

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2003-05-27** | Period of Report: **2003-05-12**
SEC Accession No. **0001104659-03-011180**

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FILER

RESTORAGEN INC

CIK: **910133** | IRS No.: **470727668** | State of Incorpor.: **DE** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **000-30493** | Film No.: **03719866**
SIC: **2834** Pharmaceutical preparations

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

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

Date of Report (date of earliest event reported): **May 12, 2003**

RESTORAGEN, INC.

(Exact name of Registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

000-30493

(Commission File Number)

47-0727668

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

5701 South 34th Street, Suite 203

Lincoln, Nebraska

(Address of principal executive offices)

68516

(Zip Code)

Registrant's telephone number, including area code: **402-434-0780**

Items 1, 2, 4, 5, 6, 8, 9, 10, 11 and 12 are not included.

Item 3. Bankruptcy or Receivership.

On December 17, 2002, Restoragen, Inc. (the "Company") filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nebraska (Case No. 02-83998).

Confirmation of Plan of Reorganization

On May 1, 2003, a confirmation hearing was held with respect to the Modified First Amended Plan of Reorganization of Restoragen, Inc. dated April 4, 2003 (the "Plan"). The Court entered the Order Confirming the Plan (the "Confirmation Order"), and the Confirmation Order became final on May 12, 2003. The Plan will become effective on June 19, 2003 (the "Effective Date"). Copies of the Plan and the Confirmation Order are attached to this Current Report on Form 8-K as Exhibits.

The Plan identifies groups of creditors entitled to distributions of cash or new equity of the Company, including (i) holders of Note Claims and (ii) holders of Unsecured Claims. The Plan provides that, after payment of administrative claims and priority tax claims, the holders of the Company's outstanding secured promissory notes (who are currently owed approximately \$19.9 million) will receive the

remaining net proceeds from the Company's sale of certain assets to Amylin Pharmaceuticals, Inc. and the GRF Transaction and 100% of the Replacement Common Stock, and the holders of unsecured claims will share pro rata in an unsecured set aside fund of not less than \$450,000. The holders of the Company's outstanding Common Stock and Preferred Stock, and all accumulated dividends and warrants, options and related rights to purchase stock will be extinguished, and the equity holders will receive no distribution under the Plan.

Attached to this Current Report on Form 8-K as Exhibit 2.2 is information regarding the assets and liabilities of the Company in the form of an unaudited balance sheet as of April 30, 2003.

The Confirmation Order specifically provides that from May 1, 2003, the date of the Confirmation Order, until June 19, 2003, the Effective Date, Restoragen continues to exist as a corporate entity with all powers of a corporation. On the Effective Date, the property of the bankruptcy estate will revert in Restoragen, and on and after the Effective Date, Restoragen may operate its business, and may use, acquire, and dispose of its property free of any restrictions of the Bankruptcy Code. The Confirmation Order provides that all revested property of Restoragen will be free and clear of all Claims, liens, charges, other encumbrances and Interests, unless, prior to the Effective Date, the Secured Noteholders elect to retain the secured Notes. If the Noteholders retain their security interest in the Notes, Restoragen's patents and intellectual property would remain subject to a security interest. The Company's business following the Effective Date will consist of managing the remaining patent portfolio and managing the various licenses it has granted to Amylin Pharmaceuticals and other third parties.

Upon the Effective Date, the Board of Directors of the Company will be comprised of one person, who is to be selected by the holders of the Replacement Common Stock. The initial director will be Michael Ellwein, Vice President of Medtronic, Inc., the agent for the holders of the secured Notes. The management of the Company will consist of Michael Ellwein, Chairman, President and Chief Executive Officer.

Upon the Effective Date, the Company will adopt an Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation"). Under the Certificate of Incorporation, the Company will have authorized one hundred million (100,000,000) shares, consisting of 70,000,000 shares of common stock, \$.01 par value per share, and 30,000,000 shares of preferred stock, \$.01 par value per share.

As of December 17, 2002, the date the petition was filed with the Court, there were 7,337,415 shares of the Company's common stock issued and outstanding (the "Old Common Stock") and 366,192 shares of outstanding preferred stock (the "Old Preferred Stock") convertible into 4,189,687 shares of Old Common Stock, together with accumulated but unpaid dividends. As a result of the Plan, as of the Effective Date, all of the Company's Old Common Stock, Old Preferred Stock and all related rights, warrants and options, accumulated dividends and all obligations of Restoragen relating thereto, will be canceled. On the Effective Date, the Company will issue all shares of the Replacement Common Stock to the holders of the Note Claims.

On the Effective Date, the holders of Replacement Common Stock (approximately five parties) will be the only holders of the Company's common stock. Therefore, the Company intends to file a Form 15 with the Securities and Exchange Commission to terminate the registration of its common stock under Section 12 of the Securities Exchange Act of 1934, as amended (the "Act") and discontinue its obligations as a reporting company under the Act.

GRF Transaction

The Confirmation Order also approved the Asset Purchase and License Agreement dated March 24, 2003 between Restoragen and Coolidge & Company, Inc., an entity owned by Thomas R. Coolidge, the Company's former Chairman and Chief Executive Officer (the "Purchase Agreement"), and authorized the Company to enter into and perform the obligations under the Purchase Agreement.

As previously disclosed, the Company agreed to sell certain patents and related assets comprising the Company's GRF development program to Coolidge & Company, or an affiliated entity called GHRCO, Inc. ("GHRCO"). The Company agreed to sell the intellectual property portfolio pertaining to medical applications of GRF, as well as the development, clinical, production, quality and regulatory

Under the Purchase Agreement, Restoragen granted GHRCO an exclusive license to certain of the Company's manufacturing patents for the recombinant production of GRF. In addition, the Company assigned (to the extent still owned by Restoragen) certain residual assets relating to frog-derived peptides and biological testing for heavy metals, and granted an exclusive license to GHRCO (to the extent not previously licensed to a third party) for certain patents covering chorella virus promoters and a GRF-related bioassay.

The closing of the Purchase Agreement occurred on May 13, 2003. GHRCO paid the Company \$50,000 in cash at the closing and will pay a royalty of 1.5% of net sales of GRF products worldwide covered by the GRF Portfolio. Anytime within four years after the Closing date, GHRCO will be entitled to "buy out" the royalty obligation for \$1 million, or for \$3 million thereafter. In addition, GHRCO will make development milestone payments of \$500,000 upon the filing of U.S. New Drug application with the FDA and \$1 million one year after approval of a New Drug Application for a GRF medical use.

The Purchase Agreement and Amendment No. 1 to the Purchase Agreement are attached as exhibits to this Current Report on Form 8-K. The GRF transaction is further described in the Plan.

Monthly Operating Report

On May 19, 2003, the Company filed with the Bankruptcy Court its Monthly Operating Reports for the month of April 2003, copies of which are attached hereto as Exhibit 99.1 and incorporated herein by reference.

The Monthly Operating Reports contain financial statements and other financial information that have not been audited or reviewed by independent accountants and may be subject to future reconciliation and adjustments. The Monthly Operating Reports are in a format prescribed by applicable bankruptcy laws. There can be no assurance that, from the perspective of an investor or potential investor in the Company's securities, the Monthly Operating Reports are complete. The Monthly Operating Reports also contain information for periods different from those required in the Company's reports pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"). This information might not be indicative of the Company's financial condition or operating results for the period that would be reflected in the Company's financial statements or in its reports pursuant to the Exchange Act. Results set forth in any Monthly Operating Report should not be viewed as indicative of future results.

Item 7. Financial Statements and Exhibits.

- (a) Financial Statements:
Unaudited Balance Sheet of Restoragen, Inc. as of April 30, 2003. (See Exhibit 2.2)
- (b) Pro Forma Financial Information: Not Applicable.
- (c) Exhibits:

- 2.1 First Amended Plan of Reorganization of Restoragen, Inc.
- 2.2 Unaudited Balance Sheet of Restoragen, Inc. as of April 30, 2003.
- 2.3 Asset Purchase and License Agreement between Restoragen, Inc. and Coolidge & Company, Inc. dated as of March 24, 2003.

- 2.4 Amendment No. 1 to Asset Purchase and License Agreement between Restoragen, Inc. and Coolidge & Company, Inc. dated May 12, 2003.
- 99.1 April 2003 Monthly Operating Reports of Restoragen, Inc., filed on May 19, 2003 with the Bankruptcy Court.
- 99.2 Order in re: Restoragen, Inc. Case No. BK02-83998 issued on May 1, 2003 by the United States Bankruptcy Court for the District of Nebraska, confirming the Restoragen, Inc. Modified First Amended Plan of Reorganization.

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, thereunto duly authorized.

RESTORAGEN, INC.

By /s/ David S. Walker

David S. Walker
Senior Vice President and
Chief Financial Officer

Dated: May 27, 2003

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

In Re:) Case No. 02-83998
)
RESTORAGEN, INC.,) Chapter 11
)
Debtor.)
)

**FIRST AMENDED
PLAN OF REORGANIZATION
OF RESTORAGEN, INC.**

Robert J. Bothe, 15018
James J. Niemeier, 18838
McGRATH NORTH MULLIN & KRATZ, PC LLO
1601 Dodge Street, Suite 3700
First National Bank Tower
Omaha, Nebraska 68102
Telephone: (402) 341-3070
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ATTORNEYS FOR DEBTOR AND DEBTOR-IN-POSSESSION

DATED: April 4, 2003

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INTRODUCTION

Restoragen, Inc. (“Restoragen or Debtor”), hereby proposes the following Plan of Reorganization (the “Plan”) for the resolution of its outstanding creditor Claims and equity Interests. Reference is made to the Disclosure Statement (as that term is defined herein) distributed contemporaneously herewith, for a discussion of the Debtor’s history, businesses, properties, results of operations, projections for future operations, risk factors, a summary and analysis of the Plan, and certain related matters, including the Replacement Common Stock to be issued under the Plan. The Debtor is the proponent of this Plan within the meaning of § 1129 of the Bankruptcy Code.

All holders of Claims are encouraged to read this Plan and the Disclosure Statement in their entirety before voting to accept or reject this Plan. Subject to certain restrictions and requirements set forth in § 1127 of the Bankruptcy Code and Fed. R. Bankr. P. 3019 and Article XI of this Plan, the Debtor reserves the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation.

ARTICLE I

DEFINITIONS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND GOVERNING LAW

A. SCOPE OF DEFINITIONS; RULES OF CONSTRUCTION

For purposes of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings ascribed to them in Article I of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules. Whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

B. DEFINITIONS

1.1 Administrative Claim. Any cost or expense of administration allowed under Section 503(b) of the Bankruptcy Code and any fees or charges assessed against the estate of the Debtor under 28 U.S.C. § 1930.

1.2 Allowed. With respect to any Claim or Interest, except as otherwise provided herein: (a) a Claim or Interest that has been scheduled by the Debtor in its schedule of liabilities as other than disputed, contingent or unliquidated and as to which the Debtor or any other party in interest has not filed a timely objection; (b) a Claim or Interest that either is not a Disputed Claim or Disputed Interest or has been allowed by a Final Order; (c) a Claim or Interest that is

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Allowed: (i) in any stipulation of amount and nature of Claim executed prior to the Confirmation Date and approved by the Bankruptcy Court; (ii) in any stipulation with the Debtor of amount and nature of Claim or Interest executed on or after the Confirmation Date; or (iii) in or pursuant to any contract, instrument, indenture or other agreement entered into or assumed in connection herewith; (d) a Claim or Interest relating to a rejected executory contract or unexpired lease that either (i) is not a Disputed Claim or Interest or (ii) has been allowed by a Final Order, in either case only if a proof of Claim or Interest has been timely filed or has otherwise been deemed timely filed under applicable law; or (e) a Claim or Interest that is allowed pursuant to the terms hereof.

1.3 Allowed Lender Secured Claims. The Claims of the holders of the Debtor's Secured Convertible Promissory Notes due December 18, 2003 in the aggregate outstanding principal amount of \$18,000,000.00, plus accrued and unpaid interest up to and including the Petition Date of \$1,425,175.

1.4 Amended and Restated Bylaws. The bylaws of the Reorganized Debtor, which shall be substantially in the form as included in the Plan Exhibits.

1.5 Amended and Restated Certificate of Incorporation. The certificate of incorporation of the Reorganized Debtor, as amended and restated, as described in Section 6.01 of the Plan, which shall be substantially in the form included in the Plan Exhibits.

1.6 Amylin Transaction. That Asset Purchase and License Agreement, dated December 24, 2002, and approved by the Bankruptcy Court on January , 2003, between the Debtor and Amylin Pharmaceutical, Inc. ("Amylin") whereby Amylin purchased from the Debtor its rGLP-1 patent portfolio together with entering into a non-exclusive royalty free license to use certain manufacturing patents for the manufacture of rGLP-1.

1.7 Bankruptcy Code. Title I of the Bankruptcy Reform Act of 1978, as amended, set forth in title 11, Sections 101 et seq., of the United States Code.

1.8 Bankruptcy Court. The United States Bankruptcy Court for the District of Nebraska.

1.9 Bankruptcy Rules. The Federal Rules of Bankruptcy Procedure promulgated under 28 U.S.C. § 2075, as amended from time to time, together with the local rules of the Bankruptcy Court.

1.10 Business Day. Any day other than a Saturday, Sunday or “legal holiday” as defined in Bankruptcy Rule 9006(a).

1.11 Claim. Any claim against the Debtor within the meaning of Section 101(5) of the Bankruptcy Code.

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1.12 Class. Any group of Claims or Interests, as classified pursuant to Article II of the Plan.

1.13 Confirmation Date. The date upon which the Court signs the Confirmation Order.

1.14 Confirmation Order. An order of the Bankruptcy Court confirming the Plan.

1.15 Debtor. Restoragen, Inc.

1.16 Disbursing Agent. James B. Cavanagh, Esq., counsel to the Committee.

1.17 Debtor-in-Possession. The Debtor as debtor-in-possession pursuant to Chapter 11 of the Bankruptcy Code.

1.18 Disputed Claim. Any Claim asserted against the Debtor (a) which the Debtor believes is unliquidated, disputed, or contingent, and which has not been Allowed by Final Order of the Bankruptcy Court or (b) as to which an objection has been filed by a party in interest and which objection has not been withdrawn or resolved. Wherever in the Plan the word “Disputed” precedes a defined term describing a Claim within a particular Class, that phrase will mean a Disputed Claim of the type described in such Class.

1.19 Disputed Interest. Any Interest asserted against the Debtor (a) which the Debtor believes is disputed, and which has not been Allowed by Final Order of the Bankruptcy Court or (b) as to which an objection has been filed by a party in interest and which objection has not been withdrawn or resolved. Wherever in the Plan the word “Disputed” precedes a defined term describing an Interest within a particular Class, that phrase will mean a Disputed Interest of the type described in such Class.

1.20 Distribution Date. The Effective Date or as soon as practicable thereafter.

1.21 Effective Date. May 27, 2003.

1.22 Final Order. An order that has not been reversed, modified, amended or stayed, and that is no longer subject to appeal, certiorari proceeding or other proceeding for review, reargument, or rehearing, *provided, however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule may be but has not been filed with respect to such order, shall not cause such order not to be a Final Order.

1.23 GRF Transaction. That Asset Purchase and Lease Agreement, dated March 24, 2003, between the Debtor and Coolidge & Company, Inc. (“Coolidge”), subject to the approval of the Bankruptcy Court on confirmation of the Plan whereby Coolidge agreed to purchase from the Debtor its intellectual property portfolio pertaining to the medical applications of GRF (the “GRF Patent Portfolio”), all process development, clinical and other production and quality and regulatory information and records and files, drug and clinical study inventory, production plasmids and other materials related to Restoragen’s GRF program and the GRF Patent Portfolio

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to the extent in the possession or control of Restoragen; and all of its remaining intellectual property covering frog-derived peptides and biological testing for heavy metals (referred to as the “Residual IP”); including all of its plasmids, testing data and protocols, company files, documentation and regulatory items and materials related to the Residual IP to the extent in the possession or control of Restoragen.

- 1.24 Impaired. Any Claim which is impaired within the meaning of Section 1124 of the Bankruptcy Code.
- 1.25 Interests. Shall mean the equity interests and rights related thereto represented by (a) the Old Common Stock, (b) the Old Preferred Stock, (c) related rights, warrants and options, if any, with respect to (a) and (b) above determined immediately prior to the Petition Date; and (d) all accrued unpaid dividends related thereto.
- 1.26 Notes. Debtor' s Secured Convertible Promissory Notes due December 18, 2003.
- 1.27 Noteholders. Holders of the Notes.
- 1.28 1934 Act. The Securities Exchange Act of 1934, as amended.
- 1.29 Old Common Stock. The duly authorized, validly issued, fully paid shares of common stock outstanding of Debtor as of the Filing Date, which are being eliminated pursuant to the Plan.
- 1.30 Old Equity Interests. Collectively, all Interests in the Debtor and all related rights, warrants, options, and accrued dividends relating thereto.
- 1.31 Old Preferred Stock. The duly authorized, validly issued, fully paid shares of preferred stock outstanding of the Debtor as of the Petition Date.
- 1.32 Other Priority Claims. Any Claims against the Debtor to the extent entitled to priority in payment under Sections 507(a) of the Bankruptcy Code except for Administrative Claims or Priority Tax Claims.
- 1.33 Petition Date. December 17, 2002.
- 1.34 PharmaNet Refund. The refund in the approximate amount of \$102,431.88 repaid by PharmaNet, Inc. to the Debtor on March 3, 2003 representing the remaining balance of the Debtor' s advance deposit in the approximate amount of \$482,600.00 to PharmaNet, Inc. for a clinical trial.
- 1.35 Plan. This plan of reorganization under Chapter 11 of the Bankruptcy Code, either in its present form or as amended, supplemented or otherwise modified from time to time.
- 1.36 Plan Exhibits. The documents described at the end of this Section I.

- 1.37 Priority Tax Claim. Any Claim against the Debtor to the extent entitled to priority in payment under Section 507(a)(8) of the Bankruptcy Code.
- 1.38 Record Date. That date established by the Debtor for the purpose of determining to whom distributions shall be made under the Plan.
- 1.39 Reorganized Board. The Board of Directors of the Reorganized Debtor on and after the Effective Date. On the Effective Date, the Reorganized Board shall consist of the following individual: Michael Ellwein.
- 1.40 Reorganized Debtor. Restoragen, Inc., on and after the Effective Date.
- 1.41 Replacement Common Stock. The common stock of the Reorganized Debtor, par value \$.01 per share, authorized to be issued pursuant to the Amended and Restated Certificate of Incorporation.
- 1.42 Schedules. The Debtor' s Schedules of Assets and liabilities, filed with the Bankruptcy Court pursuant to Bankruptcy Rule 1007, along with such amendments or modification relating thereto as may be made from time to time.
- 1.43 Securities Act. The Securities Act of 1933, as amended.

1.44 Unimpaired. Any Claim that is not Impaired within the meaning of Section 1124 of the Bankruptcy Code.

1.45 Unsecured Claim. Any Allowed Claim that is not a secured claim, an Administrative Claim, a Priority Tax Claim, or Other Priority Claim.

1.46 Unsecured Creditors' Committee. The Official Committee of Unsecured Creditors appointed in the Reorganization Case by the United States Trustee for the District of Nebraska, as the membership of such Committee is from time to time constituted and reconstituted.

1.47 Unsecured Creditor's Fund. A fund established for distribution to the holders of Unsecured Claims and Priority Tax Claims consisting of cash in the sum of not less than \$450,000 including the PharmaNet Refund.

1.48 Other Terms. Unless the context otherwise requires, any capitalized terms used and not defined herein or elsewhere in the Plan but that are defined in the Bankruptcy Code or Bankruptcy Rules will have the respective meanings set forth therein. Wherever from the context it appears appropriate, each term stated in either of the singular or the plural will include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender will include the masculine, the feminine and the neuter.

C. PLAN EXHIBITS

The Amended and Restated Bylaws, Amended and Restated Certificate of Incorporation, and a list identifying the proposed directors of the Reorganized Debtor as set forth in exhibits to the Plan filed with the Court or as subsequently amended which amended exhibits shall be filed with the Clerk of the Bankruptcy Court at least ten (10) days prior to the first day on which the Confirmation Hearing is scheduled to commence. Holders of Claims against and Interests in the Debtor may obtain a copy of the Plan Exhibits at the website of the Bankruptcy Court, mnb.uscourts.gov or upon written request to counsel for the Debtor or counsel for the Unsecured Creditors' Committee, at the address set forth in Section 12.10 hereof. The Plan Exhibits are incorporated into and are a part of the Plan.

D. RULES OF INTERPRETATION

For purposes of the Plan (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document's being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (b) any reference in the Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented, (c) unless otherwise specified, all references in the Plan to Sections, Articles, Schedules, and Exhibits are references to Sections, Articles, Schedules, and Exhibits of or to the Plan, (d) the words "herein" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan, (e) the term "including" shall not be deemed to be exclusive and shall be deemed to mean "including, without limitation, "; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan, and (g) the rules of construction set forth in § 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

E. COMPUTATION OF TIME

In computing any period of time prescribed or allowed by the Plan, the provisions of Fed. R. Bankr. P. 9006 (a) shall apply.

ARTICLE II

CLASSIFICATION OF CLAIMS AND INTERESTS

Administrative Claims and Priority Tax Claims are unclassified. For purposes of the Plan, Claims and Interests are classified as follows:

2.01 “Class 1 Claims” shall consist of all Other Priority Claims. Status: Not Impaired - not entitled to vote.

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2.02 “Class 2 Claims” shall consist of all Allowed Lender Secured Claims. Status: Impaired – entitled to vote.

2.03 “Class 3 Claims” shall consist of all Unsecured Claims. Status: Impaired- entitled to vote.

2.04 “Class 4 Interests” shall consist of all shares of the Old Equity Interests and any related rights, dividends, warrants and options. Status: Impaired - deemed to have rejected, not entitled to vote.

ARTICLE III

TREATMENT OF CLAIMS AND INTERESTS

3.01 Treatment of Administrative Claims. Each holder of an Allowed Administrative claim shall be paid the Allowed Amount of its Claim in full, in cash, at the sole option of the Debtor, (a) on the Effective Date, or (b) on such other date as the Bankruptcy Court may fix, or (c) at such other time as the holder of such Claim agrees to in writing.

3.02 Treatment of Priority Tax Claims. Each holder of an Allowed Priority Tax Claim shall be paid, consistent with § 1129(a)(9)(C) of the Code, at the sole option of the Debtor, either (a) the Allowed Amount of such Claim in full, in cash, on the Effective Date, or (b) at the option of the Reorganized Debtor, any Allowed Priority Tax Claim may be paid on such alternative terms as may be agreed by the Reorganized Debtor and the holder of such Allowed Priority Tax Claim. The Debtor believes the Allowed Priority Tax Claim will be approximately \$73,480. Holders of Priority Tax Claims will be paid from the Unsecured Creditors Fund.

3.03 Treatment of Class 1 Claims. (Other Priority Claims). Each holder of an Allowed Other Priority Claim will be paid in full on the Effective Date or as soon thereafter as practicable. Holders of Class 1 Claims will be paid from the Unsecured Creditors Fund.

3.04 Treatment of Class 2 Claims. (Noteholder Claims). Class 2 Claims are Impaired. On the Distribution Date, or as soon thereafter as is practicable, each holder of an Allowed Class 2 Claim shall receive such holder’s pro rata share of (i) the net proceeds from the Amylin Transaction, (ii) the net proceeds, if any, from the GRF Transaction, and (iii) 100% of Replacement Common Stock. Holders of Class 2 Claims shall not retain or receive any additional property for or on account of their Class 2 Claims, unless, prior to the Effective Date, the holders of the Class 2 Claims elect to retain the Notes and other loan documents evidencing and securing the Notes, which Notes will be payable in an amount determined by the Class 2 Claims, which Notes will continue to be secured by the collateral securing such Notes, and which Notes will be payable according to their existing terms.

3.05 Treatment of Class 3 Claims. (Unsecured Claims). Class 3 Claims are Impaired. Each Holder of an Allowed Class 3 Claim shall be entitled to a pro rata distribution of the Unsecured Creditor’s Fund, after payment of the Priority Tax Claims and the Class 1 Claims, to

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be distributed as follows: (a) 100% on the later of (i) date the Class 3 Claim becomes an Allowed Class 3 Claim; or, (ii) 30 days after the Effective Date.

3.06 Treatment of Class 4 Interests. (Old Equity Interests). Class 4 Interests are Impaired. On the Effective Date, the Old Equity Interests will be cancelled and extinguished and the Holders of Class 4 Interests shall not retain or receive any property for or on

account of their Class 4 Interests. There will be no distributions under the Plan as a result of accrued dividends, warrants and options in existence on the Petition Date and such accrued dividends, warrants and options are terminated, released, discharged and extinguished.

3.07 Reservation of Rights Regarding Claims. Except as otherwise explicitly provided in the Plan, nothing shall affect the Debtor's rights and defenses, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment, are hereby retained by the Debtor consistent with its ability to prosecute objections to such claims as provided in Section 5.05(i) of this Plan.

ARTICLE IV

METHOD OF DISTRIBUTION OF PROPERTY TO

HOLDERS OF ALLOWED CLAIMS

4.01 Manner of Payment Under the Plan. Any payment of cash made by the Disbursing Agent, pursuant to the Plan may be made either by check or by wire transfer, at the option of the Disbursing Agent.

4.02 Manner of Distribution of Other Property. Any distribution under the Plan of property other than cash shall be made by the Reorganized Debtor, or its designee, in accordance with the terms of the Plan.

4.03 Timing of Payment or Distribution When a Disputed Class 2 Claim or a Disputed Class 3 Claim Becomes an Allowed Class 2 Claim or an Allowed Class 3 Claim. Subject to the provisions of this Plan, distributions with respect to each Disputed Class 2 Claim or Disputed Class 3 Claim that becomes an Allowed Class 2 Claim or an Allowed Class 3 Claim that would have otherwise been made had the Claim or Interest been an Allowed Claim or an Allowed Interest on the Effective Date shall be made on the next Distribution Date, as determined by the Reorganized Debtor.

4.04 Excess Reserves. Shares of Replacement Common Stock that are reserved for issuance but not issued shall remain authorized but unissued Replacement Common Stock.

4.05 Record Date. 5:00 p.m. on the Business Day immediately preceding the Confirmation Date or such other date and time designated in the Confirmation Order.

4.06 Objection to Claims; Avoidance Actions. From the date of the filing of this Plan and to and through the consummation of the Plan, the Committee, for and on behalf of the Unsecured Creditors, shall have the sole and exclusive authority to file objections, settle, compromise, withdraw or litigate to judgment all objections to Priority Tax Claims, Class 1 Claims and Class 3 Claims. The Class 1 Claims are deemed to be allowed to prosecute all preference, fraudulent conveyance and other avoidance actions, if any, held by the Debtor. All costs, including fees and expenses of professionals used in prosecuting any such objections filed by the Committee pursuant to this Section 4.06 shall be paid solely and exclusively from the Unsecured Creditors Fund.

4.07 No Distributions Pending Allowance. Notwithstanding any other provision of the Plan, no payments or distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim.

