall survive the transfer of the Registrable Securities by the Purchasers pursuant to Section 10. Notwithstanding anything to the contrary contained herein, the indemnification obligations contained in this Section 7(b) with respect to any preliminary prospectus shall not inure to the benefit of any Company Indemnified Person if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

(c) Promptly after receipt by any party under this Section 7 of notice of the commencement of any action (including any governmental action), such party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 7, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying parties and the indemnified party; provided, however, that such indemnifying party shall not be entitled to assume such defense and an indemnified party shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the indemnified party and the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party

represented by such counsel in such proceeding or the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and any such indemnified party reasonably determines that there may be legal defenses available to such indemnified party that are in conflict with those available to such indemnifying party. The indemnifying party shall pay for only one separate legal counsel for the indemnified parties, and such legal counsel shall be selected by the Purchasers holding a majority in interest of the Registrable Securities included in the Registration Statement to which the Claim relates (if the parties entitled to indemnification hereunder are Purchaser Indemnified Parties) or by the Company (if the parties entitled to indemnification hereunder are Company Indemnified Parties). The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the indemnified party under this Section 7, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 7 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable. The provisions of this Section 7 shall survive the termination of this Agreement.

8. Contribution. To the extent any indemnification provided for in Section 7 herein is unavailable to the indemnified parties in respect of any Claim referred to herein (other than by reason of the exceptions provided therein), then each such indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such Claim to the fullest extent permitted by law, in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other hand, with respect to the Violation giving rise to the applicable Claim, which relative fault shall be determined by reference to, among other things, whether the Violation relates to information supplied by the indemnifying party or the indemnified party. In no event shall the obligation of any indemnifying party to contribute under this Section 8 exceed the amount that such indemnifying party would have been obligated to pay by way of indemnification if the indemnification provided for under Section 7(a) or 7(b) hereof had been available under the circumstances. The parties agree that it would not be just and equitable if contribution pursuant to this Section 8 were determined by pro rata allocation (even if the indemnified parties were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraphs. The amount paid or payable by an indemnified party as a result of any Claim shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8, no Purchaser or underwriter shall be required to contribute any amount in excess of the amount by which (a) in the case of any Purchaser, the net proceeds actually received by such Purchaser from the sale of Registrable Securities pursuant to such Registration Statement or (ii) in the case of an underwriter, the total price at which the Registrable Securities purchased by it and distributed to the public were

offered to the public exceeds, in any such case, the amount of any damages that such Purchaser or underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act ) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

9. Public Information. With a view to making available to the Purchasers the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the SEC that may at any time permit the Purchasers to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

(a) file with the SEC in a timely manner and make and keep available all reports and other documents required of the Company under the Exchange Act so long as the Company remains subject to such requirements and the filing and availability of such reports and other documents is required for the applicable provisions of Rule 144; and

(b) furnish to each Purchaser so long as such Purchaser holds Debentures or Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144 and the Exchange Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit such Purchaser to sell such securities pursuant to Rule 144 without registration.

10. Assignment of Registration Rights. The rights of the Purchasers hereunder, including the right to have the Company register Registrable Securities pursuant to this Agreement, shall be automatically assigned by each Purchaser to any transferee or assignee of all or any portion of the Debentures or Registrable Securities if: (a) the Purchaser agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such assignment, (b) the Company is, within a reasonable time after such transfer or assignment, furnished with written notice of (i) the name and address of such transferee or assignee and (ii) the securities with respect to which such registration rights are being transferred or assigned, (c) following such transfer or assignment, the further disposition of such securities by the transferee or assignee is restricted under the Securities Act and applicable state securities laws, (d) the transferee or assignee agrees in writing for the benefit of the Company to be bound by all of the provisions contained herein, and (e) such transfer shall have been made in accordance with the applicable requirements of the Purchase Agreement.

11. Amendment of Registration Rights. Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Company and the Purchasers holding a majority in interest of the Registrable Securities; provided, however, that (a) no amendment hereto which restricts the ability of a Purchaser to elect not to participate in an underwritten offering shall be effective against any Purchaser which does not

consent in writing to such amendment; (b) no consideration shall be paid to a Purchaser by the Company in connection with an amendment hereto unless each Purchaser similarly affected by such amendment receives a pro rata amount of consideration from the Company; and (c) unless a Purchaser otherwise agrees, each amendment hereto must similarly affect each Purchaser. Any amendment or waiver effected in accordance with this Section 11 shall be binding upon the Purchasers and the Company.