4.08 Disputed Claims Distribution Reserve. Prior to making any distributions to Allowed Class 3 Claims, James B. Cavanaugh, counsel for the Committee, shall establish appropriate reserves for Disputed Claims, to withhold from any such distributions 100% of distributions to which holders of Disputed Claims would be entitled under the Plan as of such date if such Disputed Claims were Allowed Claims.

4.09 Distributions After Allowance of Class 3 Claim. James B. Cavanaugh, counsel for the Committee, shall make payments and distributions from the reserve established for Disputed Claims to each holder of a Disputed Claim that has become an Allowed Claim. After the date that the order or judgment of the Bankruptcy Court allowing such Claim becomes a Final Order, James B. Cavanaugh, counsel

for the Committee, shall distribute to the holder of such Claim any Cash in the reserve established for Disputed Claims that would have been distributed to the holder of such claim had such Claim been an Allowed Claim.

ARTICLE V

IMPLEMENTATION OF THE PLAN

5.01 Proceeds of the Amylin Transaction. On the Effective Date, the Reorganized Debtor shall distribute to the agent for the Noteholders the net proceeds of the Amylin Transaction. Thereafter, the agent shall distribute to the holders of Class 2 Claims their pro rata share of the proceeds from the Amylin Transaction.

5.02 The GRF Transaction. On the Effective Date, Restoragen will sell certain of its assets related to Restoragen's GRF Program to Coolidge & Company, Inc. or an affiliated entity called GHRCO, Inc. ("GHRCO") free and clear of all liens claims and encumbrances. The founder of GHRCO is Thomas R. Coolidge, former Chief Executive Officer and Chairman of Restoragen. The Confirmation Order will constitute the Bankruptcy Court's approval of the sale. On the Effective Date (1) GHRCO will purchase Restoragen's intellectual property portfolio

pertaining to the medical applications of GRF (the "GRF Patent Portfolio"), all process development, clinical and other production and quality and regulatory information and records and files, drug and clinical study inventory, production plasmids and other materials related to Restoragen's GRF Program and the GRF Patent Portfolio to the extent in the possession or control of Restoragen, and (2) all of its remaining intellectual property covering frog-derived peptides and biological testing for heavy metals (referred to as the "Residual IP"); including all of its plasmids, testing data and protocols, company files, documentation and regulatory items and materials related to the Residual IP to the extent in the possession or control of Restoragen.

On the date of the Confirmation Order, Restoragen will grant to GHRCO an exclusive license to certain manufacturing patents, patent applications and patent rights (the "Manufacturing Patents") only for the recombinant production, formulation, delivery and sale of GRF (the "Manufacturing License"). In addition, Restoragen will grant an exclusive license to GHRCO for certain patents covering chorella virus promoters and a patent covering a bioassay for GRF to the extent not licensed to other parties (the "Residual Patents").

GHRCO will pay to the Reorganized Debtor, in consideration for the sale, transfer and license rights above described, the following consideration:

On the Effective Date, GHRCO will pay the Reorganized Debtor \$50,000 in readily available funds.

GHRCO will pay 25% of the costs of prosecuting and maintaining the Manufacturing Patents.

GHRCO will pay 50% of the costs of prosecuting and maintaining the Residual Patents.

GHRCO will pay the Reorganized Debtor a royalty of 1.5% of net sales of GRF products worldwide covered by the GRF Patent Portfolio. Anytime within four (4) years after the Effective Date, GHRCO is entitled to "buy out" and extinguish this royalty with a payment of \$1 million cash to the Reorganized Debtor. After four (4) years from the Effective Date, this "buy out" price will increase to \$3 million.

Upon the filing of a United States New Drug Application for a GRF medical use covered by the GRF Patent Portfolio, GHRCO will pay the Reorganized Debtor a milestone payment of \$500,000 cash, and one (1) year after an approval of a United States New Drug Application for such use, GHRCO will pay the Reorganized Debtor a milestone payment of \$1 million cash.

The definitive agreement, which was effective as of March 24, 2003, is incorporated into the Confirmation Order. The Closing is scheduled to occur on the 11th day following entry of the Confirmation Order.

5.03 Issuance of Securities and Execution of Related Documents. On the Effective Date, the Reorganized Debtor shall authorize and reserve 100 million shares of Replacement Common Stock to be issued to the holders of Class 2 Claims in accordance with the terms of this Plan.

5.04 Cancellation of Existing Securities. On the Effective Date, all rights arising from ownership of the Old Common Stock and the Old Preferred Stock and any related rights, warrants and options, accumulated dividends and all obligations of the Debtor relating thereto, shall be cancelled.

5.05 Revesting of Assets. Except as otherwise provided herein, the property of the estate of the Debtor shall vest in the Reorganized Debtor on the Effective Date. On and after the Effective Date, the Reorganized Debtor may operate its business, and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code. As of the Effective Date, all property of the Reorganized Debtor shall be free and clear of all Claims and Interests, except as provided herein.

5.06 Corporate Action. On the Effective Date, the issuance of securities pursuant to Section 5.03 hereof, the election of New Directors and appointment of officers of the Reorganized Debtor pursuant to Section 6.02 hereof, and the other matters provided under the Plan involving the corporate structure of the Reorganized Debtor shall be deemed to have occurred and shall be in effect from and after the Effective Date without any requirement of further action by the shareholders or directors of the Reorganized Debtor. On the Effective Date, all agreements entered into pursuant to the Plan shall be legally valid, binding and enforceable in accordance with their terms.

5.07 Distributions.

(a) Distributions to Holders of Allowed Administrative Claims and Allowed Priority Tax Claims. The Disbursing Agent shall make distributions to each holder of an Allowed Administrative Claim or an Allowed Priority Tax Claim for which an Allowed amount has been determined as of the Effective Date in the manner described in Sections 3.01 and 3.02 of the Plan.

(b) Distributions to Holders of Allowed Other Priority Claims. The Disbursing Agent shall make distributions to each holder of an Allowed Other Priority Claim for which an Allowed amount has been determined as of the Effective Date in the manner described in Section 3.03 of the Plan.

(c) Distributions of Replacement Common Stock.

(i) In accordance with Section 5.03 of the Plan, the Reorganized Debtor shall distribute Replacement Common Stock to the holders of Allowed Lender Secured Claims.

(ii) Distributions of the Replacement Common Stock to holders of such Allowed Class 2 Claims pursuant to this paragraph of the Plan or otherwise will be made on the Distribution Date.

(iii) The Reorganized Debtor shall hold the Replacement Common Stock as a distribution agent and will, as soon as practicable, economically and administratively, in accordance with applicable law and this Plan deliver the shares of Replacement Common Stock to each holder of an Allowed Class 2 Claim.

(d) Transmittal of Distributed Property and Notices. Except as may otherwise be agreed to by the Debtor and the holder of a particular Claim, any property or notice to which such holder may become entitled under the provisions of the Plan, shall be delivered to such holder by regular mail, postage prepaid, in an envelope addressed to such holder as he or his authorized agent may direct in a request filed, on or before the Effective Date, with the Bankruptcy Court (or filed, after the Effective Date, with the Debtor), but if no such request is filed, to the address shown in the Debtor's Schedules or other records, or, if a different address is stated in a proof of claim duly

filed, to such address. In all cases where delivery or distribution is effected by mail, the date of delivery or distribution shall be the date of mailing. Property delivered in accordance with this paragraph will be deemed delivered to the holder regardless of whether such property is actually received by such holder. Notwithstanding any provision of the Plan to the contrary, any payment or other distribution which the Reorganized Debtor is required to make by the Plan, to the holder of an Allowed Claim on the Effective Date or on any other Distribution Date, shall be deemed to be made timely if made on the Effective Date or other Distribution Date, as the case may be, or within five (5) Business Days thereafter.

(e) Rounding, Fractional Shares. Whenever any delivery of a fractional share of Common Stock shall otherwise be called for, no such fractional shares shall be delivered, but rather, the actual distribution of Common Stock shall reflect a rounding to the nearest whole number of shares (rounding down in the case of fractions of 0.5 or less).

(f) Unclaimed Property. The Disbursing Agent shall make distributions of property to holders of Claims at those times and in that manner set forth in the Plan. If any distributions are unclaimed, the Disbursing Agent will follow up with mailings approximately ninety (90) days after the Effective Date. In the event that any distribution of property remains unclaimed for a period of six months after it has been delivered (or after such delivery has been attempted), or otherwise made available in accordance with the Plan to the holder entitled thereto, such unclaimed property shall be forfeited by such holder.

(g) Full and Final Satisfaction. All payments and distributions under this Plan shall be in full and final satisfaction, settlement, release and discharge of all Claims and Interests,

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except to the extent provided for by this Plan and any agreements delivered in connection herewith.

(h) Setoffs. The Disbursing Agent may, but shall not be required to, set off against any Claim and the payments to be made pursuant to the Plan in respect of such Claim, any claims of any nature whatsoever the Debtor may have against the holder thereof, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claim the Debtor or the Reorganized Debtor may have against such holder.

(i) Disputed Claims or Interests. Notwithstanding any other provisions of the Plan, no payments or distributions shall be made on account of any Disputed Claim until such Claim becomes an Allowed Claim, and then only to the extent that it becomes an Allowed Claim. The Debtor and the Disbursing Agent shall retain the right to compromise, settle, litigate or otherwise resolve any such Disputed Claims in the ordinary course of the Debtor's business operations, either before or after the Effective Date, at the sole election of the Debtor and the Disbursing Agent. All Disputed Claims which become Allowed Claims after the Effective Date shall be entitled to distribution on account of such subsequently Allowed Claims on the next Distribution Date.

ARTICLE VI

PROVISIONS RELATING TO CORPORATE STRUCTURE

AND SALE OR PURCHASE OF STOCK OF THE REORGANIZED

DEBTOR UPON CONSUMMATION

6.01 Certificate of Incorporation. The Reorganized Debtor has filed its Amended and Restated Articles of Incorporation with the Bankruptcy Court and will file with the Secretary of State of the State of Delaware on the Distribution Date. The Amended and Restated Articles of Incorporation of the Reorganized Debtor will authorize (i) the issuance of shares of Replacement Common Stock in sufficient amounts to satisfy the Reorganized Debtor's obligations under the Plan, (ii) a Board of Directors and (iii) blank check preferred provisions.

6.02 Cancellation of the Old Common Stock and the Old Preferred Stock and Agreements. On the Effective Date, except as otherwise provided for herein, the Old Common Stock and the Old Preferred Stock shall be cancelled, and Debtor shall have the Replacement Common Stock issued to the holders of Class 2 Claims.

6.03 Management of the Reorganized Debtor. On the Effective Date, the operation of the Reorganized Debtor shall become the general responsibility of the Reorganized Board, which shall, thereafter, have the responsibility for the management, control, and operation of the Reorganized Debtor. The Reorganized Board shall consist of one (1) director who is to be selected by the holders of Replacement Common Stock. The initial director of the Reorganized Debtor shall be Michael Ellwein. The initial officers of the Reorganized Debtor shall be

Michael Ellwein, Chairman, President and Chief Executive Officer, and David Walker Chief Financial Officer. The director and all such officers shall be deemed elected as of the Effective Date pursuant to the Confirmation Order. Those officers and directors not continuing in office shall be deemed removed therefrom as of the Effective Date pursuant to the Confirmation Order.

6.04 Issuance of New Common Stock. On or before the Effective Date, Debtor shall issue for distribution in accordance with the terms of the Plan the Replacement Common Stock. The issuance of the Replacement Common Stock and the distribution thereof as provided for in this Plan are being made pursuant to the exemption from registration requirements of the Securities Act of 1933, as amended, provided by Regulation D thereunder and certain state securities laws exemptions. The Replacement Common Stock will be “restricted securities” for purposes of federal and state securities laws and may not be transferred or resold except pursuant to an effective registration statement or an exemption therefrom.

6.05 Revesting of Assets. Except as otherwise provided herein, the property of the estate of the Debtor shall vest in the Reorganized Debtor on the Effective Date. On and after the Effective Date, the Reorganized Debtor may operate its business, and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code. As of the Effective Date, all property of the Reorganized Debtor shall be free and clear of all Claims and Interests, except as provided herein.

6.06 Preservation of Rights of Action. Except as otherwise provided in this Plan or the Confirmation Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with Section 1123(b) of the Bankruptcy Code, the Debtor or the Disbursing Agent shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all Litigation Claims that the Debtor or the Estate may hold against any Person or entity.

6.07 Effectuating Documents; Further Transactions. The chief executive officer, chief financial officer, or any other appropriate officer of the Reorganized Debtor shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions.

6.08 Exemption from Certain Transfer Taxes. Pursuant to Section 1146(c) of the Bankruptcy Code, any transfers from Debtor or any Person or entity pursuant to the Plan in the United States shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, sales or use tax or other similar tax or governmental assessment, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

ARTICLE VII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

7.01 Assumption and Rejection of Executory Contracts and Unexpired Leases. Except as otherwise provided in this Plan or in any order of the Bankruptcy Court on the Effective Date, all executory contracts, unexpired leases (including any and all amendments, revisions or modifications thereto) and all warrants and options of the Debtor, that are not otherwise the subject of a motion to assume as of the Confirmation Date, will be deemed rejected in accordance with the provisions and requirements of Sections 365 and 1123 of the

Bankruptcy Code; *provided, however*, that the Debtor reserves its right, at any time prior to the Confirmation Date, to amend Schedule 7.01 to add an executory contract or unexpired lease thereto or delete an executory contract or unexpired lease therefrom. Nothing in this Plan shall affect, limit or impair the right of the Reorganized Debtor to terminate an assumed contract after the Confirmation Date in accordance with applicable non-bankruptcy law. Entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such assumptions and rejections pursuant to Sections 365(a) and 1123 of the Bankruptcy Code. The Debtor shall pay all cure amounts not previously paid, and required as a condition of assumption under Section 365 of the Bankruptcy Code for assumed executory contracts and unexpired leases in cash on the Distribution Date unless otherwise agreed. Claims created by the rejection of executory contracts must be filed with the Bankruptcy Court no later than fifteen (15) days after the later of (a) the Order authorizing such rejection and (b) the Effective Date. Any Claims not filed within such time shall be forever barred from assertion against the Reorganized Debtor, its properties and estate. A schedule of leases and executory contracts to be assumed by the Debtor is attached hereto as Schedule 7.01.

7.02 Rejection Damages Bar Date. If the rejection by Debtor, pursuant to the Plan or otherwise, of an executory contract or unexpired lease results in a Claim, then such Claim shall be forever barred and shall not be enforceable against Debtor or its properties unless a Proof of Claim is filed with the Clerk of the Bankruptcy Court and served upon counsel to Debtor, and counsel to the Creditors' Committee, within fifteen (15) days after service of the earlier of (a) notice of the Confirmation Order, or (b) other notice that the executory contract or unexpired lease has been rejected.

ARTICLE VIII

WITHDRAWAL OR MODIFICATION OF THE PLAN

8.01 Modification of Plan Before and After Confirmation Date. The Debtor may alter, amend, or modify the Plan under Section 1127 of the Bankruptcy Code at any time prior to the Confirmation Date. In accordance with Bankruptcy Rule 3019, any such alteration, amendment or modification that does not materially and adversely affect the treatment of holders of any Claim that votes to accept the Plan, may be approved by the Bankruptcy Court at a Confirmation

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Hearing without the necessity of resoliciting votes. After the Confirmation Date and prior to substantial consummation of the Plan, the Reorganized Debtor and any party in interest may, so long as it does not adversely affect the treatment of holders of any Claims under the Plan, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the disclosure statement, or the Confirmation Order, and to address such matters as may be necessary to carry out the purposes and effects of the Plan.

8.02 Withdrawal of the Plan. The Debtor reserves the right to withdraw and revoke the Plan at any time prior to the Confirmation Date, in which case the Plan will be deemed null and void. In the event of withdrawal or revocation of the Plan by the Debtor, nothing contained in the Plan will be deemed to constitute a waiver or release of any Claim by or against any the Debtor or any other person or entity or to prejudice in any manner the rights of the Debtor or any other person or entity.

ARTICLE IX

ACCEPTANCE OR REJECTION OF PLAN AND CRAMDOWN

9.01 Impaired Classes of Claims and Interests Entitled to Vote. Subject to Sections 9.03 and 9.04 of the Plan, Claim and Interest holders in each Impaired Class of Claims or Interests are entitled to vote as a class to accept or reject the Plan.

9.02 Acceptance by an Impaired Class. In accordance with Section 1126(c) of the Bankruptcy Code and except as provided in Section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the holders of at

least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have timely and properly voted to accept or reject the Plan.

9.03 Presumed Acceptance by Unimpaired Classes. Class 1 is Unimpaired by the Plan. Under Section 1126(f) of the Bankruptcy Code, such Claim holders are conclusively presumed to accept the Plan, and the votes of such Claim holders will not be solicited.

9.04 Classes Deemed to Reject Plan. Holders of Interests in Class 4 are not entitled to receive or retain any property under the Plan. Under Section 1126(g) of the Bankruptcy Code, Class 4 Interest holders are deemed to reject the Plan, and the votes of such Interest or Claim holders will not be solicited.

9.05 Summary of Classes Voting on the Plan. As a result of the provisions of Sections 9.03 and 9.04 of this Plan, the votes of holders of Claims in Classes 2 and 3 will be solicited with respect to this Plan.

9.06 Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code. To the extent that any Impaired Class other than Class 4 rejects the Plan or is deemed to have rejected the Plan, the Debtor will request confirmation of the Plan, as it may be modified from time to time, under

Section 1129(b) of the Bankruptcy Code. The Debtor reserves the right to alter, amend, modify, revoke or withdraw the Plan or any Plan Exhibit or Schedule, including to amend or modify it in accordance with Section 8.01 hereof to satisfy the requirements of Section 1129(b) of the Bankruptcy Code, if necessary.

ARTICLE X

RETENTION OF JURISDICTION

10.01 Retention of Jurisdiction in the Bankruptcy Court. The Bankruptcy Court will retain and have exclusive jurisdiction over this case for the following purposes:

- (a) To hear and determine any and all matters relating to the rejection, assumption or assignment of executory contracts and leases, any objections to Claims resulting therefrom, and the allowance of any Claims resulting therefrom;
- (b) To hear and determine any and all applications, adversary proceedings, contested matters and other litigated matters pending on the Effective Date or permitted to be commenced thereafter under the Bankruptcy Code and the Bankruptcy Rules;
- (c) To ensure that the distributions to holders of Allowed Claims are accomplished as provided in the Plan;
- (d) To hear and determine any objections to Claims filed both before and after Confirmation; to allow or disallow, in whole or in part, any Disputed Claim; and to hear and determine other issues presented by or arising under the Plan;
- (e) To enter and implement such orders as may be appropriate in regard to the Confirmation Order and the Plan;
- (f) To hear and determine all applications of professionals for compensation and reimbursement of expenses under Sections 330, 331, or 503(b) of the Bankruptcy Code;
- (g) To hear the Debtor's or the Reorganized Debtor's application, if any, to modify the Plan in accordance with Section 1127 of the Bankruptcy Code (after Confirmation, the Debtor or the Reorganized Debtor may also, so long as they do not adversely affect the interest of holders of Allowed Claims, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or Confirmation Order, in such manner as may be necessary to carry out the purposes and effects of the Plan);

(h) To hear and determine disputes arising in connection with interpretation of the Plan or its implementation, including disputes among holders of Allowed Claims and disputes arising under any other agreements, documents or instruments executed in connection with the Plan;

(i) To construe and to take any action to enforce the Plan and issue such orders and injunctions as may be necessary for the consummation and implementation of the Plan;

(j) To determine such other matters and for such purposes as may be provided in the Confirmation Order;

(k) To hear and determine any motions or contested matters involving taxes, tax refunds, tax Claims, tax attribute and tax benefits and similar or related matters, with respect to the Debtor arising on or prior to the Effective Date or relating to the period of administration of the Chapter 11 case;

(l) To hear and determine any other matters related to the Plan and not inconsistent with Chapter 11 of the Bankruptcy Code;

(m) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

(n) To recover assets of the Reorganized Debtor, including preference claims or any other avoidance claims, wherever located;

(o) To hear and determine matters concerning state, local and federal taxes in accordance with Sections 346, 505 and 1146 of the Bankruptcy Code; and

(p) To enter a final decree closing the Chapter 11 Case.

ARTICLE XI

DISCHARGE, RELEASES, EXCULPATION AND INDEMNIFICATION

11.01 Discharge of All Claims and Interests and Releases.

(a) Except as otherwise provided by this Plan or in the agreements delivered in connection herewith, the confirmation of this Plan (subject to the occurrence of the Effective Date) shall discharge the Debtor and the Reorganized Debtor from any Claim that arose before the Confirmation Date, and any Claim of the kind specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not a proof of Claim is filed or is deemed filed, whether or not such Claim is an Allowed Claim, and whether or not the holder of such Claim has voted on this Plan.

(b) Except as otherwise specifically provided by this Plan, the distributions and rights that are provided in this Plan shall be in complete satisfaction, discharge and release, effective as of the Confirmation Date (but subject to the occurrence of the Effective Date) of (i)

all claims and causes of action against, liabilities of, liens on, obligations of and Interests in the Debtor or Reorganized Debtor or the direct or indirect assets and properties of the Debtor or Reorganized Debtor whether known or unknown, and (ii) all causes of action (whether known or unknown, either directly or derivatively through the Debtor or the Reorganized Debtor) against, Claims against, liabilities (as guarantor of a claim or otherwise) of, liens on the direct or indirect assets and properties of, and obligations of successors and assigns of, the Debtor, the Reorganized Debtor and their successors and assigns based on the same subject matter as any Claim or Interest or based on any act or

omission, transaction or other activity or security, interest or other agreement of any kind or nature occurring, arising or existing prior to the Effective Date that was or could have been the subject of any Claim or Interest, in each case regardless of whether a proof of claim or interest was filed, whether or not Allowed and whether or not the holder of the Claim or Interest has voted on this Plan.

(c) Except as otherwise specifically provided by this Plan, any entity or person accepting any distribution pursuant to this Plan shall be presumed conclusively to have released the Debtor, the Reorganized Debtor, and their respective successors and assigns from any cause of action based on the same subject matter as the Claim or Interest or which the distribution is received. The release described in the preceding sentence shall be enforceable as a matter of contract against any entity or person that accepts any distribution pursuant to this Plan.

11.02 Exculpation. Neither the Debtor, the estate, the Reorganized Debtor, nor any present officer, director, employee, agent, indenture trustee, attorney, accountant, investment banker or financial advisor to any of them, shall be obligated in any manner under the Plan or in respect or by reason of the filing, negotiation, prosecution, confirmation, consummation or implementation of the Plan or the attempted restructuring of the indebtedness of the Debtor prior to the Petition Date or any action taken or not taken in connection therewith, or shall have or incur any liability to any holder of a Claim or Interest or any other person or entity in respect of any such matters or any information provided or statement made in the disclosure statement or omitted therefrom, except that (i) the Debtor and the Reorganized Debtor shall fulfill the obligations expressly set forth in the Plan and (ii) each person or entity shall remain liable, to the extent provided by law, for its own willful misconduct or gross negligence as determined pursuant to Final Order of a court of competent jurisdiction. Each such person or entity shall be entitled to rely upon the advice of counsel with respect to its duties and responsibilities under the Plan and shall be fully protected in acting or in refraining from acting in accordance with such advice or in any manner approved or ratified by the Bankruptcy Court.

11.03 Indemnification. Subject to the occurrence of the Effective Date, the obligations of the Debtor to indemnify officers and directors, holding such offices from and including the Petition Date through and including the Confirmation Date, against any obligation pursuant to the Debtor's Certificate of Incorporation, by-laws or applicable state laws shall survive confirmation of the Plan, remain unaffected by this Plan and not be discharged.

11.04 Limitation of Liability. Neither the Reorganized Debtor, nor any of its employees, officers, directors, agents or representatives, nor any professional persons or entities employed by any of them, shall have or incur any liability to any person or entity for any act taken or omission

made in good faith in connection with or related to formulating, implementing, confirming or consummating this Plan, the solicitation materials and disclosure statement, or any contract, instrument, release or other agreement or document created in connection with this Plan.

11.05 No Liability for Solicitation or Participation. As specified in Section 1125(e) of the Bankruptcy Code, persons that solicit acceptances or rejections of the Plan and/or participate in the offer, issuance, sale or purchase of securities offered or sold under the Plan, in good faith and in compliance with applicable provisions of the Bankruptcy Code, shall not be liable for violations of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer, issuance, sale, or purchase of securities.

11.06 Injunction. The discharge and release provided in the Plan shall also operate as an injunction restraining any person from commencing or continuing any action, suit or proceeding, or employing any process, or otherwise acting, to collect, offset or recover any claim discharged or related under the Plan to the fullest extent authorized or provided by the Bankruptcy Court, including the Sections 524 and 1141 thereof. Except as provided in Section 11.02 above, the Confirmation Order shall constitute an injunction enjoining any person or entity from enforcing or attempting to enforce any cause of action against any present director, officer, employee, indenture trustee, attorney, accountant, financial advisor, investment banker or agent of the Debtor based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to this case, all of which causes of action will be deemed released on the Effective Date.

ARTICLE XII

MISCELLANEOUS PROVISIONS

12.01 Payment of Statutory Fees. All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date and thereafter as and when due until the Chapter 11 case is closed, dismissed or converted. After confirmation, the Debtor shall submit monthly operating reports to the United States Trustee each month (or portion thereof) until the Chapter 11 case is closed, dismissed or converted. Such report shall be in the format prescribed by the United States Trustee.

12.02 Saturday, Sunday, or Legal Holiday. If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

12.03 Severability of Provisions. If prior to Confirmation, any term or provision of the Plan which does not govern the treatment of Claims or Interests or the conditions to the Effective Date is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision

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held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, Impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

12.04 Successors and Assigns. The rights, benefits and obligations of any entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

12.05 Compromises and Settlements. Pursuant to Fed. R. Bankr. P. 9019(a), except as otherwise provided in this Plan, the Debtor may compromise and settle various Claims against it and/or claims that it may have against other Persons. Except as otherwise provided for in this Plan, the Debtor expressly reserves the right (with Bankruptcy Court approval, following appropriate notice and opportunity for a hearing) to compromise and settle Claims against it and claims that it may have against other Persons up to and including the Effective Date. After the Effective Date, such right shall pass to the Reorganized Debtor pursuant to Sections 6.05 and 6.06 of this Plan. This Section shall not apply to Claims against other Persons that are transferred pursuant to this Plan.

12.06 Rights of Action. Any rights or causes of action accruing to the Debtor other than causes of action pursuant to the Bankruptcy Code shall vest in the Reorganized Debtor on the Effective Date. The Reorganized Debtor may pursue or release all reserved rights of action, as appropriate, in accordance with what is in the best interests, and for the benefit, of the Reorganized Debtor.

12.07 Committee. The appointment of the Unsecured Creditors' Committee shall terminate upon the Effective Date.

12.08 Headings. Headings are used in the Plan for convenience and reference only, and shall not constitute a part of the Plan for any other purpose.

12.09 Binding Effect. The Plan shall be binding upon and inure to the benefit of the Debtor, the Reorganized Debtor, its Creditors, the holders of Interests, and their respective successors and assigns.

12.10 Notices. Any notice to the Debtor required or permitted to be provided under the Plan or disclosure statement shall be in writing and served by either (1) certified mail, return receipt requested, postage prepaid, (2) hand delivery, or (3) reputable overnight delivery service, freight prepaid, to be addressed as follows:

ATTN: David S. Walker
Chief Financial Officer

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Restoragen, Inc.

5701 South 34th Street, Suite 203
Lincoln, Nebraska 68510
(Fax) 402-434-0784

With a copy to:

Robert J. Bothe, Esq.
McGrath North Mullin & Kratz, PC LLO
1601 Dodge Street, Suite 3700
First National Bank Tower
Omaha, Nebraska 68102
(Fax) 402-341-0216

Barbara Lano Rummel, Esq.
Lindquist & Vennum P.L.L.P.
80 S. Eighth Street
4200 IDS Center
Minneapolis, Minnesota 55402-2223
(Fax) 612-371-3207

James B. Cavanagh, Esq.
Lieben, Whitted, Houghton, & Slowiaczek
100 Scouler Building
2027 Dodge Street
Omaha, Nebraska 68102
(Fax) 402-344-4006

12.11 Governing Law. Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or the Delaware General Corporation Law, the laws of the State of Nebraska shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan.

12.12 Filing of Additional Documents. On or before substantial consummation of the Plan, the Reorganized Debtor shall file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

12.13 Withholding and Reporting Requirements. In connection with the Plan and all instruments issued in connection therewith and distributions thereon, the Debtor shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements.

Dated: April , 2003

RESTORAGEN, INC.

By: /s/ Ashleigh W. Palmer
Ashleigh W. Palmer
Chief Executive Officer

Robert J. Bothe
James J. Niemeier
McGrath North Mullin & Kratz, PC LLO

PLAN EXHIBITS

1. [Amended and Restated Bylaws of Restoragen, Inc.](#)
 2. [Amended and Restated Certificate of Incorporation of Restoragen, Inc.](#)
 3. [Board of Directors](#)
 4. [Schedule 7.01](#)
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EXHIBIT 1

**Amended and Restated Bylaws
OF
RESTORAGEN, INC.**

ARTICLE I

OFFICES

Section 1.1. Principal Office. The principal office of the Corporation in the State of Delaware shall be in the City of Wilmington, County of New Castle, and the resident agent in charge thereof shall be The Corporation Trust Company.

Section 1.2. Other Offices. The Corporation may have offices at such other place or places as from time to time the Board of Directors may determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 2.1. Annual Meetings. The annual meeting of the stockholders for the election of directors and for the transaction of such other business as may come before the meeting shall be held on such date and at such time and place within or without the State of Delaware as may be designated by the Board of Directors.

Section 2.2. Special Meetings. Special meetings of the stockholders for any purpose or purposes, unless otherwise prescribed by statute, may be called at any time by the President or by order of the Board of Directors and shall be called by the President or Secretary upon the request in writing of a stockholder or stockholders holding of record at least one-fourth of the outstanding shares of stock of the Corporation entitled to vote at such meeting. Any such written request of a stockholder or stockholders shall state a proper purpose or purposes of the meeting and shall be delivered to the President or Secretary.

Section 2.3. Place of Meeting. Each meeting of stockholders of the Corporation, whether annual or special, shall be held on such date and at such time and place within or without the State of Delaware as shall be fixed by the Board of Directors and specified in the notice or waiver of notice of said meeting.

Section 2.4. Notice of Meetings. Except as otherwise provided by law, notice of each meeting of the stockholders shall be given to each stockholder of record entitled to vote at such meeting, whether annual or special, not less than 10 nor more than 60 days before the day on which the meeting is to be held, by delivering a typewritten or printed notice thereof to him or her personally, or by mailing such notice in a postage prepaid envelope addressed to him or her at his or her post office address furnished by him or her to the Secretary of the Corporation for such purpose, or, if he or she shall not have furnished to the Secretary of the Corporation his or her address for such purpose, then at his or her post office address last known to the Secretary of the Corporation. Each such notice shall state the purpose or purposes for which the meeting is called, and the date and time when and the place where such meeting is held. Except where expressly required by law, no publication of any notice of a meeting of stockholders shall be required. Notice of any meeting of stockholders shall not be required to be given to any stockholder who shall attend such meeting in person or by proxy. Notice of any adjourned meeting of the stockholders shall not be required to be given, except where expressly required by law.

Section 2.5. Quorum. At each meeting of the stockholders, except where other provision is made by law, the presence, in person or by proxy, of the holders of record of a majority of the issued and outstanding stock of the Corporation entitled to vote at such meeting shall constitute a quorum for the transaction of business. In the absence of a quorum, a majority in interest of the stockholders of the Corporation present in person or by proxy and entitled to vote or, in the absence of any stockholder entitled to vote, any officer entitled to preside at, or act as Secretary of, such meeting shall have the power to adjourn the meeting from time to time, until stockholders holding the requisite amount of stock shall be present or represented. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 2.6. Voting. At each meeting of the stockholders, every stockholder of record of the Corporation entitled to vote at such meeting shall be entitled to one vote in person or by proxy for each share of stock of the Corporation registered in his or her name on the books of the Corporation (a) on the date fixed pursuant to Section 7.3 of Article VII of these Bylaws as the record date for the determination of stockholders entitled to vote at such meeting; or (b) if no such record date shall have been fixed, then as of the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business next preceding the day on which the meeting is held. Any vote on stock of the Corporation may be given by the stockholder entitled thereto in person or by proxy appointed by an instrument in writing, including, without limitation, a telegraph or a cable, subscribed by such stockholder or by his or her attorney thereunto authorized and delivered to the Secretary of the meeting; provided, however, that no proxy shall be voted on after three years from its date unless said proxy provides for a longer period. At all meetings of the stockholders, all matters (except where other provision is made by law or by the Certificate of Incorporation of the Corporation) shall be decided by a majority of the votes cast by the holders of the stock present in person or by proxy and entitled to vote thereat, a quorum being present.

Section 2.7. List of Stockholders. It shall be the duty of the Secretary or other officer of the Corporation who shall have charge of its stock ledger, either directly or through a transfer agent or transfer clerk appointed by the Board of Directors, to prepare and make, at least 10 days before every meeting of the stockholders for the election of directors of the Corporation, a complete list of the stockholders entitled to vote thereat, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder during ordinary business hours, for a period of at least 10 days prior to the election, either at a place within the city, town or village where the election is to be held and which place shall be specified in the notice of meeting, or, if not so specified, at the place where said meeting is to be held, and the list shall be produced and kept at the time and place of said meeting during the whole time thereof and subject to the inspection of any stockholder who shall be present thereat. Upon the willful neglect or refusal of the directors to produce such list at any election, they shall be ineligible for any office at such election. The original or duplicate stock ledger shall be the only evidence as to who are the stockholders entitled to examine such list or the books of the Corporation or to vote in person by proxy at such election.

Section 2.8. Judges of Election. The Board of Directors may appoint judges of election to serve at any election of directors and at balloting on any other matter that may properly come before a meeting of stockholders. If no such appointment shall be made, or if any judges so appointed shall fail to attend, or refuse or be unable to serve, then such appointment may be made by the presiding officer at the meeting.

Section 2.9. Action by Consent. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the stockholders may be taken without a meeting, without prior notice and without a vote,

if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and the consent(s) are delivered to the Corporation and filed with the minutes of proceedings of the stockholders. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1. General Powers. The property, affairs and business of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 3.2. Number, Election, Qualifications and Term of Office. The number of directors shall be as fixed from time to time by resolution of the Board of Directors or stockholders (any such resolution of either the Board of Directors or stockholders being subject to the later resolution of either of them). Until changed as provided herein, the number of

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directors constituting the Board of Directors shall be one. Except as otherwise provided in the Certificate of Incorporation or in these Bylaws, directors shall be elected by a plurality of the votes of the stockholders entitled to vote at each meeting of stockholders for the election of a director or directors. Directors need not be stockholders. Each director shall hold office until his or her successor shall have been duly elected and qualified, or until his or her death, or until he or she shall resign, or until he or she shall have been removed in the manner hereinafter provided.

Section 3.3. Resignation. Any director of the Corporation may resign at any time by giving written notice to the President or to the Secretary of the Corporation. The resignation of any director shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.4. Removal of Directors. Any director or the entire Board of Directors may be removed, either with or without cause, at any time by the holders of a majority of the shares then entitled to vote at an election of directors. Any vacancy in the Board of Directors caused by any such removal may be filled by a plurality of the votes of the stockholders at such meeting, or, if the stockholders shall fail to fill such vacancy, by the Board of Directors.

Section 3.5. Vacancies. Any vacancy in the Board of Directors caused by death, resignation, disqualification, removal, an increase in the number of directors or any other cause may be filled by the affirmative vote of a majority of the remaining directors (though less than a quorum), unless filled by the stockholders pursuant to Section 3.4 hereof, and each director so chosen shall hold office until his or her successor shall be duly elected and qualified or until his or her earlier death, resignation or removal.

Section 3.6. Place of Meetings, Etc. Except as otherwise specifically provided by law, the Board of Directors may hold its meetings, have one or more offices and keep the books and records of the Corporation at such place or places within or without the State of Delaware as the Board of Directors may from time to time determine.

Section 3.7. First Meeting. Within 30 days after each annual election of directors, the Board of Directors shall meet for the purpose of organization, the election of officers and the transaction of other business at the place where regular meetings of the Board of Directors are held. Notice of such meeting shall be given in the manner hereinafter provided for special meetings of the Board of Directors or in a consent and waiver of notice thereof signed by all the directors.

Section 3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such times as the Board shall determine. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting which would otherwise be held on that day shall be held at such place at the same hour and on the next succeeding business day not a legal holiday. Notice of regular meetings need not be given, provided that whenever the time or place of regular meetings shall be fixed or changed, notice of such action shall be mailed promptly to each director who shall not have been present at the

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meeting at which such action was taken, addressed to him or her at his or her residence or usual place of business.

Section 3.9. Special Meetings, Notice. Special meetings of the Board of Directors shall be held whenever called by the President or by one of the directors. At least two calendar days before the day on which any special meeting is to be held, notice of such meeting shall be sent to each director by first class mail, addressed to him or her at his or her residence or usual place of business, or shall be sent to him or her at such place by telegraph, cable or wireless or shall be delivered personally or by telephone at least one day before the day on which the meeting is to be held. Each such notice shall state the time and place of the meeting but need not state the purposes thereof, except as otherwise herein expressly provided. Notice of any meeting of the Board of Directors need not be given to any director who shall be present at such meeting or who shall, either before or after such meeting, waive notice of such meeting in writing or by telegram, radio, cable or telephone, and any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all of the directors of the Corporation then in office shall be present thereat.

Section 3.10. Quorum and Manner of Acting. Except as otherwise provided by statute or by these Bylaws, majority of the total number of directors shall be required to constitute a quorum for the transaction of business at any meeting, and the act of a majority of the directors present at any meeting at which quorum shall be present shall be the act of the Board of Directors. In the absence of a quorum, a majority of the directors present may adjourn any meeting from time to time until a quorum be had. Notice of any adjourned meeting need not be given, except as required by law.

Section 3.11. Remuneration. Directors shall receive such reasonable compensation for their services, as such, whether in form of a salary or a fixed fee for attendance at meetings, with expenses, if any, as the Board of Directors may from time to time determine. Nothing herein contained shall be construed so as to preclude any director from serving the Corporation in any other capacity and receiving remuneration therefor.

Section 3.12. Action by Consent. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors, or of any committee, as the case may be, consent thereto in writing and such writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 3.13. Telephonic Meetings. Unless otherwise restricted by the Certificate of Incorporation, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

ARTICLE IV

COMMITTEES

Section 4.1. Designation of Committees, Alternate Members and Term of Office. The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, including an executive committee, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who, in the order specified by the Board, may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member or members of a committee, and in the event there are not sufficient alternates, present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. The term of office of the members of each committee shall be as fixed from time to time by the Board, subject to these Bylaws; provided, however, that any committee member who ceases to be a member of the Board shall ipso facto cease to be a committee member. Each committee shall appoint a secretary, who may be the Secretary of the Corporation or any Assistant Secretary thereof.

Section 4.2. Powers of Committees. Any committee designated by the Board of Directors pursuant to Section 4.1 hereof, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of

the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of dissolution, or amending these Bylaws of the Corporation, and, unless the resolution so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock.

Section 4.3. Meetings, Notices and Records. Each committee may provide for the holding of regular meetings, with or without notice, and may fix the time and place at which such meetings shall be held. Special meetings of each committee shall be held upon call by or at the direction of its chairman or, if there be no chairman, by or at the direction of any two of its members, at the time and place specified in the respective notices or waivers of notice of its members, at the time and place specified in the respective notices or waivers of notice thereof. Notice of each special meeting of a committee shall be mailed to each member of such committee, addressed to him or her at his or her residence or usual place of business, at least one day before the day on which the meeting is to be held, or shall be sent by telegram, radio or cable, addressed to him or her at such place, or telephoned or delivered to him or her personally, not later than the day before the day on which the meeting thereof who shall attend the meeting in person or who shall waive notice thereof by telegram, radio, cable or other writing. Notice of any adjourned meeting need not be given. Each committee shall keep a record of its proceedings.

Section 4.4. Quorum and Manner of Acting. At each meeting of any committee the presence of one-third of its members then in office shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee; in the absence of a quorum, a majority of the members present at the time and place of any meeting may adjourn the meeting from time to time until a quorum shall be present. Subject to the foregoing and other provisions of these Bylaws and except as otherwise determined by the Board of Directors, such committee may make rules for the conduct of its business. Any determination made in writing and signed by all the members of such committee shall be as effective as if made by such committee at a meeting.

Section 4.5. Resignations. Any member of a committee may resign at any time by giving written notice of such resignation to the Board of Directors, the President or the Secretary of the Corporation. Unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Board or any such officer.

Section 4.6. Removal. Any member of any committee may be removed at any time by the Board of Directors with or without cause.

Section 4.7. Vacancies. If any vacancy shall occur in any committee by reason of death, resignation, disqualification, removal or otherwise, the remaining members of such committee, though they may represent less than a quorum, shall continue to act until such vacancy is filled by the Board of Directors.

Section 4.8. Compensation. Committee members shall receive such reasonable compensation for their services as such, whether in the form of salary or a fixed fee for attendance at meetings, with expenses, if any, as the Board of Directors may from time to time determine. Nothing herein contained shall be construed to preclude any committee member from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE V

OFFICERS

Section 5.1. Number. The officers of the Corporation shall be a Chairman, a Chief Executive Officer, a President, one or more Vice Presidents, a Secretary, a Chief Financial Officer, a Treasurer and, if the Board shall so elect, such other officers and agents as may be appointed by the Board of Directors pursuant to Section 5.2 hereof. Any two or more offices may be held by the same person.

Section 5.2. Election, Term of Office and Qualifications. The officer shall be elected annually by the Board of Directors and, except in the case of officers appointed in accordance with the provisions of Section 5.3 hereof, each shall hold office until the next annual election of officers or until his or her successor shall have been duly elected and qualified, or until his or her

death, or until he or she shall resign, or until he or she shall have been removed in the manner hereinafter provided.

Section 5.3. Other Officers. The Corporation may have such other officers and agents as may be deemed necessary by the Board of Directors, including without limitation one or more Assistant Vice Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers. Such other officers and agents shall be appointed in such manner, have such duties and hold their offices for such terms as may be determined by the Board of Directors. The Board of Directors may delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective terms of office, authorities and duties.

Section 5.4. Resignations. Any Officer may resign at any time by giving written notice of his or her resignation to the Board of Directors, to the President or to the Secretary of the Corporation. Unless otherwise specified in such written notice, any such resignation shall take effect at the time of receipt thereof by the Board of Directors or any such officer.

Section 5.5. Removal. Any officer specifically designated in Section 5.1 hereof may be removed, either with or without cause, by vote of a majority of the whole Board of Directors. Any officer or agent appointed in accordance with the provisions of Section 5.3 hereof may be removed, either with or without cause, by the Board of Directors at any meeting, by the vote of a majority of the director's present at such meeting, or by any superior officer or agent upon whom such power of removal shall have been conferred by the Board of Directors.

Section 5.6. Vacancies. A vacancy in any office by reason of death, resignation, removal or any other cause shall be filled for the unexpired portion of the term in the manner prescribed in these Bylaws for election or appointment to such office.

Section 5.7. Duties of Officers. The Board of Directors shall, from time to time, in its discretion, designate and prescribe the scope of authority and the duties incident to each office.

Section 5.8. Salaries. The salaries of the officers shall be fixed from time to time by the Board of Directors, except that the Board of Directors may delegate to any person the power to fix the salaries or other compensation of any officers or agents appointed in accordance with the provisions of Section 5.3 hereof. No officer shall be prevented from receiving such salary by reason of the fact that he or she is also a director of the Corporation.

Section 5.9. Surety Bonds. If the Board of Directors shall so require, any officer or agent of the Corporation shall execute to the Corporation a bond in such sum and with such surety or sureties as the Board of Directors may direct, conditioned upon the faithful discharge of his or her duties, including responsibility for negligence and for the accounting for all property, funds or securities of the Corporation which may come into his or her hands.

ARTICLE VI

CONTRACTS, CHECKS, LOANS, DEPOSITS AND PROXIES

Section 6.1. Contracts, Checks, Etc. All contracts and agreements authorized by the Board of Directors, and all checks, drafts, bills of the exchange or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, or agent or agents, as may from time to time be designated by the Board of Directors, which designation may be general or confine to specific instances. The Chief Executive Officer, President or a Vice President and the Chief Financial Officer or Treasurer shall have the power and authority to bind the Corporation by contract or engagement or to pledge its credit or to render it liable pecuniarily for any purpose or for any amount, and no other officer, agent or employee of the Corporation shall have any such power and authority unless so designated by the Board of Directors or in or pursuant to the provisions of these Bylaws.

Section 6.2. Proxies in Respect of Securities of Other Corporations. Unless otherwise provided by resolution adopted by the Board of Directors, the Chief Executive Officer, the President or a Vice President may from time to time appoint an attorney or attorneys, or an agent or agents, to exercise in the name and on behalf of the Corporation the powers and rights which the Corporation may have as the holder of stock or other securities in any other corporation to vote or to consent in respect of such stock or other securities, and the Chief Executive Officer, the President or any Vice President may instruct the person or persons so appointed as to the manner of exercising such powers and rights and the Chief Executive Officer, the President or any Vice President may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal, or otherwise, all such written proxies, powers of attorney or other written proxies, powers of attorney or other written instruments as he or she may deem necessary in order that the Corporation may exercise such powers and rights.

Section 6.3. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to its credit in such banks or trust companies or with such bankers or other depositories as the Board of Directors may select, or as may be selected by any officer or officers or agent or agents authorized so to do by the Board of Directors. Endorsements for deposit to the credit of the Corporation in any of its duly authorized depositories shall be made in such manner as the Board of Directors from time to time may determine.

ARTICLE VII

CERTIFICATES OF STOCK

Section 7.1. Form; Signature. The certificates of stock of the Corporation shall be numbered and shall be entered in the books of the Corporation as they are issued. They shall exhibit the holders name and number of shares and shall be signed by the Chief Executive Officer, the President or a Vice President and the Chief Financial Officer, the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary.

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Section 7.2. Transfer. Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate or by his or her attorney, lawfully constituted in writing, and upon surrender of the certificate therefor.

Section 7.3. Record Dates. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to cooperate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may, in its discretion, fix, in advance, a record date, which shall be not more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. Only those stockholders of record on the date so fixed shall be entitled to any of the foregoing rights, notwithstanding the transfer of any such record date by the Board of Directors. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 7.4. Closing of Transfer Books. The Board of Directors may close the transfer books in its discretion for a period not exceeding 60 days preceding any meeting, annual or special, of the stockholders or the day appointed for the payment of dividend.

Section 7.5. Record Owner. The Corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person, whether or not it shall have express or other notice thereof, unless the laws of Delaware expressly provide otherwise.

Section 7.6. Lost Certificates. Any person claiming a certificate of stock to be lost or destroyed shall make an affidavit or affirmation of that fact and advertise the same in such manner as the Board of Directors may require, and shall if the directors so require give the Corporation a bond of indemnity, in form and with one or more sureties satisfactory to the Board of Directors, in at least double the value of the stock represented by said certificate, whereupon a new certificate may be issued of the same tenor and for the same number of shares as the one alleged to be lost or destroyed.

ARTICLE VIII

DIVIDENDS

Dividends upon the capital stock of the Corporation, when earned, may be declared by the Board of Directors at any regular or special meeting.

Before payment of any dividend or making any distribution of profits, there may be set aside out of the surplus or net profits of the Corporation such sum or sums as the directors from

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time to time, in their absolute discretion, think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the directors shall think conducive to the interests of the Corporation.

ARTICLE IX

RELIANCE ON RECORDS AND REPORTS

Each director, officer or member of any committee designated by, or by authority of, the Board of Directors shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation or of any of its subsidiaries or upon reports made to the Corporation or any of its subsidiaries by any official of the Corporation or of a subsidiary or by an independent certified public accountant or by an appraiser selected with reasonable care by the Board of Directors or by any such committee.

ARTICLE X

CORPORATE SEAL

The Corporation shall not have a corporate seal.

ARTICLE XI

FISCAL YEAR

The fiscal year of the Corporation shall be such 12-month period of each calendar year as may be fixed from time to time by resolution of the Board of Directors.

ARTICLE XII

WAIVER OF NOTICE

Whenever any notice whatsoever is required to be given by these Bylaws or the Certificate of Incorporation of the Corporation or any of the corporate laws of the State of Delaware, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE XIII

INDEMNIFICATION

The Corporation shall indemnify each of its Directors and officers, whether or not then in office, (and his or her executor, administrator and heirs) against all reasonable expenses, including attorneys' fees, judgments and fines actually and necessarily incurred by him or her in connection with the defense of any litigation to which he or she may have been made a party because he or

she is or was a Director or officer of the Corporation. He or she shall have no right to reimbursement, however, in relation to any matter to which he or she has been adjudged liable to the Corporation for gross negligence or culpable misconduct in the performance of his or her duties. The right to indemnify for expenses shall also apply to the expenses of suits which are compromised if the court having jurisdiction of the matter shall approve such settlement. The foregoing right of indemnification shall be in addition to all other rights to which such Director or officer may be entitled, pursuant to the Delaware General Corporation Law.

ARTICLE XIV

AMENDMENTS

The Bylaws of the Corporation, regardless of whether made by the stockholders or by the Board of Directors, may be amended, added to or repealed at any meeting of the Board of Directors or of the stockholders provided that notice of the proposed change is given in the notice of the meeting. No change of the time or place for the annual meeting of the stockholders for the election of directors shall be made except in accordance with the laws of the State of Delaware.

ADOPTED pursuant to the provisions of Section 303 of the Delaware General Corporation Law in connection with the Plan of Reorganization of the Corporation, under Chapter 11 of the United States Bankruptcy Code, as of the day of , 2003.

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EXHIBIT 2

Amended and Restated Certificate of Incorporation

OF

RESTORAGEN, INC.

This Amended and Restated Certificate of Incorporation was duly adopted pursuant to the provisions of Section 303 of the General Corporation Law of the State of Delaware in connection with the Plan of Reorganization of Restoragen, Inc., a Delaware corporation (the "Corporation") confirmed by the United States Bankruptcy Court for the District of Nebraska pursuant to the provisions under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101-1130 (the "Bankruptcy Code").

The Corporation was originally incorporated under the name BioNebraska, Inc. The original Certificate of Incorporation was filed with the Secretary of State on June 7, 1993. A Certificate of Designation was filed with the Secretary of State on August 13, 1993. A Certificate of Designation was filed with the Secretary of State on December 5, 1994. A Certificate of Amendment was filed with the Secretary of State on November 6, 1995. A Certificate of Designation was filed with the Secretary of State on November 20, 1995. A Certificate of Designation was filed with the Secretary of State on June 3, 1996. A Certificate of Designation was filed with the Secretary of State on June 19, 1997. A Certificate of Designation was filed with the Secretary of State on May 28, 1998. A Certificate of Designation was filed with the Secretary of State on June 15, 1998. A Certificate of Designation was filed with the Secretary of State on April 23, 2001. A Certificate of Amendment was filed with the Secretary of State on August 13, 2001.

The Corporation, for the purpose of amending and restating its Certificate of Incorporation, as previously amended and now in effect, and eliminating all prior Certificates of Designation, hereby certifies that its Certificate of Incorporation is amended and restated in its entirety and shall now read as follows:

ARTICLE I

NAME

The name of the Corporation is Restoragen, Inc.

ARTICLE II

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the registered office of the corporation is 1209 Orange Street, Wilmington, New Castle County, Delaware 19801 and the name of its initial registered agent at that address is The Corporation Trust Company.

**ARTICLE III
PURPOSE**

The Corporation may transact any lawful business for which corporations may be incorporated under the General Corporation Law of the State of Delaware, subject to the restrictions set forth in the Corporation's Plan of Reorganization Under Chapter 11 of the Bankruptcy Code.

**ARTICLE IV
AUTHORIZED SHARES**

The aggregate number of shares of capital stock which the Corporation shall have the authority to issue is One Hundred Million (100,000,000) shares consisting of (a) 70,000,000 shares of Common Stock, \$0.01 par value per share, and (b) 30,000,000 shares of preferred stock, having a par value of \$0.01 per share. The designations, voting rights, par values, powers, preferences and rights, and the qualifications, limitations or restrictions of the Corporation's preferred stock are to be determined by resolution of the Board of Directors and a certificate setting forth such resolutions and the number of shares of such class or series must be filed and recorded pursuant to Delaware law.

Notwithstanding anything contained in this Amended and Restated Certificate of Incorporation to the contrary, the Corporation shall not issue nonvoting equity securities to the extent prohibited by Section 1123 of the Bankruptcy Code; provided, however, that this provision (i) will have no further force and effect beyond that required by such Section, (ii) will have such force and effect, if any, only for so long as such Section is in effect and applicable to the Corporation, and (iii) in all events may be amended or eliminated in accordance with applicable law as from time to time in effect.

**ARTICLE V
LIMITED LIABILITY OF DIRECTORS**

No person who was or is a director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for breach of the duty of loyalty to the Corporation or its stockholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) under Section 174 of the General Corporation Law of the State of Delaware; or (iv) for any transaction from which the director derived an improper personal benefit. If the General Corporation Law of the State of Delaware is amended after the effective

date of this Article V to further eliminate or limit, or to authorize further elimination or limitation of, the personal liability of directors for breach of fiduciary duty as a director, then the personal liability of a director of the Corporation to the Corporation or its stockholders shall be eliminated or limited to the full extent permitted by the General Corporation Law of the State of Delaware, as so amended. For purposes hereof, "fiduciary duty as a director" shall include any fiduciary duty arising out of serving at the request of the Corporation as a director of another corporation, partnership, joint venture, trust or other enterprise, and "personally liable to the Corporation" shall include any liability to such other corporation, partnership, joint venture, trust or other enterprise, and any liability to the Corporation in its capacity as a security holder, joint venturer, partner, beneficiary, creditor or investor of or in any such other corporation, partnership, joint venture, trust or other enterprise.