## 12. Miscellaneous.

(a) Conflicting Instructions. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities or the securities upon which such Registrable Securities are issuable upon exercise, conversion or otherwise. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

(b) Notice. Any notice herein required or permitted to be given shall be in writing and may be personally served, sent by certified or registered mail (postage prepaid and return receipt requested) or delivered by nationally-recognized overnight courier or by facsimile transmission with confirmation of receipt, and shall be deemed delivered five days after being placed in the mail, if mailed, or at the time and date of receipt or refusal of receipt, if delivered personally or by overnight courier or facsimile transmission. The initial addresses for such communications shall be as follows, and each party shall provide notice to the other parties of any change in such party's address:

(i) if to the Company:

Miravant Medical Technologies  
336 Bollay Drive  
Santa Barbara, CA 93117  
Attention: Gary S. Kledzik  
Facsimile: (805) 685-7981

with a copy simultaneously transmitted by like means (which transmittal shall not constitute notice hereunder) to:

Sheppard Mullin Richter & Hampton, LLP  
800 Anacapa Street  
Santa Barbara, CA 93101  
Attention: Joseph E. Nida, Esq.  
Facsimile: (805) 568-1955

(ii) if to any Purchaser, to such address as such Purchaser shall have provided in writing to the Company.

(c) Waiver. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

(d) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in the State of Delaware. The parties hereto irrevocably consent to the jurisdiction of the United States federal courts and state courts located in the County of New Castle in the State of Delaware in any suit or proceeding based on or arising under this Agreement or the transactions contemplated hereby and irrevocably agree that all claims in respect of such suit or proceeding may be determined in such courts. The Company and the Purchasers each irrevocably waives the defense of an inconvenient forum to the maintenance of such suit or proceeding in such forum. The Company and the Purchasers further each agrees that service of process upon the Company or such Purchasers, as applicable, in accordance with Section 12(b) shall be deemed in every respect effective service of process upon the Company or such Purchasers in any suit or proceeding arising hereunder. Nothing herein contained shall affect Purchasers' right to serve process in any other manner permitted by law. The parties hereto agree that a final non-appealable judgment in any such suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on such judgment or in any other lawful manner. The parties hereto irrevocably waive any right to a trial by jury under applicable law.

(e) Severability. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

(f) Entire Agreement. This Agreement and the Purchase Agreement (including all schedules and exhibits thereto) constitute the entire agreement among the parties hereto with respect to the subject matter hereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein or therein. This Agreement supersedes all prior agreements and understandings among the parties hereto with respect to the subject matter hereof.

(g) Successors and Assigns. Subject to the requirements of Section 10 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

(h) Construction. Whenever the context requires, the gender of any word used in this Agreement includes the masculine, feminine or neuter, and the number of any word includes the singular or plural. Unless the context otherwise requires, all references to articles and sections refer to articles and sections of this Agreement, and all references to schedules are to schedules attached hereto, each of which is made a part hereof for all purposes. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

(i) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission, and facsimile signatures shall be binding on the parties hereto.

(j) Further Acts. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(k) Remedies. No provision of this Agreement providing for any remedy to the Purchasers shall limit any remedy which would otherwise be available to such Purchasers at law or in equity. Nothing in this Agreement shall limit any rights a Purchaser may have with any applicable federal or state securities laws with respect to the investment contemplated hereby. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Purchasers. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Agreement will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Agreement, that a Purchaser shall be entitled, in addition to all other available remedies, to an injunction restraining any breach and requiring immediate compliance, without the necessity of showing economic loss and without any bond or other security being required.

(l) Consents. All consents and other determinations to be made by the Purchasers pursuant to this Agreement shall be made by the Purchasers holding a majority in interest of the Registrable Securities, determined as if all Debentures then outstanding had been converted into Registrable Securities.

(m) Allocation of Registrable Securities. The initial number of Registrable Securities included on any Registration Statement filed pursuant to Section 2(a) or 3(c), and each increase to the number of Registrable Securities included thereon, shall be allocated pro rata among the Purchasers based on the number of Registrable Securities held by each Purchaser at the time of such establishment or increase, as the case may be. In the event a Purchaser shall sell or otherwise transfer any of such Purchaser's Registrable Securities, each transferee shall be allocated a pro rata portion of the number of Registrable Securities included on a Registration Statement for such transferor. Any shares of Common Stock included on a Registration Statement and which remain allocated to any person or entity which does not hold any Registrable Securities shall be allocated to the remaining Purchasers, pro rata based on the number of shares of Registrable Securities then held by such Purchasers. For the avoidance of doubt, the number of Registrable Securities held by any Purchaser shall be determined as if all Debentures then outstanding were converted into or exercised for Registrable Securities.

(n) Joint Participation in Drafting. Each party to this Agreement has

participated in the negotiation and drafting of this Agreement. As such, the language used herein shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party to this Agreement.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of the date first above written.

COMPANY:

MIRAVANT MEDICAL TECHNOLOGIES

By: /s/ Gary S. Kledzik

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Gary S. Kledzik, Ph.D  
President and Chief Executive Officer

PURCHASER:

(Print or Type Name of Purchaser)

By:  
Name:  
Title:

Schedule 1

Additional Shares to be Included on Registration Statement

TO BE PROVIDED