**ARTICLE VI
INDEMNIFICATION**

Section 1. Certificate of Incorporation Article Not Exclusive; Change in Law. The indemnification and advancement of costs, charges and other expenses (including attorneys' fees) ("Expenses") provided by, or granted pursuant to, this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of Expenses may be entitled under any law (common or statutory), by-law, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person. Notwithstanding the provisions of this Article VI or the by-laws of the Corporation, the Corporation shall indemnify and make advancement of Expenses to each person who is or was or has agreed to become a director or officer of the Corporation, and each person who is or was serving or has agreed to serve at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, to the fullest extent permitted under the laws of the State of Delaware and any other applicable laws, as they now exist or as they may be amended in the future.

Section 2. Contract Rights. All rights to indemnification and advancement of Expenses provided by this Article VI and the by-laws of the Corporation shall be deemed to be a contract between the Corporation and each person who is or was or has agreed to become a director or officer of the Corporation, and each person who is or was serving or has agreed to serve at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise. Any repeal or modification of this Article VI or the by-laws of the Corporation or any repeal or modification of relevant provisions of the General Corporation Law of the State of Delaware or any other applicable law shall not in any way diminish any rights to indemnification or advancement of Expenses with respect to any state of facts then or previously existing or any action, suit or proceeding previously or thereafter brought or threatened based in whole or in part on such state of facts.

Section 3. Indemnification for Certain Persons for Breach of Fiduciary Duty. In addition to the indemnification provided for in the by-laws of the Corporation, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of another corporation, partnership, joint venture, trust or other enterprise by reason of the fact that he is or was serving or has agreed to serve at the request of the Corporation as a director of such other corporation, partnership, joint venture, trust or other enterprise against Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action or suit and any appeal thereof, for breach of fiduciary duty as such director, except for liability (i) for breach of the duty of loyalty to such other corporation, partnership, joint venture, trust or other enterprise; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) for unlawful payment of a dividend or unlawful purchase or redemption of stock; or (iv) for any transaction from which the director derived an improper personal benefit.

**ARTICLE VII
BOARD OF DIRECTORS**

The number of directors shall be fixed by, or in the manner provided in, the Bylaws.

**ARTICLE VIII
BYLAWS**

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized and empowered to make, alter or repeal the Bylaws of the Corporation, subject to the reserved power of the stockholders to adopt, amend or repeal Bylaws which may include the power to restrict in any manner power granted to the Board of Directors by this Article VIII.

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation, which restates, integrates and amends the provisions of the certificate of incorporation of the Corporation, and which was duly approved and filed in accordance with Sections 103 and 303 of the General Corporation Law of the State of Delaware, has been executed as of this day of , 2003.

RESTORAGEN, INC.

By _____
Name:
Title:

EXHIBIT 3

Board of Directors

Michael Ellwein

Schedule 7.01

None

Restoragen, Inc.
Balance Sheet
As of April 30, 2003

ASSETS	
Current Assets	
Cash and cash equivalents	\$ 3,173,573
Accounts Receivable	
Accounts Receivable	-
Other Current Assets	
Prepaid Insurance	133,094
Prepaid Legal Fees	90,111
Total Other Current Assets	<u>223,205</u>
Total Current Assets	3,396,778
Fixed Assets	
Property and equipment, net of accumulated depreciation \$14,700	13,230
Total Fixed Assets	13,230
Other Assets	
Loan Origination Fees	166,667
Total Other Assets	<u>166,667</u>
TOTAL ASSETS	<u>\$ 3,576,675</u>

LIABILITIES & SHAREHOLDERS' DEFICIT	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	\$ 522,560
Total Accounts Payable	522,560
Other Current Liabilities	
Accrued Corporate Restructuring - Current	610,027
Accrued Interest - Current	1,905,780
Note Payable - Current	18,000,000
Equipment Purchase Financing - Current	229,788
Note Payable Transamerica - Current	451,285
Total Other Current Liabilities	<u>21,196,880</u>
Total Current Liabilities	21,719,440
Long Term Liabilities	

Accrued Corporate Restructuring - LT	412,320
Equipment Purchase Financing - LT	459,388
Note Payable Transamerica - LT	498,396
Total Long Term Liabilities	<u>1,370,104</u>
Total Liabilities	23,089,544
Redeemable preferred stock	
Series A and A,F (\$0.01 par value, 11,750 and 211,750 shares authorized, 11,750 and 20,092 issued and outstanding, at redemption value)	2,048,906
Shareholders' deficit	
Common stock, (\$0.01 par value, 40,000,000 shares authorized, 7,379,415 shares issued and outstanding)	73,794
Convertible preferred stock, Series B,C,D,E,F,G,H (\$0.01 par value, 706,500 shares authorized, 354,442 shares issued and outstanding)	3,544
Additional paid-in capital	81,316,926
Deficit accumulated during development stage	<u>(102,956,039)</u>
Total Shareholders' deficit	<u>(21,561,775)</u>
TOTAL LIABILITIES, PREFERRED STOCK & SHAREHOLDERS' DEFICIT	<u>\$ 3,576,675</u>

ASSET PURCHASE AND LICENSE AGREEMENT

between:

RESTORAGEN, INC.,

a Delaware corporation;

and

COOLIDGE & COMPANY, INC.

a Delaware corporation.

Dated as of March 24, 2003

ASSET PURCHASE AND LICENSE AGREEMENT

THIS ASSET PURCHASE AND LICENSE AGREEMENT (the "**Agreement**") is entered into as of March 24, 2003 by and between **RESTORAGEN, INC.**, a Delaware corporation, located at 5701 S. 34th Street, Suite 203, Lincoln, Nebraska 68516 ("**Restoragen**") and **COOLIDGE & COMPANY, INC.**, a Delaware corporation, located at 173 Beebe Hill Road, Falls Village, Connecticut 06031. It is contemplated that, prior to the Closing, Coolidge & Company, Inc. will assign this Agreement to a newly formed entity called GHRCO, Inc. All references to "GHRCO" in this Agreement shall refer to Coolidge & Company, Inc. or to GHRCO, Inc. following such assignment. Certain capitalized terms used in this Agreement are defined in **Exhibit A**.

RECITALS

WHEREAS, this Agreement sets forth the terms and conditions upon which (a) Restoragen shall sell to GHRCO, and GHRCO shall purchase from Restoragen, certain assets of Restoragen, and (b) Restoragen shall grant to GHRCO an exclusive, worldwide license under certain manufacturing patent rights, each as more fully described herein.

NOW THEREFORE, in consideration of the foregoing and the covenants and other provisions contained in this Agreement, and intending to be legally bound hereby, the parties agree as follows:

AGREEMENT

The parties to this Agreement, intending to be legally bound, agree as follows:

1. SALE OF ASSETS; RELATED TRANSACTIONS.

1.1 Sale of Assets. Restoragen shall cause to be sold, assigned, transferred, conveyed and delivered to GHRCO at the Closing (as defined below) good and valid title to the Assets (as defined below), on the terms and subject to the conditions set forth in this Agreement. For purposes of this Agreement, "**Assets**" shall mean and include each of the assets listed on **Exhibit B** hereto. Further, upon the

Closing, Restoragen hereby grants to GHRCO an exclusive, worldwide, royalty-free, irrevocable, perpetual license, with the right to sublicense through multiple tiers of sublicense, under all patents, patent applications and pending patent disclosures owned by Restoragen on the Closing Date that would be infringed by the development, manufacture, use, sale or import of GRF Products but for such license (but excluding the Manufacturing Patents and the GRF Patent Portfolio).

1.2 License Grants.

(a) **Manufacturing License.** Subject to the terms and conditions of this Agreement, Restoragen hereby grants to GHRCO during the Manufacturing License

Term an exclusive, worldwide, royalty-bearing license, with the right to sublicense through multiple tiers of sublicenses, under the Manufacturing Patents and Know-How to develop, make, have made, use, sell, offer for sale, have sold and import GRF Products (the “*Manufacturing License*”). For purposes of clarification, notwithstanding the definition of Manufacturing Patents or the contents of *Exhibit D* hereto, the parties acknowledge and agree that the Manufacturing License is granted under all patents, patent applications and patent rights owned by Restoragen on the Closing Date that would be infringed by the manufacture of GRF Products in the absence of a license hereunder, regardless of whether such patents, patent applications and patent rights are listed in *Exhibit D*. The Manufacturing License is limited solely to GRF Products and does not authorize any other use under the Manufacturing Patents.

(b) **Residual License.** Subject to the terms and conditions of this Agreement, Restoragen hereby grants to GHRCO during the Residual License Term an exclusive (to the extent not previously licensed by Restoragen to a third party), worldwide, royalty-free license, with the right to sublicense through multiple tiers of sublicenses, under the Residual Patents and Know-How to develop, make, have made, use, sell, offer for sale, have sold and import products, and to utilize methods, that have not been licensed by Restoragen to third parties and would otherwise infringe the Residual Patents.

1.3 Assumption of Liabilities. GHRCO is not assuming or in any way becoming liable or responsible for any Liability of Restoragen, with the exception that on and after the Closing Date: (i) GHRCO agrees to pay the reasonable costs of counsel for preparing and recording the necessary documents to accomplish the assignments, transfers and conveyances to GHRCO of good and valid title to the Assets, as provided in Section 1.1 above and (ii) GHRCO is required to pay a portion of the Manufacturing Patents Support Costs and Residual Patents Support Costs pursuant to Section 9.1(b) hereof (collectively (i) and (ii) constitute the “Assumed Liabilities”). Except as noted in the foregoing sentence of this Section 1.3, and notwithstanding anything to the contrary contained in other provisions of this Agreement, GHRCO shall not be responsible for or required to pay, assume or to perform or discharge:

- (a) any Liability of or to any stockholder of Restoragen or any other Person in respect of the business of Restoragen;
- (b) any Liability of Restoragen for any fees, costs or expenses of the type referred to in Section 16.2(a) of this Agreement;
- (c) any Liability of Restoragen arising from or relating to any action taken by Restoragen, or any failure on the part of Restoragen to take any action, at any time;
- (d) any Liability of Restoragen arising from or relating to any claim or Proceeding against Restoragen;

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- (e) any Liability of Restoragen for the payment of any Tax;
 - (f) any Liability of Restoragen to any employee or former employee of Restoragen;
 - (g) any Liability of Restoragen to any of its stockholders, Affiliates or their respective Representatives;
 - (h) any Liability under any Contract to which Restoragen is a party or to which any of the Assets are subject;

(i) any Liability that is inconsistent with or constitutes an inaccuracy in, or that arises or exists by virtue of any Breach of, (x) any representation or warranty made by Restoragen in any of the Transactional Agreements, or (y) any covenant or obligation of Restoragen contained in any of the Transactional Agreements; or

(j) any other Liability of Restoragen that is not referred to specifically in this Section 1.3.

1.4 Purchase Price. As consideration for the sale and transfer of the Assets and the grant of the Licenses to GHRCO and contingent upon the Closing, GHRCO will pay to Restoragen \$50,000 in cash; and, during the Royalty Term, GHRCO shall make the Product-Related Payments as provided in Section 8 hereof.

1.5 Sales Taxes. GHRCO shall bear and pay, and shall reimburse Restoragen and Restoragen's Affiliates, for any sales taxes, use taxes, transfer taxes, documentary charges, recording fees or similar taxes, charges, fees or expenses that may become payable in connection with the sale of the Assets to GHRCO or in connection with any of the other Transactions.

1.6 Closing.

(a) **The closing** of the sale of the Assets to GHRCO (the "Closing") shall take place at the offices of Lindquist & Vennum, PLLP, located at 4200 IDS Center, Minneapolis, Minnesota or at another mutually agreeable location, at 10:00 a.m. on the 11th day following the entry of the Confirmation Order, or such later date as GHRCO and Restoragen agree; *provided, however,* that if any condition set forth in Section 6 has not been satisfied as of the date designated, then GHRCO and Restoragen may mutually agree to postpone the Scheduled Closing Time by up to ten (10) business days. For purposes of this Agreement, "**Scheduled Closing Time**" shall mean the time and date as of which the Closing is required to take place pursuant to this Section 1.6(a); and "**Closing Date**" shall mean the time and date as of which the Closing actually takes place.

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(b) **At the Closing:**

(i) Restoragen shall execute and deliver to GHRCO such bills of sale, endorsements, assignments and other documents as may (in the reasonable judgment of GHRCO or its counsel) be necessary or appropriate to assign, convey, transfer and deliver to GHRCO good and valid title to the Assets free and clear of all liens, claims and encumbrances, but only to the scope and extent of the effectiveness of the Bankruptcy Court Confirmation Order approving the transactions. Without limiting the generality of the foregoing, Restoragen and GHRCO shall execute and deliver the Bill of Sale, Assignment and Assumption, substantially in the form attached hereto as *Exhibit C* (the "**Bill of Sale**"), with respect to the Assets and such other instruments and documentation as GHRCO may reasonably request before, on the Closing Date and thereafter, including, without limitation, assignment agreements and related documentation with respect to the GRF Patent Portfolio, in order to effectuate the Transactions as contemplated herein;

(ii) GHRCO shall acknowledge, sign and deliver the Bill of Sale;

(iii) GHRCO shall pay to Restoragen \$50,000 in cash as contemplated by Section 1.4;

(iv) Restoragen shall execute and deliver to GHRCO a certificate (the "**Closing Certificate**") setting forth the representations and warranties of Restoragen that (A) each of the representations and warranties made by Restoragen in this Agreement was accurate in all material respects as of the date of this Agreement, (B) except as expressly set forth in the Closing Certificate, each of the representations and warranties made by Restoragen in this Agreement is accurate in all material respects as of the Closing Date as if made on the Closing Date, (C) each of the covenants and obligations that Restoragen is required to have complied with or performed pursuant to this Agreement at or prior to the Closing has been duly complied with and performed in all material respects and (D) except as expressly set forth in the Closing Certificate, each of the conditions set forth in Sections 6.4, 6.6 and 6.7 has been satisfied in all material respects;

(v) As promptly as practicable (and in any event within thirty (30) days) after the Closing, Restoragen shall deliver, or cause to be delivered, to GHRCO or its Representatives all tangible items included in the Assets (or, in the case of documents relative to the Licensed Technology, complete and accurate copies thereof) including, without limitation, complete and accurate originals of all patents and patent applications included in the GRF Patent Portfolio, other documentation in the possession or control of Restoragen regarding the GRF Patent Portfolio and any correspondence between Restoragen and the

U.S. Patent & Trademark Office or any foreign patent office with respect to the GRF Patent Portfolio and such other documents or materials in Restoragen's possession as may be necessary or useful for the practice of the Licensed Technology. Restoragen shall have the right to retain, for archival and other appropriate purposes, a reasonable number of copies of each document provided to GHRCO hereunder;

(vi) GHRCO shall pay to Restoragen or its patent counsel, the estimated patent counsel fees and costs described in Section 1.3; and

(vii) The Releases in the form of **Exhibit G** signed by each of Thomas R. Coolidge and S. William Jenks simultaneous with the execution of this Agreement will remain in force without rescission.

2. REPRESENTATIONS AND WARRANTIES OF RESTORAGEN.

Restoragen represents and warrants, to and for the benefit of GHRCO, as follows:

2.1 Due Organization and Standing. Restoragen is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full corporate power and authority to deliver this Agreement and to carry out the provisions hereof, subject to Bankruptcy Court approval of the Transactions.

2.2 Title to Assets. As of the date of this Agreement, Restoragen, to its knowledge, owns, and has good, valid and marketable title to, the Assets, and all of such Assets are owned by Restoragen free and clear of any liens, claims and encumbrances, except in each case with respect to the liens, claims and encumbrances disclosed the voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code, filed by Restoragen on December 17, 2002 in the United States Bankruptcy Court for the District of Nebraska (the "**Chapter 11 Filing**"). Upon receipt of the Confirmation Order and immediately prior to the Closing, Restoragen, to its knowledge, will own, and have good, valid and marketable title to and the entire interest in, the Assets, and all of such Assets will be owned by Restoragen free and clear of any liens, claims, encumbrances and but only to the scope and extent of the effectiveness of the Bankruptcy Court Confirmation Order approving the Transactions.

2.3 DISCLAIMER. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, RESTORAGEN DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND TITLE.

2.4 Proceedings; Orders. Except for the Chapter 11 Filing, there is no pending Proceeding, and, to Restoragen's knowledge, no Person has threatened to commence any Proceeding: (i) that involves Restoragen and that relates to or might affect any of the Assets or Restoragen's ability to grant the Licenses (whether or not Restoragen is named as a party thereto); or (ii) that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the Transactions. To Restoragen's knowledge, there is no Order to which Restoragen, or any of the Assets or Licensed Technology, is subject.

2.5 Authority; Binding Nature Of Agreements. Subject to the Confirmation Order, Restoragen has the absolute and unrestricted right, power and authority to enter into and to perform its obligations under each of the Transactional Agreements to which it is or may

become a party; and the execution, delivery and performance by Restoragen of the Transactional Agreements to which it is or may become a party have been duly authorized by all necessary action on the part of Restoragen and its stockholders and board of directors. This Agreement constitutes the legal, valid and binding obligation of Restoragen, enforceable against Restoragen in accordance with its terms, subject to the effect of bankruptcy, insolvency, reorganization and the rights of creditors generally. Subject to the receipt of the Confirmation Order, upon the execution of each of the Transactional Agreements at the Closing, each of such Transactional Agreements to which Restoragen is a party will constitute the legal, valid and binding obligation of Restoragen and will be enforceable against Restoragen in accordance with its terms.

2.6 Due Diligence. To its knowledge, Restoragen has provided GHRCO access to the extent currently available to all records and materials logged and/or placed in storage by Restoragen relating to the Assets and Licensed Technology for the production of GRF, including such records and materials in its possession or control relating to Legal Requirements and Governmental Authorizations.

3. REPRESENTATIONS AND WARRANTIES OF GHRCO.

GHRCO represents and warrants, to and for the benefit of Restoragen, as follows:

3.1 Authority; Binding Nature of Agreements. Coolidge & Company, Inc. has the absolute and unrestricted right, power and authority to enter into this Agreement, and this Agreement constitutes the legally valid and binding obligation of Coolidge & Company, Inc., enforceable against it in accordance with its terms. On the Closing Date, GHRCO will have the absolute and unrestricted right, power and authority to enter into and perform its obligations under each of the Transactional Agreements to which it is or may become a party, and the execution and delivery of the Transactional Agreements by GHRCO have been duly authorized by all necessary action on the part of GHRCO and its board of directors. This Agreement and each of the other Transactional Agreements signed at the Closing, constitutes the legal, valid and binding obligation of GHRCO, enforceable against it in accordance with its terms. The execution, delivery and performance of the Transactional Agreements by GHRCO do not conflict with or result in violation of or give any Governmental Body or other Person the right to challenge any of the Transactions or to exercise any remedy or obtain any relief under, any Legal Requirement or any Order to which GHRCO, or any of the assets of GHRCO, is subject.

3.2 Available Funds. Coolidge & Company, Inc. has, and GHRCO will have on the Closing Date, without requiring the prior consent, approval or other discretionary action of any third party, a sufficient amount of cash to pay the full amount of the Closing Date purchase price and to satisfy any other obligations hereunder and in connection with the Transactions contemplated hereby on the terms and conditions set forth herein.

4. PRE-CLOSING COVENANTS OF RESTORAGEN.

4.1 Access and Investigation. Restoragen shall ensure that, at all times during the Pre-Closing Period, and upon reasonable advance notice by GHRCO: (a) Restoragen and its Representatives shall provide GHRCO and its Representatives with reasonable access to

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Restoragen's Representatives, current personnel and assets and to all existing books, records and other documents, information and materials relating to the Assets or the Licensed Technology; and (b) Restoragen and its Representatives shall provide GHRCO and its Representatives with such originals and copies of existing books, records and other documents, information and materials relating to the Assets, the Licensed Technology and/or the GRF Products as GHRCO may reasonably request in good faith. GHRCO acknowledges that Restoragen has limited resources and accordingly agrees to cooperate with Restoragen as reasonably necessary in Restoragen's performance of the activities described in this Section 4.1. GHRCO acknowledges that, to the extent GHRCO desires services of former employees beyond identification, separation and delivery of Assets and documents and materials related to the Licensed Technology subject to this Agreement, GHRCO shall bear the expense of such services.

4.2 Maintenance of IP and Assets. Except as otherwise contemplated in this Agreement or ordered by the Bankruptcy Court (a "**Conduct Order**"), Restoragen shall ensure that, during the Pre-Closing Period:

(a) Restoragen maintains the patents and patent applications included in the GRF Patent Portfolio and the Manufacturing Patents; and

(b) Restoragen does not take or omit to take any action that would subject the Assets or the Licensed Technology that is the subject of the Licenses to any lien, security interest or license for the production of GRF.

4.3 Filings and Consents. Restoragen shall use commercially reasonable efforts to ensure that: (a) all filings, notices and Consents required to be made, given and obtained by Restoragen in order to consummate the Transactions are made, given and obtained on a timely basis; and (b) during the Pre-Closing Period, Restoragen and their respective Representatives cooperate with GHRCO and with GHRCO's Representatives, and prepare and make available such documents and materials in its possession or control relating to the Assets and to the Licensed Technology, as GHRCO may request in good faith, in connection with any filing, notice or Consent that GHRCO is required or elects to make, give or obtain.

4.4 Confirmation/Sale Approval. Restoragen shall promptly provide GHRCO with drafts of the proposed confirmation order as referenced in paragraph 5.02 of Restoragen's proposed plan of reorganization filed on March 7, 2003 (filing no. 150) approving the Transactions and Transaction Agreements, and will provide GHRCO with reasonable opportunity to review and provide comment on such draft order.

4.5 Notification. During the Pre-Closing Period, Restoragen shall provide GHRCO with prompt written notice of: (a) any event or circumstance that would constitute a Breach of a representation or warranty made by Restoragen if such representation or warranty had been made as of the time of the occurrence; (b) any Breach of a covenant or obligation of Restoragen hereunder; and (c) any event or circumstance that could reasonably be expected to make the timely satisfaction of any of the conditions set forth in Section 6 or Section 7 impossible or unlikely.

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4.6 Best Efforts. During the Pre-Closing Period, Restoragen shall use its Best Efforts to cause the conditions set forth in Section 6 to be satisfied on a timely basis.

5. PRE-CLOSING COVENANTS OF GHRCO.

During the Pre-Closing Period, GHRCO shall use its Best Efforts to cause the conditions set forth in Section 7 to be satisfied.

6. CONDITIONS PRECEDENT TO GHRCO'S OBLIGATION TO CLOSE.

GHRCO's obligation to purchase the Assets and to take the other actions required to be taken by GHRCO at the Closing and thereafter is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by GHRCO, in whole or in part, in writing):

6.1 Bankruptcy Court Approval. The Bankruptcy Court shall have entered a confirmation order as contemplated by section 5.02 of the proposed plan of reorganization filed by Restoragen with the Bankruptcy Court on March 7, 2003 (filing no. 150), which shall become a final order, which confirmation order shall be reasonably acceptable to GHRCO, approving the sale of the Assets and the grant of the Licenses to GHRCO, in each case, free and clear of any liens, claims or encumbrances, and such order shall be unstayed (the "Confirmation Order").

6.2 Accuracy of Representations. All of the representations and warranties made by Restoragen in this Agreement (considered collectively), and each of such representations and warranties (considered individually), shall have been accurate in all material respects as of the date of this Agreement, and shall be accurate in all material respects as of the Scheduled Closing Time as if made at the Scheduled Closing Time.

6.3 Performance of Obligations.

(a) Each of the documents referred to in Sections 1.6(b)(i) and 1.6(b)(iv) shall have been executed by each of the parties thereto and delivered to GHRCO.

(b) All of the covenants and obligations that Restoragen is required to comply with or to perform at or prior to the Closing (considered collectively), and each of said covenants and obligations (considered individually), shall have been duly complied with and performed in all material respects.

6.4 No Material Adverse Change. There shall have been no material adverse change affecting, or that could reasonably be expected to affect, any of the Assets or the Licensed Technology, or Restoragen's ability to consummate the Transactions, since the date of this Agreement, and no event shall have occurred and no condition or circumstance shall exist that could reasonably be expected to give rise to any such material adverse change.

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6.5 Additional Documents. GHRCO shall have received such documents as GHRCO may reasonably request in good faith for the purpose of (i) evidencing the accuracy of any representation or warranty made by Restoragen, (ii) evidencing the compliance by Restoragen with, or the performance by Restoragen of, any covenant or obligation set forth in this Agreement, (iii) evidencing the satisfaction of any condition set forth in this Section 6 or (iv) otherwise facilitating the consummation or performance of any of the Transactions.

6.6 No Proceedings. Since the date of this Agreement, there shall not have been commenced or threatened against GHRCO, or against any Person affiliated with GHRCO, any Proceeding (a) involving any material challenge to, or seeking material damages or other material relief in connection with, any of the Transactions, or (b) that may have the effect of preventing, delaying, making illegal or otherwise interfering with any of the Transactions.

6.7 No Prohibition. Neither the consummation nor the performance of any the Transactions will, directly or indirectly (with or without notice or lapse of time), contravene or conflict with or result in a violation of, or cause GHRCO or any Person affiliated with GHRCO to suffer any adverse consequence under, any applicable Legal Requirement or Order.

7. CONDITIONS PRECEDENT TO RESTORAGEN' S OBLIGATION TO CLOSE.

Restoragen' s obligation to sell the Assets and to take the other actions required to be taken by Restoragen at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Restoragen, in whole or in part, in writing):

7.1 Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Confirmation Order.

7.2 Accuracy of Representations. All of the representations and warranties made by GHRCO in this Agreement (considered collectively), and each of such representations and warranties (considered individually), shall have been accurate in all material respects as of the date of this Agreement and shall be accurate in all material respects as of the Scheduled Closing Time as if made at the Scheduled Closing Time.

7.3 Purchaser' s Performance.

(a) GHRCO shall have executed the Bill of Sale and delivered it to Restoragen;

(b) GHRCO shall have made the payments contemplated by Section 1.6(b)(iii) and 1.6(b)(vi) hereof;

(c) Each of Thomas R. Coolidge and S. William Jenks shall have signed and delivered to Restoragen the form of Release attached as **Exhibit G**, and such Releases shall remain in force without rescission; and

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(d) All of the other covenants and obligations that GHRCO is required to comply with or to perform pursuant to this Agreement at or prior to the Closing (considered collectively), and each of such covenants and obligations (considered individually), shall have been complied with and performed in all material respects.

8. PRODUCT RELATED PAYMENTS

8.1 Milestones Payments for GRF Products. This Section 8 shall become effective only upon the Closing:

Within thirty (30) days following the first occurrence of each of the events set forth below, GHRCO shall pay to Restoragen the applicable milestone payment set forth below:

Milestone Event	Milestone Payment
Filing of an NDA in the U.S. for a GRF Product for an indication covered by the GRF Patent Portfolio	\$ 500,000

One Year subsequent to the date of Regulatory Approval of a GRF Product in the U.S. for an indication covered by the GRF Patent Portfolio	\$ 1,000,000
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8.2 Royalties.

(a) **GRF Product Royalties.** GHRCO shall pay to Restoragen a royalty of one and one half percent (1.5%) of Net Sales of GRF Products that receive Regulatory Approval for an indication covered by the GRF Patent Portfolio.

For purposes of clarification, no royalties shall be due hereunder with respect to any product that is not a GRF Product. Except as provided in Section 8.2(b) hereof, Royalties under this Section 8.2 shall be payable on a Product-by-Product and country-by-country basis until expiration of the last to expire of then issued patents within the GRF Patent Portfolio containing a Valid Claim covering the use or sale of such GRF Product in any such country (the *"Royalty Term"*).

(b) **Royalty Buy Out.** GHRCO shall have the absolute right (but not the obligation) to buy out and terminate and extinguish the obligation to (i) pay royalties on GRF Products pursuant to Section 8.2(a) above and (ii) comply with the other provisions of this Agreement relative to the payment of GRF Product Royalties by making a payment to Restoragen of \$1,000,000 within four years of the Agreement Date or, during the period from the four-year anniversary until the termination of its obligation to make such royalty payments hereunder, by making a payment to Restoragen of \$3,000,000. (The foregoing right to buy out, terminate and extinguish the obligation to pay royalties hereunder shall be known as the *"Royalty Buy Out"*.) Upon completion by

GHRCO of a Royalty Buy Out pursuant to this Section 8.2(b), and except for its obligations pursuant to Section 8.1 hereof, **GHRCO** shall continue to enjoy full and exclusive rights to exploit the GRF Patent Portfolio to the full extent of the Royalty Term without any further royalty payment to Restoragen or other obligation under this Section 8 or other provisions of this Agreement relative to the GRF Patent Portfolio.

(c) **Third Party Royalties.** If, following the Closing, GHRCO enters into any Contract that would obligate GHRCO to pay any royalty to a Third Party with respect to the manufacture, use or sale of a Product by GHRCO, its Affiliates, licensees and/or sublicensees, GHRCO shall be solely responsible for the payment of such royalties and shall not be entitled to deduct any portion of such royalties from any payments due Restoragen hereunder.

8.3 Calculation and Payment of Royalties. Payments of the royalty pursuant to Section 8.2(a) and reports for the sale of Products shall be calculated and reported for each calendar quarter. All payments due to Restoragen pursuant to Section 8.2(a) hereof shall be paid within seventy-five (75) days of the end of each calendar quarter, unless otherwise specifically provided herein. Each such payment shall be accompanied by a report of Net Sales of Products in sufficient detail to permit confirmation of the accuracy of the payment made, including, without limitation, the number of GRF Products sold, the gross sales and Net Sales of Products, an accounting of all deductions taken in the calculation of Net Sales, a separate accounting for all Combination Products sold and the formulas used in the calculation of the royalty owed thereon, the royalties payable under Section 8.2(a), in U.S. dollars, the method used to calculate such royalties and the exchange rates used.

8.4 Tax Withholding. Restoragen shall pay any and all taxes levied on account of any license fee, royalty or milestone payments received by it under this Agreement. If any taxes are required to be withheld by GHRCO, GHRCO will (a) deduct such taxes from the payment made to Restoragen, (b) timely pay the taxes to the proper taxing authority and (c) send proof of payment to Restoragen and certify its receipt by the taxing authority within thirty (30) days following such payment.

8.5 Exchange Rate; Manner and Place of Payment. All payments hereunder shall be payable in U.S. dollars. With respect to each quarter, for countries other than the United States, whenever conversion of payments from any foreign currency shall be required, such conversion shall be made at the rate of exchange reported in *The Wall Street Journal, Eastern Edition*, on the last business day of the applicable quarter. All payments owed under this Agreement shall be made by wire transfer to a bank and account designated in writing by Restoragen, unless otherwise specified in writing by Restoragen.

8.6 Prohibited Payments. Notwithstanding any other provision of this Agreement, if GHRCO is prevented from paying any such royalty by virtue of the statutes, laws, codes or governmental regulations of the country from which the payment is to be

made, then such royalty may be paid by depositing funds in the currency in which it accrued to Restoragen's account in a bank acceptable to Restoragen in the country whose currency is involved.

8.7 Records; Audits. During the Payment Term and for a period of four (4) years thereafter, GHRCO shall keep complete and accurate records pertaining to the sale or other disposition of GRF Products in sufficient detail to permit Restoragen to confirm the accuracy of payments due hereunder. Restoragen shall have the right to cause an independent, certified public accountant reasonably acceptable to GHRCO to audit such records to confirm Net Sales and royalty payments for a period covering not more than the preceding four (4) years. Restoragen agrees to treat, and to use its best efforts to cause such accountant to treat, all such information as confidential and not to use or disclose any such information for any purpose except to determine compliance with this Agreement. For the avoidance of doubt, GHRCO shall not be obligated to provide Restoragen or such accountant with access to any records or information other than that which is necessary to confirm Net Sales and royalty payments hereunder. Such audits may be exercised during normal business hours upon reasonable prior written notice to GHRCO. Books and records for a given calendar year may only be audited once. Prompt adjustments shall be made by the parties to reflect the results of such audit. Restoragen shall bear the full cost of such audit unless such audit discloses a variance of more than ten percent (10%) from the amount of Net Sales or royalties due under this Agreement, in which case, GHRCO shall bear the full cost of such audit. GHRCO shall either (i) keep for at least four (4) years copies of records of its Affiliates and sublicensees sufficient for auditing purposes under this Section 8.7 or (ii) secure the right for Restoragen to conduct an audit of the records of GHRCO's Affiliates and sublicensees under this Section 8.7 including records pertaining to gross sales of GRF Products and all deductions taken in the calculation of Net Sales. This Section 8.7 shall survive any termination of this Agreement for five (5) years.

9. PATENT RIGHTS.

This Section 9 shall become effective only upon the Closing:

9.1 Patent Prosecution and Maintenance.

(a) **GRF Patent Portfolio.** GHRCO shall have the first right, but not the obligation, to prosecute and maintain all patent applications and patents included in the GRF Patent Portfolio. GHRCO shall provide Restoragen with an opportunity to review and discuss with GHRCO prosecution strategy and to consult with GHRCO on the content of such patent applications and GHRCO shall consider in good faith Restoragen's reasonable suggestions regarding such patent applications. Notwithstanding the foregoing, GHRCO shall have sole and final decision-making authority with respect to the prosecution and maintenance of the GRF Patent Portfolio. GHRCO shall be responsible for all costs, fees and expenses incurred from and after the Closing in connection with the prosecution and maintenance of the patent applications and patents included in the GRF Patent Portfolio. GHRCO agrees to notify Restoragen in writing in a timely manner (and in any event not fewer than thirty (30) days before any office action or other applicable governmental deadline) if it decides not to continue the prosecution or appeals or maintenance of any of the patent applications and patents included in the GRF Patent Portfolio. In the event GHRCO does not continue the prosecution or maintenance of any patent application or patent included in the GRF Patent Portfolio, GHRCO shall,

at Restoragen's written request given within thirty (30) days after the applicable notice from GHRCO, assign such patent application or patent to Restoragen.

(b) **Manufacturing Patents and Residual Patents.** Restoragen shall have the first right, but not the obligation, to file, prosecute and maintain all patent applications and patents included in the Manufacturing Patents and the Residual Patents. Restoragen shall provide GHRCO with copies of all material correspondence with the U.S. Patent and Trademark Office, or similar foreign agency, and Restoragen shall consider in good faith GHRCO's reasonable suggestions regarding such patent filings. For the Manufacturing License Term, GHRCO shall be responsible for payment (in the form of reimbursements to Restoragen) for 25% of all costs, fees and expenses (such costs, fees and expenses being referred to hereinafter as the "**Manufacturing Patents Support Costs**") incurred from and after the Closing in connection with the filing, prosecution and maintenance of the patent applications and patents included in the Manufacturing Patents. For the Residual License Term, GHRCO shall be responsible for payment (in the form of reimbursements to Restoragen) for 50% of all costs, fees and expenses (such costs, fees and expenses being referred to hereinafter as the "**Residual Patents Support Costs**") incurred from and after the Closing in connection with the filing, prosecution and maintenance of the patent applications and patents included in the Residual Patents. If Restoragen determines that it does not desire to support the continued prosecution, appeals and maintenance of any of the patent applications and patents included

in the Manufacturing Patents or the Residual Patents, GHRCO shall have the right to take over control of the prosecution, appeals and/or maintenance of such applications and patents, along with the ownership of the same, subject to any then existing license rights of Third Parties, if Restoragen's other current licensees (namely NPS Pharmaceuticals, Inc., BresaGen Ltd., Amylin Pharmaceuticals, Inc. and ADVISYS) decline to do so in accordance with the terms of this Agreement. Restoragen agrees to notify GHRCO in writing in a timely manner to allow GHRCO the opportunity to review and respond to any such opportunity. Upon delivery of such notice, GHRCO shall have the right, within thirty days of receiving such notice, to either (i) take over control of the prosecution, appeals and/or maintenance of such applications and patents along with the ownership of the same, subject to any then existing license rights of Third Parties, as well as the obligation to pay ongoing costs of such prosecution, appeals and/or maintenance or (ii) agree that the License to such application or patent, granted pursuant to Section 1.2 hereof, shall thereupon lapse and terminate. In either event, after receiving such notice, GHRCO shall have no further obligation to Restoragen to pay its portion of the Manufacturing Patents Support Costs or Residual Patents Support Costs, as applicable, incurred thereafter for such application or patent, and Restoragen shall, as soon as practicable thereafter, assign, convey and transfer such ownership to GHRCO with appropriate documentation. Such assignment shall not terminate the obligation of GHRCO to pay royalties in respect of the GRF Patent Portfolio under this Agreement.

9.2 Patent Enforcement. Each party shall promptly notify the other in writing of any alleged or threatened infringement of any of the patents in the GRF Patent Portfolio or any patent included in the Manufacturing Patents or Residual Patents of which such party becomes aware.

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(a) GRF Patent Portfolio. With respect to any infringement of any patent included in the GRF Patent Portfolio, GHRCO shall have the first right, but not the obligation, to bring and control any action or proceeding with respect to such infringement at its own expense and by counsel of its own choice, and Restoragen shall have the right, at its own expense, to be represented in any such action by counsel of its own choice. If GHRCO fails to bring an action or proceeding within (A) sixty (60) days following the notice of alleged infringement or (B) ten (10) days before the time limit, if any, set forth in the applicable laws and regulations for the filing of such actions, whichever comes first, Restoragen shall have the right to bring and control any action or proceeding with respect to such infringement at its own expense and by counsel of its own choice, and GHRCO shall have the right, at its own expense, to be represented in any such action by counsel of its own choice.

(b) Manufacturing Patents and Residual Patents. With respect to any infringement of any patent included in the Manufacturing Patents or Residual Patents, Restoragen shall have the first right, but not the obligation, to bring and control any action or proceeding with respect to such infringement at its own expense and by counsel of its own choice, and GHRCO shall have the right, at its own expense, to be represented in any such action by counsel of its own choice. If Restoragen fails to bring an action or proceeding within (A) sixty (60) days following the notice of alleged infringement or (B) ten (10) days before the time limit, if any, set forth in the applicable laws and regulations for the filing of such actions, whichever comes first, GHRCO shall have the right to bring and control any action or proceeding with respect to such infringement at its own expense and by counsel of its own choice, and Restoragen shall have the right, at its own expense, to be represented in any such action by counsel of its own choice.

(c) Generally. In the event a party brings an infringement action in accordance with this Section 9.2, the other party shall cooperate fully, including if required to bring such action, the furnishing of a power of attorney. Neither party shall have the right to settle any patent infringement litigation under this Section 9.2 in a manner that diminishes the rights or interests of the other party without the consent of such other party (which shall not be unreasonably withheld). Except as otherwise agreed to by the parties as part of a cost-sharing arrangement, any recovery realized as a result of such litigation, after reimbursement of any litigation expenses of GHRCO and Restoragen, shall be retained by the party that brought and controlled such litigation for purposes of this Agreement, except that any recovery realized by GHRCO as a result of such litigation, after reimbursement of the parties' litigation expenses, shall, to the extent attributable to lost sales of GRF Products, be treated as Net Sales of Products by GHRCO.

9.3 Third Party Infringement Claims. Each party shall promptly notify the other in writing of any allegation by a Third Party that the activity of either of the parties pursuant to this Agreement infringes or may infringe the Intellectual Property Rights of such Third Party. A party shall have the sole right to control any defense of any such claim involving

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alleged infringement of Third Party rights by such party' s activities at its own expense and by counsel of its own choice. Neither party shall have the right to settle any patent infringement litigation under this Section 9.3 in a manner that diminishes the rights or interests of the other party without the consent of such other party (which shall not be unreasonably withheld).

9.4 Payment of Manufacturing Patents Support Costs and Residual Patent Support Costs. GHRCO must pay Restoragen for its portion of Manufacturing Patents Support Costs and Residual Patent Support Costs described in Section 9.1(b) within 30 days of the date of the invoice issued by Restoragen. If payment is not received within 45 days of written notice of an overdue invoice, Restoragen may terminate the Licenses on written notice of GHRCO.

10. CONFIDENTIALITY

10.1 Confidentiality. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing by the parties, the parties agree that, for so long as this Agreement is in effect, and for a period of five (5) years thereafter, each party (the "Receiving Party") will maintain in confidence all Confidential Information disclosed by the other before or after the date of this Agreement (the "Disclosing Party"). The Receiving Party may use the Confidential Information of the Disclosing Party only to the extent required to accomplish the purposes of this Agreement. The Receiving Party shall use at least the same standard of care as it uses to protect proprietary or confidential information of its own to ensure that its employees, agents, consultants and other Representatives do not disclose or make any unauthorized use of the Disclosing Party' s Confidential Information. Each party will promptly notify the other upon discovery of any unauthorized use or disclosure of the other party' s Confidential Information.

10.2 Exceptions. The obligations of confidentiality contained in Section 10.1 will not apply to the extent that it can be established by the Receiving Party by competent proof that such Confidential Information: (a) was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the Disclosing Party; (b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party; (c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party in breach of this Agreement; or (d) was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a Third Party who had no obligation to the Disclosing Party not to disclose such information to others.

10.3 Authorized Disclosure. Each party may disclose the Confidential Information to the extent such disclosure is reasonably necessary in the following instances: (a) filing, prosecuting or maintaining the GRF Patent Portfolio or the Manufacturing Patents in accordance with this Agreement; (b) in the case of GHRCO, practicing the inventions claimed in the GRF Patent Portfolio, practicing the Licenses granted hereunder or preparing and submitting regulatory filings with respect to GRF Products; (c) prosecuting or defending litigation or complying with applicable court orders or governmental regulations; or (d) disclosure to Affiliates, sublicensees, employees, consultants, agents or other Third Parties in connection with due diligence or similar investigations by such Third Parties and disclosure to potential Third

Party investors, provided, in each case, that any such Affiliate, sublicensee, employee, consultant, agent or Third Party agrees to be bound by similar terms of confidentiality and non-use at least equivalent in scope to those set forth in this Section 10.

Notwithstanding the foregoing, in the event a party is required to make a disclosure of the other party' s Confidential Information pursuant to Section 10.3(c), it will, except where impracticable, give reasonable advance notice to the other party of such disclosure and use efforts to secure confidential treatment of such information at least as diligent as such party would use to protect its own confidential information, but in no event less than reasonable efforts.

11. TERMINATION PRIOR TO CLOSING.

11.1 Termination Events. This Agreement may be terminated prior to the Closing:

(a) by GHRCO if (i) there is a material Breach of any covenant or obligation of Restoragen and such Breach shall not have been cured prior to the Closing after the delivery of notice thereof to Restoragen, or (ii) GHRCO reasonably determines that the timely satisfaction of any condition set forth in Section 6 has become impossible or impractical (other than as a result of any failure on the part of GHRCO to comply with or perform its covenants and obligations set forth in this Agreement);

(b) by Restoragen if (i) there is a material Breach of any covenant or obligation of GHRCO and such Breach shall not have been cured prior to the Closing after the delivery of notice thereof to GHRCO, or (ii) Restoragen reasonably determines that the timely satisfaction of any condition set forth in Section 7 has become impossible or impractical (other than as a result of any failure on the part of Restoragen to comply with or perform any covenant or obligation set forth in this Agreement);

(c) by GHRCO at or after the Scheduled Closing Time if any condition set forth in Section 6 has not been satisfied by the Scheduled Closing Time;

(d) by Restoragen at or after the Scheduled Closing Time if any condition set forth in Section 7 has not been satisfied by the Scheduled Closing Time;

(e) by GHRCO if the Closing has not taken place on or before May 31, 2003 (other than as a result of any failure on the part of GHRCO to comply with or perform its covenants and obligations under this Agreement);

(f) by Restoragen if the Closing has not taken place on or before May 31, 2003 (other than as a result of any failure on the part of Restoragen to comply with or perform any covenant or obligation set forth in this Agreement);

(g) by the mutual written consent of GHRCO and Restoragen; or

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(h) by GHRCO upon written notice to Restoragen if Restoragen's Drug Master File for GRF has not been made available for review to the satisfaction of GHRCO, or if the vessels containing the master cell banks for the production of GRF have not been identified and made available for transfer at the Closing to the satisfaction of GHRCO.

11.2 Termination Procedures. If GHRCO wishes to terminate this Agreement pursuant to Sections 11.1(a), 11.1(c), 11.1(e) or 11.1(g), GHRCO shall deliver to Restoragen a written notice stating that GHRCO is terminating this Agreement and setting forth a brief description of the basis on which GHRCO is terminating this Agreement. If Restoragen wishes to terminate this Agreement pursuant to Sections 11.1(b), 11.1(d) or 11.1(f), Restoragen shall deliver to GHRCO a written notice stating that Restoragen is terminating this Agreement and setting forth a brief description of the basis on which Restoragen is terminating this Agreement.

11.3 Effect Of Termination. If this Agreement is terminated pursuant to Section 11.1, all further obligations of the parties under this Agreement shall terminate; *provided, however*, that, except as otherwise provided herein: (a) no party shall be relieved of any obligation or other Liability arising from any Breach by such party of any provision of this Agreement; and (b) the parties shall, in all events, remain bound by and continue to be subject to the provisions set forth in Sections 10 and 16.

11.4 Nonexclusivity of Termination Rights. The termination rights provided in Section 11.1 shall not be deemed to be exclusive. Accordingly, the exercise by any party of its right to terminate this Agreement pursuant to Section 11.1 shall not be deemed to be an election of remedies and shall not be deemed to prejudice, or to constitute or operate as a waiver of, any other right or remedy that such party may be entitled to exercise (whether under this Agreement, under any other Contract, under any statute, rule or other Legal Requirement, at common law, in equity or otherwise).

12. LICENSE TERMS.

12.1 The term of the Manufacturing License will commence as of the Closing and will terminate upon the expiration of the last to expire of the then issued patents included in the Manufacturing Patents, containing a Valid Claim covering the use or sale of a GRF Product in any country (the "**Manufacturing License Term**"). The term of the Residual License will commence as of the Closing and will terminate upon the expiration of the last to expire of the then issued patents included in the Residual Patents (the "**Residual License Term**"). GHRCO may terminate the Residual License on written notice to Restoragen, but not fewer than 30 days before an office action or applicable governmental deadline for a Residual Patent. In the event of such termination, the Residual License will terminate and the obligation to pay Residual Patents Support Costs incurred thereafter will terminate.

12.2 Termination for Cause. Either party shall have the right to terminate the Licenses upon sixty (60) days' written notice to the other upon or after the Breach of any material provision of this Agreement by the other party if the breaching party has not cured such

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Breach within the sixty (60) day period following written notice of termination by the non-breaching party.

12.3 Effect of Termination; Surviving Obligations.

(a) Upon termination of the Licenses pursuant to Section 12.2 by GHRCO: (i) the Licenses granted by Restoragen to GHRCO in Section 1.2 shall terminate and revert to Restoragen; and (ii) all other rights and obligations of the parties under this Agreement shall terminate, except as set forth in this Section 12.3.

(b) Upon termination of the Licenses pursuant to Section 12.2 by Restoragen: (i) the Licenses granted by Restoragen to GHRCO in Section 1.2 shall terminate and revert to Restoragen; (ii) any existing sublicenses under such Licenses granted by GHRCO shall remain in effect in accordance with their terms, with Restoragen assuming GHRCO's position as sublicensor under such agreements, but only if each sublicensee agrees to remain liable for full compliance with this Agreement; and (iii) all other rights and obligations of the parties under this Agreement shall terminate, except as set forth in this Section 12.3.

(c) Expiration or termination of this Agreement shall not relieve the parties of any obligation accruing prior to such expiration or termination. Except as expressly set forth elsewhere in this Agreement, the obligations and the rights of the parties under Sections 8.7, 10, 12, 13, 14 and 16 shall survive expiration or termination of this Agreement.

13. REMEDIES AND BANKRUPTCY.

13.1 Remedies. In the event of any breach of any provision of this Agreement, each party shall have all rights and remedies that may be available to it at law or equity with respect to this Agreement. Notwithstanding the foregoing, the use by either Party hereto of a termination right as provided for under Section 11 of this Agreement shall not give rise to the payment of damages or any other form of compensation or relief to the other Party with respect thereto.

13.2 Rights in Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by Restoragen are, and will otherwise be deemed to be, for purposes of Section 365(n) of the US. Bankruptcy Code, licenses of right to "intellectual property", as defined under Section 101 of the U.S. Bankruptcy Code.

14. NO SURVIVAL OF REPRESENTATIONS, WARRANTIES AND PRE-CLOSING COVENANTS.

The representations and warranties contained in this Agreement or in any instrument delivered in connection herewith, and the covenants set forth in Sections 4 and 5, shall not survive the Closing. The representations and warranties contained in this Agreement or in the Closing Certificate (but, for the avoidance of doubt not the Bill of Sale), and the covenants and

obligations set forth in Sections 4 and 5, shall serve only as conditions to the Closing and shall not survive the Closing, and no claim based thereon may be asserted other than as a justification for refusal to proceed with the Closing; *provided, however*, that, subject to receipt of the Confirmation Order and except to the extent prohibited by the Bankruptcy Court or the U.S. Bankruptcy Code, a party may seek to enforce the covenants and obligations set forth in Sections 4 and 5 in accordance with the second sentence of Section 16.11 prior to the Closing. Sections 1.2, 1.3, 1.4, 1.5, 1.6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall survive the Closing and remain in full force and effect in accordance with their respective terms.

15. CERTAIN POST-CLOSING COVENANTS.

15.1 Development and Commercialization of GRF Products. From and after the Closing Date, GHRCO shall use its commercially reasonable efforts to develop and commercialize one or more GRF Products. However, the sole remedy for substantial failure on the part of GHRCO to comply with its obligation under this Section 15.1 shall be the granting back of all rights to the GRF Patent Portfolio to Restoragen.

15.2 Further Actions. From and after the Closing Date, Restoragen shall cooperate with GHRCO and GHRCO's affiliates and Representatives, and shall execute and deliver such documents and take such other actions as GHRCO may reasonably request,

for the purpose of evidencing the Transactions and putting GHRCO in possession and control of all of the Assets. In addition, from and after the Closing Date, the parties shall cooperate as reasonably necessary to facilitate the transfer to GHRCO or its Representatives of all tangible items included in the Assets.

15.3 Publicity. Except as may be legally required, each party shall ensure that, on and at all times after the Closing Date, no press release or other publicity concerning the signing or closing of the Transactions or naming the other party or the source of the technology (other than a reproduction or summary of the contents of the Confirmation Order and Plan of Reorganization) is issued or otherwise disseminated by or on behalf of such party without the other party's prior written consent, with such consent not to be unreasonably withheld by such party.

15.4 GLP-1 License Rights. If, after the Closing, Restoragen grants a non-exclusive license to its manufacturing technology to a party other than Amylin Pharmaceuticals, Inc. covering the recombinant manufacturing of GLP-1 and its analogs and mimics, Restoragen agrees that it will provide GHRCO the option to obtain a non-exclusive license on no less favorable terms granted the other party.

16. MISCELLANEOUS PROVISIONS.

16.1 Further Assurances. Each party hereto shall execute and/or cause to be delivered to each other party hereto such instruments and other documents, and shall take such other actions, as such other party may reasonably request (prior to, at or after the Closing) for the purpose of carrying out or evidencing any of the Transactions.

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16.2 Fees and Expenses. With the exception of legal fees and recording fees directly related to the preparation of documents required for the assignment and transfer to GHRCO of patents and patent applications which form part of the Assets, which shall be borne by GHRCO, each of Restoragen and GHRCO shall bear and pay all of its own fees, costs and expenses that have been incurred or that are in the future incurred by such Party.

16.3 Notices. Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by courier or express delivery service or by facsimile) to the address or facsimile telephone number set forth beneath the name of such party below (or to such other address or facsimile telephone number as such party shall have specified in a written notice given to the other parties hereto):

If to GHRCO, notices must be addressed to:

GHRCO, Inc.
173 Beebe Hill Road
Falls Village, CT 06031
Telephone: (860) 824-5770
Facsimile: (860) 824-7825

If to Restoragen, notices must be addressed to:

Restoragen, Inc.
5701 South 34th Street, Suite 203
Lincoln, NE 68516
Attention: Chief Executive Officer
Telephone: 402-434-0780
Facsimile: 402-470-2345

with a copy to:

Lindquist & Vennum, PLLP
4200 IDS Center
80 South Eighth Street

Minneapolis, MN 55402
Attention: Barbara Lano Rummel
Telephone: 612-371-3940
Facsimile: 612-371-3207

16.4 Time of the Essence. Time is of the essence of this Agreement.

16.5 Headings. The headings in bold contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

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16.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

16.7 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, excluding its conflicts of laws principles.

16.8 Limitation of Liability. NEITHER PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT OR ANY LICENSE GRANTED HEREUNDER.

16.9 Successors and Assigns; Parties in Interest.

(a) This Agreement shall be binding upon: Restoragen and its successors and assigns (if any); and Coolidge & Company, Inc., until such time as it is assigned to GHRCO; and thereafter, GHRCO; and their respective successors and assigns (if any). This Agreement shall inure to the benefit of: Restoragen; Coolidge & Company, Inc. until such time as it is assigned to GHRCO; and thereafter, GHRCO; and the respective successors and assigns (if any) of the foregoing.

(b) Coolidge & Company, Inc. and GHRCO may freely assign any or all of its rights under this Agreement, in whole or in part, to any other Person without obtaining the consent or approval of Restoragen, provided that such assignee expressly assumes and agrees to perform this Agreement to the same extent that GHRCO would be required to perform. Restoragen may freely assign any or all of its rights under this Agreement, in whole or in part, to any other Person without obtaining the consent or approval of GHRCO, provided that such assignee expressly assumes and agrees to perform this Agreement to the same extent that Restoragen would be required to perform.

(c) None of the provisions of this Agreement is intended to provide any rights or remedies to any Person other than the parties to this Agreement and their respective successors and assigns (if any). Without limiting the generality of the foregoing, (i) no employee of Restoragen shall have any rights under this Agreement or under any of the other Transactional Agreements, and (ii) no creditor of Restoragen shall have any rights under this Agreement or any of the other Transactional Agreements.

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16.10 Waiver.

(a) No failure on the part of any Person to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Person in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(b) No Person shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Person; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

16.11 Remedies Cumulative; Specific Performance. The rights and remedies of the parties hereto shall be cumulative (and not alternative). Each party agrees that, except to the extent prohibited by the Bankruptcy Court or the U.S. Bankruptcy Code: (a) in the event of any Breach or threatened Breach by such party of any covenant, obligation or other provision set forth in this Agreement, the other party shall be entitled (in addition to any other remedy that may be available to it) to (i) a decree or order of specific performance or mandamus to enforce the observance and performance of such covenant, obligation or other provision and (ii) an injunction restraining such Breach or threatened Breach; and (b) the non-breaching party shall not be required to provide any bond or other security in connection with any such decree, order or injunction or in connection with any related action or Proceeding.

16.12 Amendments. This Agreement may not be amended, modified, altered or supplemented other than by means of a written instrument duly executed and delivered on behalf of GHRCO and Restoragen.

16.13 Severability. In the event that any provision of this Agreement, or the application of any such provision to any Person or set of circumstances, shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to Persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

16.14 Entire Agreement. The Transactional Agreements set forth the entire understanding of the parties relating to the subject matter thereof and supersede all prior agreements and understandings among or between any of the parties relating to the subject matter thereof.

16.15 Knowledge. For purposes of this Agreement, “knowledge” of Restoragen of a particular fact or other matter means actual knowledge of such fact or other matter by the current Chief Executive Officer and/or Chief Financial Officer of Restoragen.

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16.16 Construction.

(a) For purposes of this Agreement, whenever the context requires: the singular number shall include the plural, and vice versa; the masculine gender shall include the feminine and neuter genders; the feminine gender shall include the masculine and neuter genders; and the neuter gender shall include the masculine and feminine genders.

(b) The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words, “without limitation.”

(d) Except as otherwise indicated, all references in this Agreement to “Sections” and “Exhibits” are intended to refer to Sections of this Agreement and Exhibits to this Agreement.

(e) References in this Agreement to documents and data within Restoragen’s possession or control includes electronic forms of the same.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, including the Exhibits attached hereto and incorporated herein by reference.

RESTORAGEN, INC.

By: /s/ Ashleigh W. Palmer

Name: Ashleigh W. Palmer
Title: Chief Executive Officer

COOLIDGE & COMPANY, INC.

By: /s/ Thomas R. Coolidge

Name: Thomas R. Coolidge
Title: Chief Executive Officer

EXHIBIT A

CERTAIN DEFINITIONS

For purposes of the Agreement (including this Exhibit A):

“**Affiliate**” shall mean an individual, trust, business trust, joint venture, partnership, corporation, association or any other entity which (directly or indirectly) is controlled by, controls or is under common control with a party to this Agreement. For the purposes of this definition, the term “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) as used with respect to a party, shall mean the possession (directly or indirectly) of at least fifty percent (50%) of the outstanding voting securities of a corporation or comparable equity interest in any other type of entity, or, where the laws of the jurisdiction in which such entity operates prohibit ownership by a party of fifty percent (50%), such ownership shall be at the maximum level of ownership allowed by such jurisdiction.

“**Agreement**” shall mean the Asset Purchase and License Agreement to which this *Exhibit A* is attached (including exhibits and attachments thereto), as it may be amended from time to time.

“**Bankruptcy Court**” shall mean the United States Bankruptcy Court for the District of Nebraska.

“**Best Efforts**” shall mean the efforts that a prudent Person desiring to achieve a particular result would use in order to ensure that such result is achieved as expeditiously as possible.

“**Bill of Sale**” shall have the meaning provided in Section 1.6(b)(i).

There shall be deemed to be a “**Breach**” of a representation, warranty, covenant or obligation if there is or has been any inaccuracy in or breach (including any inadvertent or innocent breach) of, or any failure (including any inadvertent failure) to comply with or perform, such representation, warranty, covenant, obligation or other provision.

“**Confidential Information**” shall mean any confidential or proprietary information, and any other information relating to any research project, work in process, future development, scientific, engineering, manufacturing, marketing, business plan, financial or personnel matter relating to either party, its present or future products, sales, suppliers, customers, employees, investors or business, whether in oral, written, graphic or electronic form. Prior to the Closing, the Assets and Licensed Technology shall be deemed the Confidential Information of Restoragen. From and after the Closing, the Assets shall be deemed the Confidential Information of GHRCO, but the Licensed Technology shall remain the Confidential Information of Restoragen.

“**Confirmation Order**” shall have the meaning provided in Section 6.1.

“**Consent**” shall mean any approval, consent, ratification, permission waiver or authorization (including any Governmental Authorization).

“**Contract**” shall mean any written, oral, implied or other agreement, contract, understanding, arrangement, instrument, note, guaranty, indemnity, representation, warranty, deed, assignment, power of attorney, certificate, purchase order, work order, insurance policy, benefit plan, commitment, covenant, assurance or undertaking of any nature.

“**covered by**” shall mean, with respect to the GRF Patent Portfolio or the Manufacturing Patents, that which would infringe a Valid Claim or a claim in a pending patent application in the GRF Patent Portfolio or the Manufacturing Patents.

As used herein, all references to “**documents**”, “**information**”, “**protocols**”, “**files**” and other records shall encompass all items that are created, transmitted or stored in electronic form.

“**Entity**” shall mean any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, cooperative, foundation, society, political party, union, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

“**FDA**” shall mean the United States Food and Drug Administration, or any successor agency thereto having the administrative authority to regulate the marketing of human pharmaceutical products or biological therapeutic products, delivery systems and devices in the United States of America.

“**Governmental Authorization**” shall mean any: (a) permit, license, certificate, franchise, concession, approval, consent, ratification, permission, clearance, confirmation, endorsement, waiver, certification, designation, rating, registration, qualification or authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement (including, without limitation, any Regulatory Approval); or (b) right under any Contract with any Governmental Body.

“**Governmental Body**” shall mean any: (a) nation, principality, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or Entity and any court or other tribunal); (d) multi-national organization or body; or (e) individual, Entity or body exercising, or entitled to exercise, any executive, legislative, judicial, administrative, regulatory, police, military or taxing authority or power of any nature (including, without limitation, any Regulatory Authority).

“**GRF**” shall mean growth hormone releasing factor (1-44) amide, also known as growth hormone releasing hormone. References to “rGRF” shall mean GRF made by recombinant means.

“**GRF Patent Portfolio**” shall mean (a) the patents and patent applications listed on *Exhibit E* attached hereto, (b) any and all corresponding U.S. or foreign patents and patent applications, whether now existing or hereafter filed, (C) any provisionals, substitutions, divisionals, reissues, renewals, continuations, continuations-in-part, substitute applications and inventors’ certificates arising from, or based upon, any of the foregoing patents or patent applications, (d) any patents issuing from any of the foregoing patent applications and (e) any unfiled patent applications and written inventions owned or held by Restoragen that pertain to the use, sale or import of GRF and/or GRF Products as of the Closing Date and any of the rights referred to in clauses (a) through (d) above arising or resulting therefrom.

“**GRF Product**” shall mean a pharmaceutical or therapeutic product, an active ingredient of which is GRF, or an active analog, antagonist or chemical mimic or an activator of a GRF receptor, and which is in a continuous infusion, extended release or other formulation, the manufacture, use, sale, offer for sale or import of which is covered by the GRF Patent Portfolio or the Manufacturing Patents and related Know-How.

“**Intellectual Property**” shall mean data, formulae, inventions (whether or not patentable), Know-how, methods, processes, proprietary information, protocols, specifications, techniques, and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing, such as laboratory notebooks, samples, studies and summaries).

“**Intellectual Property Rights**” shall mean all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (A) trade secret rights; (B) patent and industrial property rights; (C) other proprietary rights in Intellectual Property and (D) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses “(A)” through “(C)” above.

“**Know-how**” shall mean all know-how, trade secrets, data, processes, techniques, procedures, compositions, devices, methods, formulas, protocols and information, whether or not patentable, which (a) are owned by Restoragen as of the Closing Date, (b) are necessary or useful for, or contribute in whole or in part to, the practice of the Manufacturing Patents or the Residual Patents and (c) are not generally publicly known, but excluding the Assets.

“**Knowledge of Restoragen**” shall have the meaning provided in Section 16.15.

“**Legal Requirement**” shall mean any federal, state, local, municipal, foreign or other law, statute, legislation, constitution, principle of common law, resolution, ordinance, code, edict, decree, proclamation, treaty, convention, rule, regulation, ruling, directive, pronouncement, requirement, specification, determination, decision, opinion or interpretation issued, enacted, adopted, passed, approved, promulgated, made, implemented or otherwise put into effect by or under the authority of any Governmental Body.

“**Liability**” shall mean any debt, obligation, duty or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional,

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implied, vicarious, derivative, joint, several or secondary liability), regardless of whether such debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with generally accepted accounting principles and regardless of whether such debt, obligation, duty or liability is immediately due and payable.

“**Licenses**” shall mean the Manufacturing License and the Residual License described in Section 1.2.

“**Licensed Technology**” shall mean the Manufacturing Patents, the Residual Patents and the Know-how.

“**Manufacturing License Term**” shall have the meaning provided in Section 12.

“**Manufacturing Patents**” shall mean (a) the patents and patent applications listed on *Exhibit D* attached hereto, (b) any and all corresponding U.S. or foreign patents and patent applications, whether now existing or hereafter filed, (c) any provisionals, substitutions, divisionals, reissues, renewals, continuations, continuations in-part, substitute applications and inventors’ certificates arising from, or based upon, any of the foregoing patents or patent applications and (d) any patents issuing from any of the foregoing patent applications.

“**NDA**” shall mean a New Drug Application (as more fully defined in 21 C.F.R. Part 314.5 *et seq.*) filed with the FDA, or the equivalent application filed with any equivalent agency or governmental authority outside the United States of America (including any supra-national agency such as in the European Union).

“**Net Sales**” shall mean the gross amount actually received by GHRCO, its Affiliates and sublicensees from Third Parties that are not Affiliates or sublicensees of the selling party (unless such Affiliate or sublicensee is the end user of such product, in which case the amount billed therefor shall be deemed to be an amount that would be billed to a Third Party in an arm’s-length transaction) from sales of GRF Products, less the following items, as allocable to such GRF Product (if not previously deducted from the amount invoiced): (i) trade discounts, credits or allowances, (ii) credits or allowances additionally granted upon returns, rejections or recalls, (iii) freight, shipping and insurance charges, (iv) taxes, duties or other governmental tariffs (other than income taxes) and (v) government mandated rebates. If a GRF Product is sold or provided as part of a system, package, or combination product or service that contains one or more other active ingredients or other parts that could be sold separately (each, a “**Combination Product**” and collectively, “**Combination Products**”), Net Sales shall be calculated by multiplying Net Sales received by GHRCO, its Affiliate or sublicensee from the sale of Combination Products by the ratio of the fair market value of the GRF Product when supplied or priced separately to the fair market value or values of the other Combination Product or Combination Products when supplied or priced separately. In the event that no market price is available for the Combination Product when supplied or priced separately, fair market value shall be determined in good faith by GHRCO and Restoragen.

“**Order**” shall mean any: (a) order, judgment, injunction, edict, decree, ruling, pronouncement, determination, decision, opinion, verdict, sentence, subpoena, writ or award

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issued, made, entered, rendered or otherwise put into effect by or under the authority of any court, administrative agency or other Governmental Body or any arbitrator or arbitration panel; or (b) Contract with any Governmental Body entered into in connection with any Proceeding.

“**Person**” shall mean any individual, Entity or Governmental Body.

“**Pre-Closing Period**” shall mean the period from the date of the Agreement through the Closing Date.

“**Proceeding**” shall mean any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding and any informal proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or any arbitrator or arbitration panel.

“**Regulatory Approval**” shall mean any and all approvals (including price and reimbursement approvals), licenses, registrations, or authorizations of the European Union or of any country, federal, state or local regulatory agency, department, bureau or other government entity that is necessary for the manufacture, use, storage, import, transport and/or sale of a Product in such jurisdiction.

“**Regulatory Authority**” means, in a particular country or jurisdiction, any applicable government regulatory authority involved in granting Regulatory Approval and/or, to the extent required in such country or jurisdiction, pricing or reimbursement approval of a Product in such country or jurisdiction, including without limitation, the FDA and any foreign equivalent thereof.

“**Representatives**” shall mean officers, directors, employees, agents, attorneys, accountants, advisors and representatives.

“**Residual License Term**” shall have the meaning provided in Section 12.

“**Residual Patents**” shall mean (a) the patents and patent applications listed on *Exhibit F* attached hereto, (b) any and all corresponding U.S. or foreign patents and patent applications, whether now existing or hereafter filed, (c) any provisionals, substitutions, divisionals, reissues, renewals, continuations, continuations in-part, substitute applications and inventors’ certificates arising from, or based upon, any of the foregoing patents or patent applications and (d) any patents issuing from any of the foregoing patent applications.

“**Royalty Buy Out**” shall have the meaning provided in Section 8.2(b).

“**Royalty Term**” shall have the meaning provided in Section 8.2.

“**Tax**” shall mean any tax (including any income tax, franchise tax, capital gains tax, estimated tax, gross receipts tax, value-added tax, surtax, excise tax, ad valorem tax, transfer tax, stamp tax, sales tax, use tax, property tax, business tax, occupation tax, inventory tax, occupancy tax, withholding tax or payroll tax), levy, assessment, tariff, impost, imposition, toll, duty

(including any customs duty), deficiency or fee, and any related charge or amount (including any fine, penalty or interest), that is, has been or may in the future be (a) imposed, assessed or collected by or under the authority of any Governmental Body, or (b) payable pursuant to any tax-sharing agreement or similar Contract.

“**Third Party**” shall mean any entity other than Restoragen or GHRCO or an Affiliate of Restoragen or GHRCO.

“**Transactional Agreements**” shall mean: (a) the Agreement; (b) the Closing Certificate; and (c) the Bill of Sale.

“**Transactions**” shall mean (a) the execution and delivery of the respective Transactional Agreements and (b) all of the transactions contemplated by the respective Transactional Agreements, including: (i) the sale of the Assets by Restoragen to GHRCO in accordance with the Agreement; (ii) the grant of the Licenses; and (iii) the performance by Restoragen and GHRCO of their respective obligations under the Transactional Agreements, and the exercise by Restoragen and GHRCO of their respective rights under the Transactional Agreements.

“Valid Claim” shall mean a claim of an issued patent, which claim has not lapsed, been canceled or become abandoned and has not been declared invalid or unenforceable by an unreversed and unappealable decision or judgment of a court or other appropriate body of competent jurisdiction.

EXHIBIT B

ASSETS

I. The GRF Patent Portfolio; *provided, however*, that, notwithstanding anything to the contrary in the Transactional Agreements, no representations, warranties or covenants of Restoragen shall apply to the items described in clause (e) of the definition of the GRF Patent Portfolio.

II. To the extent in the possession or control of Restoragen as of the date of this Agreement:

1. All process development, clinical and other production and quality and regulatory information and records and files in documentary and electronic form relative to recombinantly produced GRF (referred to as “rGRF”), including but not limited to: drug master files filed with the FDA and otherwise prepared including drafts of such files, technical reports including draft reports, protocols and records for quality assurance and control of rGRF products, SOPs, SAMS, laboratory and research notebooks, process validation files, stability studies and reports, formulation research, studies and reports including extended release plans and programs carried out with outside contractors, technical information and engineering plans and reports, equipment lists and specifications, error reports and all internal and external correspondence; but excluding: laboratory research notebooks to the extent not related to rGRF and non-rGRF information/documentation stored with those documents;

2. Any and all bulk drug inventory and clinical study inventory (including in each case, without limitation, work-in-process and in-transit inventory) of GRF Products and related materials, including, without limitation:

A. active pharmaceutical ingredients, excipients and other ingredients, including bulk substance and samples;

B. stability samples supporting clinical trial and potential future trials and any and all analytical standards inventory;

C. sufficient vials from Restoragen’s GRF cell banks for GHRCO or its Representatives or Consultants to establish functional cell banks at GHRCOs selected laboratories for the following:

(i) to establish microorganisms to start production of rGRF;

(ii) to produce monoclonal antibodies for serum quantification of rGRF and cultures to run rGRF bioassays;

(iii) to supply rGRF and related materials to preserve the culture of monoclonal antibodies and bacteria; and

(iv) to furnish materials and protocols to conduct pituitary cell bioactivity assays of GRF, using methods which are included under a patent in the GRF Patent Portfolio.

D. sufficient E coli cultures for GHRCO or its Representatives or Consultants to establish functional cultures to start the recombinant production processes for GRF pursuant to the Manufacturing Patents and related Know-How.

3. All data, reports and other documentation on GRF pre-clinical studies and other information, including, to the extent the same exist:

Safety pharmacology studies,
Standard toxicology studies,
Reproductive toxicology studies, and

4. All GRF clinical study files and related data, reports, correspondence and other documents with respect to:

Individual investigation IND/sponsor studies, and
Studies planned but not initiated.

5. All documentation, memos, correspondence and files in the possession or control of Restoragen regarding the GRF Patent Portfolio and copies of all data, documentation, memos and files regarding the Manufacturing Patents and related Know-How.

6. All shares of Common Stock (being all the equity shares) of GRFCO, Inc., a Delaware Corporation, currently owned by Restoragen, along with the minute and stock book and relevant corporate records. GRFCO shall have no more than nominal assets or debt and no Liability other than normal franchise taxes.

III. Chorea Virus Promoters - To the extent in the possession or control of Restoragen as of the date of this Agreement, development documents and files and other information and materials relative to the Chorea Virus Promoter Patents listed on Exhibit F, including but not limited to all laboratory and product inventory developed by, or in the possession or control of, Restoragen including:

A. all technical information, documentation, lab notes and protocols.

B. all laboratory and development plasmids, cultures and samples relating to the invention, research, development, production and utilization of such promoters.

C. all information and documents covering any plans or ideas relating to the commercial or laboratory utilization or exploitation of such promoters.

IV. Metal Detection Monoclonal Antibodies Program (the "Program") and related patents (to the extent still owned or controlled by Restoragen), all related prosecution correspondence and development documents and files and all related development, production and utilization technology, know how, information, materials and contractual or other rights in the possession of, or owned or controlled by, Restoragen including, but not limited to:

1. Any provisionals, substitutions, divisionals, reissues, renewals, continuations, continuations-in-part, substitute applications and inventors' certificates arising from, or based upon, any of the foregoing patents or patent applications.

2. Any patents issuing from any of the foregoing patent applications.

3. Any unfiled patent applications and written inventions owned or held by Restoragen that pertain to the use, sale or import of such antibodies and/or related kit or other utilization products or protocols as of the Closing Date and any of the rights referred to in clauses 1 through 3 above arising or resulting therefrom.

4. All related know how and development and production technology and all related laboratory and product inventory developed by, or in the possession or control of, Restoragen relative to the Program, including: (i) all information, documentation, lab notes, memoranda, correspondence and protocols and all laboratory and development antibodies, hybridomas, plasmids, samples and kits relating to the invention, research, development, production and utilization of such antibodies and (ii) all information and documents relating to any plans or ideas for the commercial or laboratory utilization or exploitation of such antibodies .

V. To the extent still in Restoragen's ownership, possession or control, information, memos, research notes, correspondence and other documents and materials on **Antimicrobial Frog Peptides**, including: any patents, patent contract rights and related prosecution and development documents, memos, correspondence and files as well as correspondence, data and files on utilization and effectiveness of such peptides.

EXHIBIT C

FORM OF BILL OF SALE, ASSIGNMENT AND ASSUMPTION

This Bill of Sale, Assignment and Assumption ("Bill of Sale") is entered into as of _____, 2003 by and between **RESTORAGEN, INC.**, a Delaware corporation ("Seller") and **GHRCO**, a Delaware corporation ("Buyer").

Recitals

Buyer and Seller have entered into that certain Asset Purchase and License Agreement, dated as of March 17, 2003 (the "Asset Purchase Agreement") pursuant to which, among other things, Seller has agreed to sell the Assets (as such term is defined in the Asset Purchase Agreement) to Buyer subject to the terms and conditions set forth in the Asset Purchase Agreement. All capitalized terms not defined herein shall have the same meanings as set forth in the Asset Purchase Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Seller hereby sells, transfers, conveys, assigns and delivers to Buyer all of its right, title and interest in and to the Assets, free and clear of all liens, claims and encumbrances, but only to the scope and extent of the effectiveness of the Bankruptcy Court Confirmation Order approving the Transactions. Seller, at any time at or after the date hereof, will execute, acknowledge and deliver any further deeds, assignments, conveyances and other assurances, documents, and instruments of transfer reasonably requested by Buyer and will take any other action consistent with the terms of the Asset Purchase Agreement and this Bill of Sale that may reasonably be requested by Buyer for the purpose of assigning, transferring, granting, conveying and confirming to Buyer, or reducing to possession, any or all of the Assets.

Seller hereby constitutes and appoints Buyer and any successor or assign of Buyer, its true and lawful attorney-in-fact with full power of substitution for it and in its name, place and stead or otherwise on behalf of it, its successors and assigns, and for the benefit of Buyer and any successor or assign of Buyer, to demand and receive from time to time the Assets and to execute in the name of Seller and its successors and assigns, instruments of conveyance, instruments of further assurance and to give receipts and releases in respect of the same, and from time to time to institute and prosecute in the name of Buyer or Seller as may be appropriate, any and all proceedings at law, in equity or otherwise which Buyer or any successor and assign of Buyer may deem proper in order to collect, assert or enforce any claims, rights or titles of any kind in and to the Assets, and to defend and compromise any and all actions, suits or proceedings in respect of any of the Assets and to do any and all such acts and things in furtherance of this Bill of Sale as Buyer or any successor or assign of Buyer shall deem advisable. Seller hereby declares that the appointment hereby made and the powers hereby granted are coupled with an interest and are and shall be irrevocable and perpetual and shall not be terminated by any act of Seller or any successor or assign of Seller or by operation of law.

Buyer hereby assumes and undertakes to become liable for all Assumed Liabilities and agrees to pay, perform and discharge such Assumed Liabilities when due, in accordance with the terms of the Agreement.

This Bill of Sale is subject to, and shall be construed in accordance with, the Asset Purchase Agreement, and in the event of a conflict between the provisions of this Bill of Sale and the provisions of the Asset Purchase Agreement (insofar as such provisions relate to the rights and obligations of Buyer, on the one hand, and Seller, on the other hand), the provisions of the Asset Purchase Agreement shall prevail.

This Bill of Sale shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns permitted under the Asset Purchase Agreement. This Bill of Sale may be executed in any number of counterparts, each of which shall be deemed to be original and all of which together shall be deemed to be one and the same instrument. Facsimile signatures shall have the same effect as original signatures.

IN WITNESS WHEREOF, this Bill of Sale has been executed by the duly authorized officers of the parties as of the day and year first above written.

RESTORAGEN, INC.

By: _____

Name: _____

Title: _____

GHRCO, INC.

By: _____

Name: _____

Title: _____

EXHIBIT D

MANUFACTURING PATENTS

Subject	Application Number
A. Provisional US Patent Applications	
Vestigial Gene	60/383,370
Polyhedrin Gene	60/383,212
Palladium Cleavage in Formic Acid	60/383,484
Palladium Cleavage in Other Organic Acids	60/383,488
Simultaneous Cleavage and Amidation With Palladium	60/383,362
Cyanylation Amidation with Disulphide Oxidant	60/383,364
Cyanylation Amidation with Hydroximates and Other Organics	60/383,371
B. US Patent Application	
Peptide Formulations	09/858880
C. U.S. Patents (to be maintained in U.S. only)	
Enzymatic Method for Modification of Recombinant Polypeptides	5,512,459 (Apr. 30, 1996)
Enzymatic Method for Modification of Recombinant Polypeptides	6,403,361 (June 1, 2002)

Except as noted, all of the patents and applications have been or will be filed and maintained in Australia, Canada, Japan, Germany, France, Great Britain, Italy, Denmark and Sweden.

EXHIBIT E

GRF PATENT PORTFOLIO

Restoragen, Inc. - GRF Patents

COUNTRY	REFERENCE#	TYPE	FILED	SERIAL#	ISSUED	PATENT#	STATUS
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**A. METHOD AND
TREATMENT
COMPOSITION FOR
DECREASING PATIENT
TIME IN CATABOLIC
STATE AFTER TRAUMATIC
INJURY**

Inventors: GUTNIAK, MARK K.;
COOLIDGE, THOMAS R.;
RECKER, ROBERT R.;
WAGNER, FRED W.

UNITED STATES	P00130US0	NEW	3/24/1995	08/410,353	12/23/1997	5,700,775	ISSUED
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**B. TREATMENT FOR
OSTEOPOROSIS USING
HGRF(1-44)NH2**

Inventors: RECKER, ROBERT R.

UNITED STATES	P01277US0	NEW	9/27/1985	780,949	12/1/1987	4,710,382	ISSUED
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**C. TREATMENT FOR
OSTEOPOROSIS USING
GRF OR A BIOLOGICALLY
ACTIVE ANALOG
THEREOF**

Inventors: RECKER, ROBERT R.

UNITED STATES	P01278US0	NEW	7/31/1987	80,110	9/26/1989	4,870,054	ISSUED
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**D. TREATMENT FOR
OSTEOPOROSIS USING
GROWTH HORMONE
RELEASING FACTOR (GRF)
IN COMBINATION WITH
PARATHYROID HORMONE
(PTH)**

Inventors: RECKER, ROBERT R.

UNITED STATES	P01600US0	NEW	11/26/1990	07/617,543			ABANDONED
UNITED STATES	P01600US1	CON	11/4/1991	07/787,651	11/17/1992	5,164,368	ISSUED
WIPO	P01600WO0	CEQ	11/1/1991	PCT/US9	1/08106		NAT PHASE
AUSTRIA	P01600AT0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
AUSTRALIA	P01600AU0	DCA	11/1/1991	90735/91	5/16/1994	645874	ISSUED
BELGIUM	P01600BE0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
CANADA	P01600CA0	DCA	11/1/1991	2096350	10/16/2001	2096350	ISSUED
SWITZERLAND	P01600CH0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
GERMANY	P01600DE0	DCA	11/1/1991	92900612.0	3/26/1997	69125394.3	ISSUED
DENMARK	P01600DK0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
EUROPEAN PATENT	P01600EP0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	NAT PHASE
SPAIN	P01600ES0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
FINLAND	P01600FI0	DCA	11/1/1991	932385	4/12/2001	106776	ISSUED
FRANCE	P01600FR0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
UNITED KINGDOM	P01600GB0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
IRELAND	P01600IE0	CEQ	11/5/1991	3858/91	12/10/2001	82050	ISSUED
ITALY	P01600IT0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
JAPAN	P01600JP0	DCA	11/1/1991	501851/92	9/5/1996	2557779	ISSUED
LUXEMBOURG	P01600LU0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
NETHERLANDS	P01600NL0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
NORWAY	P01600NO0	DCA	11/1/1991	PCT/US91/08106			ABANDONED
NEW ZEALAND	P01600NZ0	CEQ	11/5/1991	240482	10/13/1997	240482	ISSUED
SWEDEN	P01600SE0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED

EXHIBIT F

RESIDUAL PATENTS

CHORELLA VIRUS PROMOTERS

U.S. Patent Nos. 5,846,774, 6,316,224 and 6,395,965

BIOASSAY FOR GROWTH HORMONE RELEASING FACTOR

Inventors: Heinrich *et al*

United States	ISSUED	New 12/5/1997	6,221,617B1	4/24/2001
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EXHIBIT G

GENERAL RELEASE

THIS GENERAL RELEASE (“Agreement”) is dated this 24th day of March 2003, by and between Restoragen, Inc. (formerly, BioNebraska, Inc.) (“Company”), and Thomas R. Coolidge (“Mr. Coolidge”).

BACKGROUND

1. Mr. Coolidge is the former Chief Executive Officer and Chairman of the Board of the Company;
2. Mr. Coolidge is a founder, officer and shareholder of Coolidge & Company, Inc., the entity which has entered into that certain Asset Purchase and License Agreement dated as of March 24, 2003 with Company (the "Asset Purchase Agreement"), and Mr. Coolidge is a founder, officer and shareholder of GHRCO, Inc., the assignee of the Asset Purchase Agreement; and
3. In consideration of the obligations and undertakings of Company in the Asset Purchase Agreement, Mr. Coolidge agrees as follows:

1. General Releases of Mr. Coolidge.

(a) Mr. Coolidge hereby fully and finally releases, waives, and discharges any and all legal and equitable claims against Company that he has through the date of this Agreement. This full and final release, waiver, and discharge extends to claims of any kind or nature whatsoever, including, without limitation, discrimination claims under any state human rights act, claims of age discrimination under the federal Age Discrimination in Employment Act ("ADEA"), and discrimination claims under any other applicable federal, state, or local law. It further extends to any and all other legal and equitable claims that Mr. Coolidge now has, whether or not he knows about such claims; claims for attorneys fees, claims of any kind or nature whatsoever arising from his employment or separation from employment with Company (including, without limitation, claims for breach of contract; claims for compensation and remuneration of any kind whatsoever such as holiday pay, vacation pay, and bonus compensation; wrongful or illegal termination; defamation; invasion of privacy; and/or infliction of emotional distress), claims for any other alleged unlawful employment practices arising out of or relating to his employment or separation from employment, and claims arising out of his acquisition and ownership of stock of the Company.

(b) Mr. Coolidge does not, by signing this Agreement, release or waive (i) any rights or claims that may arise after this Agreement is signed, (ii) the right to enforce the provisions of this Agreement or the Asset Purchase Agreement, (iii) any rights that he may have to indemnification for having served as an employee, officer or director of the Company; (iv) any rights asserted by Mr. Coolidge in Proofs of Claim filed with the Bankruptcy Court for the

District of Nebraska; or (v) the right to defend himself (including the right to assert counterclaims, if appropriate) in the event a claim is brought against Mr. Coolidge.

(c) This General Release will automatically become null and void if the Asset Purchase Agreement is terminated prior to the Closing of the Asset Purchase Agreement (as defined therein).

2. **Rescission Right.** Mr. Coolidge understands that, if he signs this Agreement, he may revoke his waiver of age discrimination rights and claims under the ADEA within seven (7) days thereafter, and his waiver will not be effective or enforceable until this seven-day period has expired. If he delivers the rescission by mail it must be: Postmarked within seven (7) calendar days of the day on which he signs this General Release; addressed to the Company, c/o Ashleigh Palmer, 3820 NW 46th Street, Lincoln, NE, 68524, and sent by certified mail, return receipt requested. If Mr. Coolidge rescinds his waivers as provided above, the Company may terminate the Asset Purchase Agreement under Section 11.1(b) thereof.

3. Definitions.

For purposes of this Agreement, "Mr. Coolidge" means Thomas R. Coolidge, all and each of his past and present heirs, representatives, executors, administrators, and any other person who has or obtains legal rights through him. Further for purposes of this Agreement, "Company" means Restoragen, Inc., and all and each of its past and present parent, subsidiary, and affiliated companies; and all and each of past and present officers, directors, Board observers, shareholders, agents, employees, insurers, successors and assigns, and affiliates of the foregoing.

4. Non-Admission by Either Party.

Company and Mr. Coolidge enter into this Agreement expressly disavowing fault, liability and wrongdoing, liability at all times having been denied. Neither this Agreement, nor anything contained in it, shall be construed as an admission by Company or Mr. Coolidge of any liability, wrongdoing or unlawful conduct whatsoever. If this Agreement is not executed, no term of this Agreement shall be deemed an

admission by Company of any right Mr. Coolidge may have with or against Company, or by Mr. Coolidge of any right the Company may have against him.

5. Governing Law.

This Agreement shall be governed by the substantive laws of the State of Delaware without regard to conflicts of law principles.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Dated: March 25, 2003

/s/ Thomas R. Coolidge

Thomas R. Coolidge

Restoragen, Inc.

By /s/ Ashleigh Palmer

Ashleigh Palmer, CEO

GENERAL RELEASE

THIS GENERAL RELEASE ("Agreement") is dated this 24th day of March 2003, by and between Restoragen, Inc. (formerly, BioNebraska, Inc.) ("Company"), and S. William Jenks ("Mr. Jenks") and shall be effective as of the Closing (as defined below).

BACKGROUND

1. Mr. Jenks is a shareholder of Company and a former member of Company's Board of Directors;
2. Mr. Jenks is affiliated with GHRCO, Inc., the assignee of that certain Asset Purchase and License Agreement dated as of March 24, 2003 between Coolidge & Company, Inc. and Company (the "Asset Purchase Agreement"); and
3. In consideration of the obligations and undertakings of Company in the Asset Purchase Agreement, Mr. Jenks agrees as follows:

1. General Releases of Mr. Jenks.

(a) Effective as of the closing of the Transactions contemplated by the Asset Purchase Agreement (the "Closing"), Mr. Jenks hereby fully and finally releases, waives, and discharges any and all legal and equitable claims against Company that he has through the date of this Agreement. This full and final release, waiver, and discharge extends to claims of any kind or nature whatsoever. It further extends to any and all other legal and equitable claims that Mr. Jenks now has, whether or not he knows about such claims; claims for attorneys fees, and claims of any kind or nature whatsoever arising from or out of his acquisition and ownership of stock of the Company.

(b) Mr. Jenks does not, by signing this Agreement, release or waive (i) any rights or claims that may arise after this Agreement is signed, (ii) the right to enforce the provisions of this Agreement or the Asset Purchase Agreement, (iii) any rights that he may have to indemnification for having served as a director of the Company, or (iv) the right to defend himself (including the right to assert counterclaims, if appropriate) in the event a claim is brought against Mr. Jenks.

(c) This General Release will automatically become null and void if the Asset Purchase Agreement is terminated prior to the Closing.

2. Definitions.

For purposes of this Agreement, "Mr. Jenks" means S. William Jenks, all and each of his past and present heirs, representatives, executors, administrators, and any other person who has or obtains legal rights through him. Further for purposes of this Agreement, "Company" means Restoragen, Inc., and all and each of its past and present parent, subsidiary, and affiliated companies; and all and each of past and present officers, directors, Board observers,

shareholders, agents, employees, insurers, successors and assigns; and all affiliates of the foregoing.

3. Non-Admission by Either Party.

Company and Mr. Jenks enter into this Agreement expressly disavowing fault, liability and wrongdoing, liability at all times having been denied. Neither this Agreement, nor anything contained in it, shall be construed as an admission by Company or Mr. Jenks of any liability, wrongdoing or unlawful conduct whatsoever. If this Agreement is not executed, no term of this Agreement shall be deemed an admission by Company of any right Mr. Jenks may have with or against Company, or by Mr. Jenks of any right the Company may have against him.

4. Governing Law.

This Agreement shall be governed by the substantive laws of the State of Delaware without regard to conflicts of law principles.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Dated: March 25, 2003

/s/ S. William Jenks
S. William Jenks

Restoragen, Inc.

By _____
/s/ Ashleigh Palmer
Ashleigh Palmer, CEO

AMENDMENT No. 1
TO
ASSET PURCHASE AND LICENSE AGREEMENT

between:

RESTORAGEN, INC.,

a Delaware corporation;

and

COOLIDGE & COMPANY, INC.

a Delaware corporation.

Under Date of March 24, 2003

Amendment Dated: May 12, 2003

THIS AMENDMENT NO.1, under date of May 12, 2003, TO THE ASSET PURCHASE AND LICENSE AGREEMENT (the “Agreement”), entered into as of March 24, 2003 by and between RESTORAGEN, INC. and COOLIDGE & COMPANY, INC.

RECITALS

WHEREAS, as contemplated in the Agreement, Coolidge & Company, Inc. (“C&CO”) has assigned, conveyed and transferred all of its right, title, interest and obligations under the Agreement to GHRCO, LLC, a Delaware limited liability company, (“GHRCO”) and GHRCO has accepted such assignment, transfer and conveyance and has assumed all such obligations without recourse to C&CO;

AND WHEREAS, the parties desire to make certain amendments to the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and other provisions of the Agreement, and intending to be legally bound hereby, the parties further agree as follows:

AMENDMENT NO. 1 TO THE AGREEMENT

1. SUBSTITUTION OF GHRCO FOR C&CO.

GHRCO is hereby substituted for C&CO in all respects relative to the provisions of the Agreement, as if GHRCO were the original signatory of the Agreement in lieu of C&CO; and, accordingly, all rights, interests, obligations and duties, formerly applicable to C&CO under the Agreement are now fully and completely applicable to GHRCO. C&CO shall have no further rights, obligations or duties of any nature whatsoever under the Agreement.

2. AMENDMENT TO EXHIBIT E OF THE AGREEMENT

Exhibit E to the Agreement is hereby amended and restated as set forth in the attachment hereto.

In all other respects, the Agreement shall continue unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment No.1 to the Agreement, including the attached Exhibit, which is incorporated herein by reference.

RESTORAGEN, INC.

By: /s/ Ashleigh W. Palmer
Ashleigh W. Palmer
Chief Executive Officer

GHRCO, LLC

By: /s/ Thomas R. Coolidge
Thomas R. Coolidge
Manager

COOLIDGE & COMPANY, INC.

By: /s/ Thomas R. Coolidge
Thomas R. Coolidge
President

AMENDMENT NO. 1

EXHIBIT E

GRF PATENT PORTFOLIO

Restoragen, Inc. - GRF Patents

<u>COUNTRY</u>	<u>REFERENCE#</u>	<u>TYPE</u>	<u>FILED</u>	<u>SERIAL#</u>	<u>ISSUED</u>	<u>PATENT#</u>	<u>STATUS</u>
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**A. METHOD AND TREATMENT
COMPOSITION FOR
DECREASING PATIENT TIME
IN CATABOLIC STATE
AFTER TRAUMATIC INJURY**

Inventors: GUTNIAK, MARK K.;
COOLIDGE, THOMAS R.;

RECKER, ROBERT R.;

WAGNER, FRED W.

UNITED STATES	P00130US0	NEW	3/24/1995	08/410,353	12/23/1997	5,700,775	ISSUED
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**B. TREATMENT FOR
OSTEOPOROSIS USING
HGRF(1-44)NH2**

Inventors: RECKER, ROBERT R.

UNITED STATES	P01277US0	NEW	9/27/1985	780,949	12/1/1987	4,710,382	ISSUED
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**C. TREATMENT FOR
OSTEOPOROSIS USING GRF
OR A BIOLOGICALLY
ACTIVE ANALOG THEREOF**

Inventors: RECKER, ROBERT R.

UNITED STATES	P01278US0	NEW	7/31/1987	80,110	9/26/1989	4,870,054	ISSUED
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**D. TREATMENT FOR
OSTEOPOROSIS USING
GROWTH HORMONE
RELEASING FACTOR (GRF)
IN COMBINATION WITH
PARATHYROID HORMONE
(PTH)**

Inventors: RECKER, ROBERT R.

UNITED STATES	P01600US0	NEW	11/26/1990	07/617,543			ABANDONED
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UNITED STATES	P01600US1	CON	11/4/1991	07/787,651	11/17/1992	5,164,368	ISSUED
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GERMANY	P01600DE0	DCA	11/1/1991	92900612.0	3/26/1997	69125394.3	ISSUED
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FRANCE	P01600FR0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
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UNITED KINGDOM	P01600GB0	DCA	11/1/1991	92900612.0	3/26/1997	0559751	ISSUED
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JAPAN	P01600JP0	DCA	11/1/1991	501851/92	9/5/1996	2557779	ISSUED
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GENERAL INFORMATION PAGE

FILL IN THE INFORMATION HERE TO POPULATE THE GENERAL FIELDS OF THE WORKSHEET

CASE NAME Restoragen, Inc
CASE NUMBER 02-83998
PETITION DATE 12/17/02
End of Month 1 12/31/02

Notes:

1. The print area is defined for each tab of the worksheet
2. You can change the print orientation of each tab using FILE | PAGE SETUP while on that tab

CASE NAME: Restoragen, Inc
CASE NUMBER: 02-83998

MONTHLY OPERATING REPORTS
COMPARATIVE BALANCE SHEETS

FORM OPR-1A

	<u>PETITION DATE 12/17/02</u>	<u>MONTH ENDING 12/31/02</u>	<u>MONTH ENDING 01/31/03</u>	<u>MONTH ENDING 02/28/03</u>	<u>MONTH ENDING 03/31/03</u>	<u>MONTH ENDING 04/30/03</u>	<u>MONTH ENDING 05/31/03</u>
ASSETS							
CURRENT ASSETS							
Cash	758,790	871,544	3,776,610	3,362,770	3,324,751	3,173,573	0
Accounts Receivable, Net (Sched. A)	486,561	241,561	107,482	107,482	0	0	0
Inventory, At Lower Of Cost Or Market	0	0	0	0	0	0	0
Prepaid Expenses	349,262	286,789	306,110	278,475	250,840	223,205	0
Other	24,500	24,500	19,195	0	0	0	0
Total Current Assets	1,619,113	1,424,394	4,209,397	3,748,727	3,575,591	3,396,778	0
PROPERTY, PLANT & EQUIPMENT (Sched. B)							
Less Accumulated Depreciation	9,408	12,054	12,054	12,054	14,700	14,700	0
Net Property	18,522	15,876	15,876	15,876	13,230	13,230	0
OTHER ASSETS (Describe)							
loan origination fees	253,969	250,000	229,167	208,334	187,500	166,667	0

Total Other Assets	253,969	250,000	229,167	208,334	187,500	166,667	0
TOTAL ASSETS	1,891,604	1,690,270	4,454,440	3,972,937	3,776,321	3,576,675	0

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOLLOWING OPERATING REPORTS, CONSISTING OF 9 PAGES ARE TRUE AND CORRECT.

Date submitted 4/23/03 Signed /s/ David Walker David Walker
(Printed name of signatory)

CASE NAME: Restoragen, Inc
CASE NUMBER: 02-83998

MONTHLY OPERATING REPORTS
COMPARATIVE BALANCE SHEETS

	PETITION DATE 12/17/02	MONTH ENDING 12/31/02	MONTH ENDING 01/31/03	MONTH ENDING 02/28/03	MONTH ENDING 03/31/03	MONTH ENDING 04/30/03	MONTH ENDING 05/31/03
LIABILITIES & STOCKHOLDERS' EQUITY							
LIABILITIES							
Post Petition Liabilities (Sched. C)	0	310,866	581,856	554,504	701,522	754,622	0
Pre Petition Liabilities							
Notes Payable - Secured	19,425,175	19,425,175	19,425,175	19,425,175	19,425,175	19,425,175	0
Priority Debt	0	0	0	0	0	0	0
Unsecured Debt	968,578	968,578	968,577	949,681	949,681	949,681	0
Other	4,194,471	4,107,718	4,000,017	4,013,678	4,010,267	4,008,972	0
Total Pre Petition Liabilities	24,588,224	24,501,471	24,393,769	24,388,534	24,385,123	24,383,828	0
Total Liabilities	24,588,224	24,812,337	24,975,626	24,943,038	25,086,645	25,138,450	0
STOCKHOLDERS' EQUITY							
Preferred Stock (PIC)	3,544	3,544	3,544	3,544	3,544	3,544	
Common Stock (PIC)	73,794	73,794	73,794	73,794	73,794	73,794	
Paid-In Capital (APIC)	81,345,226	81,346,301	81,338,958	81,331,614	81,324,270	81,316,926	
Retained Earnings							
Through Filing Date	-104,119,184	-104,119,184	-104,119,184	-104,119,184	-104,119,184	-104,119,184	
Post Filing Date	0	-426,522	2,181,702	1,740,131	1,407,252	1,163,145	
Total Stockholders' Equity	-22,696,620	-23,122,067	-20,521,186	-20,970,101	-21,310,324	-21,561,775	0
TOTAL LIABILITIES & STOCKHOLDERS' EQUITY	1,891,604	1,690,270	4,454,440	3,972,937	3,776,321	3,576,675	0

STATEMENT OF INCOME (LOSS) - POST PETITION

	MONTH ENDING 12/31/02	MONTH ENDING 01/31/03	MONTH ENDING 02/28/03	MONTH ENDING 03/31/03	MONTH ENDING 04/30/03	MONTH ENDING 05/31/03	YEAR TO DATE 04/30/03
NET REVENUE (INCOME)	0	0	0	25,000	0	0	25,000
COST OF GOODS SOLD							
Materials	0	0	0	0	0	0	0
Labor - Direct	0						
Manufacturing Overhead	0						
Total Cost of Goods Sold	0	0	0	0	0	0	0
GROSS PROFIT	0	0	0	25,000	0	0	25,000
OPERATING EXPENSES							
Selling & Marketing	0	0	0	0	0	0	0
Executive & Mgmt. Salaries	42,273	283,840	173,333	48,333	48,333		596,112
Office & Other Salaries							
Rent		1,850	-150	850	850		3,400
Other (Attach Schedule)	248,105	171,634	71,384	76,683	56,534		624,340
Total Operating Expenses	290,378	457,324	244,567	125,866	105,717	0	1,223,852
OTHER EXPENSES							
Quarterly Fees	0	250	0	5,000	0	0	5,250
Depreciation	2,646	0	0	2,646	0		5,292
Interest	45,605	108,750	108,750	108,750	108,750		480,605
Attorney' s Fees	88,611	126,364	90,728	118,013	31,825		455,541
Other Professional Fees							
Total Other Expenses	136,862	235,364	199,478	234,409	140,575	0	946,688
Total Expenses	427,240	692,688	444,045	360,275	246,292	0	2,170,540
OTHER INCOME							
Gain on sale of Intellectual Property		3,300,000					3,300,000
Interest Income	718	912	2,474	2,396	2,185		8,685
Total Other Income	718	3,300,912	2,474	2,396	2,185	0	3,308,685
NET INCOME (LOSS)	-426,522	2,608,224	-441,571	-332,879	-244,107	0	1,163,145

STATEMENT OF SOURCE AND USE OF CASH

	PETITION DATE 12/17/02	MONTH ENDING 12/31/02	MONTH ENDING 01/31/03	MONTH ENDING 02/28/03	MONTH ENDING 03/31/03	MONTH ENDING 04/30/03	YEAR TO DATE 04/30/03
CASH DIFFERENCE							
Current Ending Cash Balance	758,790	871,544	3,776,610	3,362,770	3,324,751	3,173,573	3,173,573
Less Ending Prior Month Balance		758,790	871,544	3,776,610	3,362,770	3,324,751	758,790
NET CASH INCREASE(DECREASE)		112,754	2,905,066	-413,840	-38,019	-151,178	2,414,783
SOURCES OF CASH							
Income (Loss) From Operations		-426,522	2,608,224	-441,571	-332,879	-244,107	1,163,145
Add: Non-cash items (Depr. & Amort.)		3,721	-7,344	-7,344	-4,698	-7,344	-23,009
Cash Generated From Operations		-422,801	2,600,881	-448,915	-337,577	-251,451	1,140,137
Add: Decrease in Assets							
Accounts Receivable		245,000	134,079	0	107,482	0	486,561
Inventory		0	0	0	0	0	0
Prepaid Expenses		62,473	0	27,635	27,635	27,635	145,378
Property, Plant & Equipment		0	0	0	0	0	0
Other Current Assets		0	5,305	19,195	0	0	24,500
Other Assets		3,969	20,833	20,833	20,834	20,833	87,302
Increase in Liabilities:							
Post Petition Liabilities		310,866	270,990	0	147,018	53,100	781,974
Pre Petition Liabilities		0	0	0	0	0	0
TOTAL SOURCES OF CASH		199,507	3,032,088	-381,252	-34,608	-149,883	2,665,852
USE OF CASH							
Subtract: Increase in Assets							
Accounts Receivable		0	0	0	0	0	0
Inventory		0	0	0	0	0	0
Prepaid Expenses		0	19,321	0	0	0	19,321
Property, Plant & Equipment		0	0	0	0	0	0
Other Current Assets		0	0	0	0	0	0
Other Assets		0	0	0	0	0	0
Decrease in Liabilities:							
Post Petition Liabilities		0	0	27,352	0	0	27,352
Pre Petition Liabilities		86,753	107,702	5,235	3,411	1,295	204,396
TOTAL USE OF CASH		86,753	127,022	32,588	3,411	1295	251,069

CASE NAME: Restoragen, Inc

SCHEDULE A

CASE NUMBER: 02-83998

SCHEDULE OF ACCOUNTS RECEIVABLE AGING

		TOTAL	0-30	31-60	61-90	91-120	OVER 120
		ACCOUNTS	DAYS	DAYS	DAYS	DAYS	DAYS
		RECEIVABLE					
Date of Filing:	12/17/02	486,561	486,011	0	0	0	550
% of Total		100%	99.89%	0.00%	0.00%	0.00%	0.11%
Month:	12/31/02	241,561	241,011	0	0	0	550
% of Total		100%	99.77%	0.00%	0.00%	0.00%	0.23%
Month:	01/31/03	107,482	4,500	102,432	0	0	550
% of Total		100%	4.19%	95.30%	0.00%	0.00%	0.51%
Month:	02/28/03	107,482		4,500	102,432	0	550
% of Total		100%	0.00%	4.19%	95.30%	0.00%	0.51%
Month:	03/31/03	0	0	0	0	0	0
% of Total		100%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Month:	04/30/03	0	0	0	0	0	0
% of Total		100%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Month:	05/31/03	0	0	0	0	0	0
% of Total		100%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

CASE NAME: Restoragen, Inc

SCHEDULE B

CASE NUMBER: 02-83998

SCHEDULE OF FIXED ASSETS

	MONTH	MONTH	MONTH	MONTH	MONTH	MONTH
	12/31/02	01/31/03	02/28/03	03/31/03	04/30/03	05/31/03
FIXED ASSETS:						
Buildings	0	0	0	0	0	0
Land	0	0	0	0	0	0
Improvements	0	0	0	0	0	0
Office Furniture	0	0	0	0	0	0
Office Equipment	0	0	0	0	0	0
Computer Equipment	15,876	15,876	15,876	13,230	13,230	
Shop Machinery	0	0	0	0	0	0
Shop Equipment	0	0	0	0	0	0

Automobiles	0	0	0	0	0	
Vans	0	0	0	0	0	
Trucks	0	0	0	0	0	
Trailers	0	0	0	0	0	
Heavy Equipment	0	0	0	0	0	
Other Vehicles	0	0	0	0	0	
Major Tools	0	0	0	0	0	
Boat & Airplane	0	0	0	0	0	
Warehouse Equipment	0	0	0	0	0	
Other	0	0	0	0	0	
TOTAL FIXED ASSETS	15,876	15,876	15,876	13,230	13,230	0

CASE NAME: Restoragen, Inc
CASE NUMBER: 02-83998

SCHEDULE C

SCHEDULE OF POST PETITION DEBT

	<u>MONTH</u> <u>12/31/02</u>	<u>MONTH</u> <u>01/31/03</u>	<u>MONTH</u> <u>02/28/03</u>	<u>MONTH</u> <u>03/31/03</u>	<u>MONTH</u> <u>04/30/03</u>	<u>MONTH</u> <u>05/31/03</u>
TRADE ACCOUNTS PAYABLE	257,917	412,813	269,367	300,291	237,297	
TAXES PAYABLE:						
Federal Payroll Taxes						
State Payroll Taxes						
State Sales Taxes						
Local Payroll Taxes						
Real Estate & Pers. Prop. Taxes						
Other:						
TOTAL TAXES PAYABLE	0	0	0	0	0	0
OTHER LIABILITIES:						
Post Petition Secured Debt						
Accrued Interest Payable	45,605	154,355	263,105	371,855	480,605	
Other Accrued Liabilities						
Redeemable Stock Dividend	7,344	14,688	22,032	29,376	36,720	
TOTAL OTHER LIABILITIES	52,949	169,043	285,137	401,231	517,325	0
TOTAL POST PETITION DEBT	310,866	581,856	554,504	701,522	754,622	0

CASE NAME: Restoragen, Inc
CASE NUMBER: 02-83998

(revised 3-94)
Schedule D

SUMMARY OF SIGNIFICANT ITEMS

Month of April 2003

1. Insurance Coverage

	Carrier/ agent Name	Amount of Coverage	Policy Expiration Date	Premium Paid thru Date
Workers' Compensation	Cincinnati Ins	100,000	8/1/03	7/31/03
General Liability	Cincinnati Ins	1,000,000	8/1/03	7/31/03
Excess Liability	Cincinnati Ins	1,000,000	8/1/03	7/31/03
Other(specify)				
Directors & Officers	Twin City Fire Ins	5,000,000	9/1/03	9/1/03
Directors & Officers	XL Speciality	5,000,000	9/1/03	9/1/03
Directors & Officers	Houston Casualty	5,000,000	9/1/03	9/1/03
Directors & Officers	Royal Indemnity	5,000,000	9/1/03	9/1/03
Directors & Officers	Lumbermens	5,000,000	9/1/03	9/1/03
Clinical Trial	Lexington	4,000,000	8/14/03	8/14/03
Health	United Healthcare		9/30/03	9/30/03
Dental	Ameritas		9/30/03	9/30/03
Disability	Jefferson Pilot		6/30/03	4/30/03

2. Statement of Payments of Secured Creditors

(list all payments made to secured creditors during the month & the purpose for such payment, i.e. Court ordered adequate protection cash collateral payments)

Payee	Description	Amount Paid this Month	Total Paid Post petition
n/a			

3. Tax Payments Made This Month (Not Accruals) (attach copies of tax receipts or checks)

	Date Paid	Amount Paid	Post Petition Taxes Still Unpaid(agrees to Sch. C)
Federal Payroll W/H Taxes	4/30/03	13,667	
Social Security Taxes	4/30/03	0	
Fed. Unemployment Taxes	4/30/03	0	
State Payroll W/H Taxes	4/30/03	3,047	
State Unemployment Ins	4/30/03	0	
State Disability Ins	4/30/03	0	
Other - Medicare Taxes	4/30/03	1,402	

SUMMARY OF SIGNIFICANT ITEMS

Month of April 2003

4. Compensation Payments Made This Month (Not Accruals) - includes expense reimbursements

(List all payments made to owners of proprietorships; partners of partnerships; officers, directors and shareholders of corporations)

Name	Amount	Date of Court Order Authorizing Payment
Ashleigh Palmer	30,932	
David Walker	19,315	

5. Payments Made This Month To Professionals (Not Accruals)

Professional	Amount	Date of Court Order Authorizing Payment
Attorney(s)	83,376	
Accountant(s)	972	
Management Co.(s)		
Appraiser(s)		
Other (specify)		

6. Record of Disbursement and Payment of Quarterly Fees

Period Ending	*Total Disbursements	Quarterly Totals	Quarterly Fee **	Date Paid	Amount Paid	Check Number
January 03	\$ 526,593					
February 03	416,464					
March 03	171,601	1,114,658	5,000		\$ 5,000	12387
April	155,363					
May	\$					
June	\$	\$	\$		\$	
July	\$					
August	\$					
September	\$	\$	\$		\$	
October	\$					
November	\$					
December 02	\$ 132,964	\$ 132,964	\$ 750	Jan 24 2003	\$ 250	12283
				Mar 24 2003	\$ 500	12355

* Each month list the total money spent for all purposes. At the end of the quarter, add the monthly totals. This is the amount used to compute the quarterly fee due the U.S. Trustee, from the table below.

**Effective 10-01-96 [\$-0- to \$14,999.99 = \$250.00].....[\$15,000 to \$74,999.99 = \$500.00].....[\$75,000 to \$149,999.99 = \$750.00].....[\$150,000 to \$224,999.99 = \$1,250.00].....[\$225,000 to \$299,999.99 = \$1,500.00].....[\$300,000 to \$999,999.99 =

Other Expenses - April 2003 (\$)

Amortization of Finance Charges	20,833
Computer Expense	1,089
Consulting	3,385
Group Insurance	2,751
Liability Insurance	24,435
Office Expense	578
payroll processing	736
payroll taxes	701
telephone	1,922
utilities	104
Total	56,534

Liability			
Recap	Taxes Debited	Federal Income Tax	13,666.60
		Earned Income Credit Advances	.00
		Social Security - EE	.00
		Social Security - ER	.00
		Social Security Adj - EE	.00
		Medicare - EE	700.83
		Medicare - ER	700.83
		Medicare Adj - EE	.00
		Federal Unemployment Tax	.00
		State Income Tax	3,046.81
		State Unemployment Insurance - EE	.00
		State Unemployment/Disability Ins - ER	.00
		State Unemployment Insurance Adj - EE	.00
		State Disability Insurance - EE	.00
		State Disability Insurance Adj - EE	.00
		Workers' Benefit Fund Assessment - EE	.00
		Workers' Benefit Fund Assessment - ER	.00
		Local Income Tax	.00
		School District Tax	.00
		Total Taxes Debited	18,115.06
	Other Transfers	401K	Account Number 180127
			.00
		ADP Direct Deposit	Account Number 180127
			30,919.11
		Total Amount Debited from your Accounts	49,034.17
			Total Liability
			49,034.17
	Bank Debits and	Checks	.00
	Other Liability	Adjustments/Prepay/Voids	.00
	Taxes - Your	None This Payroll	
	Responsibility		49,034.17

48,333.34+

.00+

700.83+

.00+

.00+

49,034.17*

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

In Re:)	Case No. BK 02-83998
)	
RESTORAGEN, INC,)	CHAPTER 11
)	
Debtor.)	

**ORDER CONFIRMING MODIFIED FIRST AMENDED PLAN
OF REORGANIZATION OF RESTORAGEN, INC.
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

On May 1, 2003, a Confirmation Hearing with respect to the Debtor’ s First Amended Plan of Reorganization(1) (the “**Plan**”) was held. The Court has reviewed the Plan with all exhibits attached thereto, the Declaration of James J. Niemeier in support of the Plan; and the Report on Ballots and Administrative Expenses with respect to the Plan, and finds as follows:

- (a) No objections to confirmation of the Plan have been filed.
- (b) The Plan complies with all requirements of 11 U.S.C. § 1129(a) except 11 U.S.C. § 1129(a)(8) which requires the Court to determine if the Plan complies with 11 U.S.C. § 1129(b).
- (c) The Class 4 Old Equity Interests which is the only Class to have been deemed to reject the Plan are not unfairly discriminated against under the Plan and their

(1) Unless otherwise specified, capitalized terms and phrases used in this Order (the “**Confirmation Order**”) have the meanings assigned to them in the Plan. The rules of interpretation set forth in Article I.D of the Plan shall apply to this Confirmation Order. In addition, in accordance with Article I.A. of the Plan, any term used in the Plan or this Confirmation Order that is not defined in the Plan, or this Confirmation Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. A copy of the Plan (without the exhibits thereto) is attached hereto as Exhibit “A” and incorporated herein by reference.

treatment is fair and equitable. Two impaired Classes, the Class 2 Allowed Secured Lender Claims and Class 3 Unsecured Claims are each impaired and voted to accept the Plan.

- (d) The Class 4 Claimants are not entitled to any distribution under the Plan until the Class 2 and Class 3 creditors are paid in full due to the absolute priority rule. The Plan does not provide payment in full to either Class 2 or Class 3 Claims. Further, no Class inferior to the Class 4 Claims will receive anything under the Plan. Therefore, the Plan is fair and equitable pursuant to 11 U.S.C. § 1129(b)(2)(C).
- (e) Based upon the foregoing, the Court finds the Plan may and should be confirmed pursuant to 11 U.S.C. § 1129(b).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

A. CONFIRMATION OF THE PLAN.

The Plan and each of its provisions are confirmed (whether or not subsequently specifically approved herein) in each and every respect pursuant to § 1129(b) of the Bankruptcy Code; *provided, however*, that if there is any direct conflict or inconsistencies between the terms of the Plan and (a) the terms of this Confirmation Order, the terms of this Confirmation Order shall control, or (b) the terms of the Plan Exhibits, the terms of the Plan Exhibits shall control. All of the objections and other responses to, and statements and comments regarding, the Plan, have been withdrawn or are hereby overruled.

The following shall constitute amendments to the Plan: the Effective Date shall be June 19, 2003. In Section 4.03, the term “Reorganized Debtor” is deleted and the term

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“Disbursing Agent” is substituted. Section 4.06 is deleted in its entirety and in its place the following is substituted:

4.06 Objection to Claims; Avoidance Actions. From the date of the filing of this Plan and to and through the consummation of the Plan, the Disbursing Agent, for and on behalf of the Unsecured Creditors, shall have the sole and exclusive authority to file objections, settle, compromise, withdraw or litigate to judgment all objections to Priority Tax Claims, Class 1 Claims and Class 3 Claims to prosecute all preference, fraudulent conveyance and other avoidance actions, if any, held by the Debtor. The Class 2 Claims are deemed to be allowed. All costs, including fees and expenses of professionals used in prosecuting any such objections filed by the Disbursing Agent pursuant to this Section 4.06 shall be paid solely and exclusively from the Unsecured Creditors Fund.

B. EFFECTS OF CONFIRMATION.

1. IMMEDIATE EFFECTIVENESS; SUCCESSORS AND ASSIGNS. The stay contemplated by Bankruptcy Rule 3020(e) shall not apply to this Confirmation Order. Subject to the provisions of Sections 12.05 and 12.09 of the Plan and notwithstanding any otherwise applicable law, immediately upon the entry of this Confirmation Order, the terms of the Plan and this Confirmation Order are deemed binding upon the Debtor, any and all holders of Claims or Interests (irrespective of whether such Claims or Interests are Impaired under the Plan or whether the holders of such Claims or Interests accepted, rejected or are deemed to have accepted or rejected the Plan), any and all non-debtor parties to executory contracts and unexpired leases with the Debtor and any and all entities that are parties to or are subject to the settlements, compromises, releases, discharges and injunctions and the respective heirs, executors, administrators, successors or assigns, if any, of any of the foregoing.

2. CONTINUED CORPORATE EXISTENCE; VESTING OF ASSETS.

(a) Except as otherwise provided in the Plan, the Debtor shall continue to exist until the Effective Date as a separate corporate entity, with all the

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powers of a corporation (or such other corporate form) under applicable law and without prejudice to any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable state law. As of the Effective Date, the property of the Debtor’s Estate, together with any property of the Debtor that is not property of its Estate and that is not specifically disposed of pursuant to the Plan, shall vest in the Reorganized Debtor. Thereafter, the Reorganized Debtor may operate its business and may use, acquire, and dispose of property, compromise or settle any Claims or Interests free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Courts, other than those restrictions expressly imposed by the Plan or this Order. Unless, prior to the Effective Date, the Noteholders elect to retain the Notes and other loan documents evidencing and securing the Notes, as of the Effective Date, all property of the Reorganized Debtor shall be free and clear of all Claims, liens, charges, other encumbrances and Interests.

3. CANCELLATION, ISSUANCE AND SURRENDER OF DEBTOR’S STOCK.

- (a) Except as provided in any contract, instrument or other agreement or document created, entered into or delivered in connection with the Plan, on the Effective Date, (i) all Interests and any other note, bond, indenture, or other instrument or document evidencing or creating any obligation of the Debtor related to the Interests are cancelled and of no further force and effect, without any further action on the part of the Debtor, and (ii) the obligations of the Debtor under any agreements, indentures or certificates

of designations governing the Interests and any other note, bond, indenture or other instrument or document evidencing or creating any obligation of the Debtor related to the Interests are discharged. The holders of or parties to such canceled instruments, securities and other documentation shall have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof.

- (b) On the Effective Date, the Debtor shall issue the Replacement Common Stock and shall be deemed to have transferred the Replacement Common Stock in full to the Noteholders.

4. ALLOWANCE OF NOTEHOLDER CLAIMS AND RELEASE OF LIENS.

- (a) Notwithstanding anything to the contrary in the Plan, for purposes of the Plan, the Noteholders Claim shall be allowed in the aggregate amount of Nineteen Million Five Hundred Thousand and No/100ths Dollars (\$19,500,000.00). The Noteholders shall not be entitled to any treatment or distribution as a Class 3 Claim.
- (b) Except as otherwise provided in the Plan, this Order or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to Article IV of the Plan, all liens or other security interests against the property of the Debtor's estate are fully released and discharged, and all right, title and interest of any holder of such liens or other security interests, including any rights to any collateral thereunder, shall revert to the Debtor and

Reorganized Debtor, as provided under the Plan. Notwithstanding the foregoing, the rights and remedies of holders of liens or other security interests securing Class 2 Claims shall be subject to the discharge and injunction provisions of the Plan and this Confirmation Order, and shall be limited to those rights and remedies set forth in the Plan, and the Confirmation Order.

5. GRF TRANSACTION. The sale and grant of licenses by the Debtor to Coolidge & Company, Inc. or an affiliated assignee, GHRCO., Inc. as described in the Amended Disclosure Statement are approved in their entirety. The Asset Purchase and License Agreement, dated March 24, 2003, between the Debtor and Coolidge & Company, Inc. is approved in all respects, and the Debtor is authorized to enter into and perform the obligations under the Asset Purchase and License Agreement.

On the Closing Date, which notwithstanding anything to the contrary in the Asset Purchase and License Agreement or the Plan, date shall be the first day after which this Confirmation Order becomes a final, non-appealable Order, the Assets (as such term is defined in the Asset Purchase and License Agreement) shall be sold and transferred and the licenses (as such term is defined in the Asset Purchase and License Agreement) granted free and clear of all liens, pledges, claims, security interests, encumbrances and interests of any kind with all such liens, pledges, claims, security interests, encumbrances and interests attaching to the proceeds of the sale to the same extent and in the same order of priority as each such interest now attaches to or affects the Assets. Following closing, the liens of the Noteholders will transfer and attach to all sale and license proceeds of the GRF Transaction including, but not limited to, the Purchase Price as defined in Section 1.4 of the Asset Purchase and License Agreement. The Fifty

Thousand Dollars (\$50,000.00) cash payment received under the Asset Purchase and License Agreement shall be deposited into a segregated account at Cornhusker Bank and the Noteholder liens shall transfer and attach thereto in the same right and priority as their original collateral. All funds contained in that account, as well as any future payments received or due under the Asset Purchase and License Agreement shall be paid to Medtronic International Ltd. as agent for the Noteholders up to the amount of the Noteholders' claims.

There are sound business reasons for the Debtor, pursuant to § 363(b) of the Bankruptcy Code, to effectuate the transaction described as the GRF Transaction in the Amended Disclosure Statement, and the sale of the assets, on the terms described, in the Asset Purchase and License Agreement, is authorized under the provisions of §§ 363(b) and (f) of the Bankruptcy Code.

Coolidge & Company and/or GHRCO, Inc. have acted in "good faith" as defined by § 363(m) of the Bankruptcy Code in connection with the transactions authorized herein and is accordingly granted the protections therein so provided. Neither Coolidge & Company nor GHRCO shall be deemed to be a successor to or of the Debtor as a result of the acquisition of the assets pursuant to the terms of the Asset Purchase and License Agreement and this Order.

Each and every federal, state, and local governmental agency or department shall be, and hereby is, directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase and License Agreement, including, without limitation, documents and instruments for recording in any governmental agency or department required to transfer to Coolidge & Company and/or GHRCO, Inc. the names and any and all other patents, licenses or permits under the Debtor's ownership necessary for the operations that are associated with the Assets.

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The terms and provisions of the Asset Purchase and License Agreement shall be binding in all respects on, and shall inure to the benefit of Coolidge & Company and/or GHRCO, Inc., the Debtor, the Reorganized Debtor, and their successors and assigns.

The Debtor and Coolidge & Company and/or GHRCO, Inc. are authorized and directed to take the necessary actions to consummate the transactions contemplated by the Asset Purchase and License Agreement and, execute all documents and instruments of assignment, transfer, sale and the grant of all Licenses that are necessary and appropriate to implement the Asset Purchase and License Agreement.

This Court shall retain jurisdiction to determine any claims, disputes or causes of action arising out of or relating to the Asset Purchase and License Agreement or any of the transactions contemplated thereunder. Notice of the hearing on Confirmation of the Debtor's Amended Plan of Reorganization constitutes sufficient notice of the sale as described in the Amended Disclosure Statement.

C. CLAIMS BAR DATES.

1. BAR DATES FOR ADMINISTRATIVE CLAIMS.

- (a) **General Bar Date Provisions.** Requests for payment of Administrative Claims must be filed with the Bankruptcy Court and served on counsel for the Debtor, counsel for the Noteholders and counsel for the Unsecured Creditors Committee no later than the Effective Date. Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve a request by the applicable bar date shall be forever barred from asserting such Administrative Claims against the Debtor or its respective property

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and such Administrative Claims shall be deemed discharged as of the Effective Date. The Reorganized Debtor has thirty (30) business days after receipt to object to the amount requested. The Bankruptcy Court shall retain jurisdiction to determine the Allowed amount of such Administrative Claim. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be filed with respect to an Administrative Claim which is paid or payable by the Debtor in the ordinary course of business

- (b) **Professional Compensation.** All final requests for compensation or reimbursement of Professional Fees for services rendered to the Debtor or The Unsecured Creditors Committee prior to the Effective Date must be filed and served on the Debtor's counsel, counsel for the Noteholders and counsel for the Unsecured Creditors Committee no later than thirty (30) days after the Effective Date. Objections to applications of such Professionals or other entities for compensation or reimbursement of expenses must be filed and served on the Debtor's counsel, the Noteholders' counsel, counsel for the Unsecured Creditors Committee, and the requesting Professional or other entity no later than thirty (30) days after the date on which the applicable application was served. To the extent necessary, entry of this Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court, including the Administrative Order Establishing Procedures for Interim Compensation of Professionals entered on December 19, 2003. The

Bankruptcy Court shall retain jurisdiction to determine the Allowed amount of each such claim.

- (c) **Priority Tax Claims.** The Reorganized Debtor shall have the right to file an objection to any Priority Tax Claim and other claims asserted by taxing authorities provided that any such objection must be filed no later than thirty (30) days following the Effective Date, unless such time period is extended by the Court. Following resolution of any objections, Priority Tax Claims and other claims asserted by taxing authorities shall be treated as provided under the Plan and, with respect to objections and other matters addressed herein, the provisions of this Order.

2. BAR DATE FOR REJECTION DAMAGES CLAIMS AND RELATED PROCEDURES. Any party to an Executory Contract or Unexpired Lease being rejected pursuant to the Plan which rejection shall be deemed to have occurred on the Confirmation Date, shall file and serve on Debtor's counsel, Noteholders' counsel and counsel for the Unsecured Creditors Committee a Proof of Claim for any Claims that may arise from such rejection (a "**Rejection Claim**") within fifteen (15) days after service and notice of the Confirmation Order.

Notwithstanding anything in the Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease pursuant to Section 7.1 of the Plan gives rise to a Claim by the other party or parties to the Executory Contract or Unexpired Lease, such Claim shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor or their respective properties unless a Proof of Claim is filed with the Clerk of this Court and served on the Debtor and the Reorganized Debtor pursuant to the procedures specified in this Confirmation Order, no later than fifteen (15) days after service of the Confirmation Order. Notwithstanding

anything to the contrary in this Confirmation Order or the Plan, Reorganized Debtor shall not have any direct or indirect liability for any Rejection Claim.

D. MATTERS RELATING TO IMPLEMENTATION OF THE PLAN.

1. RESTRUCTURING TRANSACTIONS.

- (a) The Debtor is hereby authorized, pursuant to the applicable provisions of applicable state business corporation laws and § 1123(a) and § 1142(b) of the Bankruptcy Code, to take such actions as may be necessary or appropriate to effectuate a corporate restructuring of its business including, without limitation, the following:
- (i) The cancellation of Old Common Stock on the Effective Date and re-issuance of Replacement Common Stock to the Noteholders as provided in Section 6.02 of the Plan;
 - (ii) The creation of the Reorganized Debtor and the conveyance and assignment of assets as provided for in Section 6.01 of the Plan;
 - (iii) The adoption of new or amended and restated certificates of incorporation and by-laws or similar constituent documents for the Reorganized Debtor as necessary. The issuance and distribution of the

Replacement Common Stock, the adoption, execution and implementation of any other matters provided for under the Plan involving the corporate structure of the Reorganized Debtor or corporate action to be taken by or required of the Reorganized Debtor shall occur and be effective as of the date specified in the documents effectuating the applicable transaction or the Effective

Date, if no such other date is specified in such other documents, and are authorized and approved in all respects and for all purposes without any requirement of further action by the stockholders or board of directors of the Reorganized Debtor;

- (iv) The President, Chief Financial Officer, or any other appropriate officer of the Reorganized Debtor, as the case may be, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the Reorganized Debtor, as the case may be, shall be authorized to certify or attest to any of the foregoing actions. Pursuant to § 1142(b) of the Bankruptcy Code, § 303 of the Delaware General Corporation Law and any comparable provision of the business corporation laws of any other state (collectively, the “**Reorganization Effectuation Statutes**”), without further action by the Bankruptcy Court or the stockholders or board of directors of the Reorganized Debtor, the Reorganized Debtor is authorized to: (i) cause to be filed with the Secretary of State of the State of Delaware or other applicable state or local official (A) any and all certificates, agreements or plans of merger, consolidation, dissolution, liquidation or amendment necessary or appropriate to

effectuate the provisions of the Plan and (B) certificates of incorporation, by-laws or similar constituent documents or certificates or articles of amendment thereto, as applicable (collectively, the “**Governance Documents**”); and (ii) take or cause to be taken all such other actions, including the making of appropriate filings or recordings as may be required under appropriate provisions of applicable state business corporation laws or any other applicable law, or as any of the President, any Vice President, Chief Financial Officer, Treasurer, or any Secretary (collectively, the “**Responsible Officers**”) of the Reorganized Debtor may determine are necessary or appropriate in connection with the provisions of the Plan and the Governance Documents. Each federal, state and local governmental agency or department is authorized and directed to accept the filing of any Governance Document or other document related to the implementation of the Plan. Without limiting the generality or effect of the foregoing, this Confirmation Order is declared and determined to be in recordable form and shall be accepted by any filing or recording officer or authority of any applicable governmental authority or department without any further orders, certificates or other supporting documents; and

- (v) All actions necessary or desirable to effectuate the transactions contemplated by Article 5 of the Plan.

2. APPROVAL OF EXECUTORY CONTRACT AND UNEXPIRED LEASE PROVISIONS AND RELATED PROCEDURES.

- (a) Except as otherwise modified herein, the Executory Contract and Unexpired Lease provisions of Article VII of the Plan are specifically approved. Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to § 365 of the Bankruptcy Code, the Debtor shall be deemed to have rejected each executory contract and unexpired lease to which the Debtor is a party, unless such contract or lease (i) was previously assumed or rejected by the Debtor, (ii)

previously expired or terminated pursuant to its own terms, (iii) is the subject of a Motion pending before the Bankruptcy Court as of the Confirmation Date to assume or reject such contract or lease, or is listed in Schedule 7.01 to the Plan. To the extent that an executory contract or unexpired lease is listed on Schedule 7.01, such executory contract or unexpired lease is assumed. To the extent that an executory contract or unexpired lease is not listed on Schedule 7.01, such executory contract or unexpired lease is rejected. Each contract and lease shall be assumed only to the extent that any such contract or lease constitutes an executory contract or unexpired lease. Listing a contract or lease on Schedule 7.01 to the Plan shall not constitute an admission by the Debtor that such contract or lease is an executory contract or unexpired lease or that the Debtor has any liability thereunder.

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- (b) This Confirmation Order shall constitute an Order approving the treatment of executory contracts and unexpired leases as described in Article VII of the Plan, pursuant to § 365 of the Bankruptcy Code, as of the Effective Date. The Debtor has provided adequate notice to each party whose executory contract or unexpired lease is being assumed or assumed and assigned pursuant to the Plan as required by the Bankruptcy Code.
- (c) This Confirmation Order shall constitute an order approving each such rejection, assumption and assignment as appropriate, pursuant to § 365 of the Bankruptcy Code, as of the Effective Date. The Court finds that adequate notice of the rejection of any executory contract or unexpired lease not listed on Schedule 7.01 to the Plan has been provided under § 365 of the Bankruptcy Code.
- (d) To the extent the rejection by the Debtor, pursuant to the Plan or otherwise, of an executory contract or unexpired lease results in a Claim, then such Claim shall be forever barred and shall not be enforceable against the Debtor or its properties unless a Proof of Claim is filed with the Clerk of the Bankruptcy Court and served upon counsel to the Debtor, counsel to the Noteholders and counsel to the Unsecured Creditors Committee within fifteen (15) days after service of the earlier of (a) notice of the Confirmation Order, or (b) other notice that the executory contract or unexpired lease has been rejected.

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3. APPROVAL OF DISTRIBUTION PROVISIONS. The Distribution provisions of the Plan shall be, and hereby are, approved. The Debtors and the Disbursing Agent as the case may be, shall make all Distributions required under the Plan.

4. APPROVAL OF PRESERVATION OF RIGHTS OF ACTION. Except as otherwise provided in this Plan or the Confirmation Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with § 1123(b) of the Bankruptcy Code, Reorganized Debtor shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all litigation claims that the Debtor or the Debtor's estate may hold against any person or entity.

5. PROSECUTION OF OBJECTIONS TO CLAIMS.

- (a) All objections to Claims shall be filed and served on the holders of such claims by the Effective Date, unless such time period is extended by the Bankruptcy Court.
- (b) After the Effective Date, only the Disbursing Agent shall have the authority to file, settle, compromise, withdraw or litigate to judgment objections to Class 3 Claims.
- (c) The remaining terms and provisions of Section 5.07(i) of the Plan are approved in their entirety.

E. SETOFF AND RECOUPMENT AND SUBROGATION RIGHTS NOT ELIMINATED.

Notwithstanding anything in the Plan to the contrary, nothing in the Plan will be deemed to eliminate, or enjoin the exercise of, the valid, enforceable subrogation, setoff or recoupment rights of any party that possesses enforceable rights of subrogation, setoff or recoupment under

applicable non-bankruptcy law prior to the Effective Date. Such rights of setoff and recoupment shall be subject to exercise by the Disbursing Agent, as provided in the Plan.

F. ACTIONS IN FURTHERANCE OF THE PLAN.

The approvals and authorizations specifically set forth in this Confirmation Order are nonexclusive and are not intended to limit the authority of the Reorganized Debtor or any officer thereof to take any and all actions necessary or appropriate to implement, effectuate and consummate any and all documents or transactions contemplated by the Plan or this Confirmation Order. In addition to the authority to execute and deliver, adopt or amend, as the case may be, the contracts, leases, instruments, releases and other agreements specifically granted in this Confirmation Order, the Debtor and the Reorganized Debtor are authorized and empowered, without action of their respective stockholders or boards of directors, to take any and all such actions as any of their responsible officers and managers may determine are necessary or appropriate to implement, effectuate and consummate any and all documents or transactions contemplated by the Plan or this Confirmation Order. Pursuant to § 1142 of the Bankruptcy Code, no action of the stockholders, boards of directors or members of the Debtor or the Reorganized Debtor shall be required for the Debtor or the Reorganized Debtor to: (i) enter into, execute and deliver, adopt or amend, as the case may be, any of the contracts, leases, instruments, releases and other agreements or documents and plans to be entered into, executed and delivered, adopted or amended in connection with the Plan and, following the Effective Date, each of such contracts, leases, instruments, releases and other agreements shall be a legal, valid and binding obligation of Reorganized Debtor, enforceable against Reorganized Debtor in accordance with its terms subject only to bankruptcy, insolvency and other similar laws affecting creditors' rights generally, and subject also to general equitable principles; (ii) issue the

Replacement Common Stock pursuant to the Plan to the Noteholders, and, upon issuance, all such Replacement Common Stock shall be duly authorized, validly issued and fully paid and non-assessable Replacement Common Stock of the Debtor; or (iii) authorize Reorganized Debtor to engage in any of the activities set forth in this paragraph or otherwise contemplated by the Plan. Each of the Responsible Officers of the Debtor and each of the Responsible Officers of the Reorganized Debtor is authorized to execute, deliver, file or record such contracts, instruments, financing statements, releases, mortgages, deeds, assignments, leases, applications, registration statements, reports or other agreements or documents and take such other actions as such officer may determine are necessary or appropriate to effectuate or further evidence the terms and conditions of the Plan, this Confirmation Order and any and all documents or transactions contemplated by the Plan or this Confirmation Order, all without further application to or Order of the Bankruptcy Court and whether or not such actions or documents are specifically referred to in the Plan, the Amended Disclosure Statement, the Amended Disclosure Statement Order, this Confirmation Order or the exhibits to any of the foregoing, and the signature of a Responsible Officer of the Debtor or of the Reorganized Debtor on a document executed in accordance with this Section shall be conclusive evidence of the responsible officer's or manager's determination that such document and any related actions are necessary and appropriate to effectuate or further evidence the terms and conditions of the Plan, this Confirmation Order or other documents or transactions contemplated by the Plan or this Confirmation Order. The Secretary or any Assistant Secretary of the Debtor or Reorganized Debtor is authorized to verify or attest to any of the foregoing actions. Pursuant to § 1142 of the Bankruptcy Code, to the extent that, under applicable non-bankruptcy law, any of the foregoing actions otherwise would require the consent or approval of the stockholders or the boards of

directors of either of the Debtor or Reorganized Debtor, this Confirmation Order shall constitute such consent or approval, and such actions are deemed to have been taken by unanimous action of the stockholders and directors of the Debtor or the members of Reorganized Debtor.

G. RELEASES AND INDEMNIFICATION.

The releases contained in Section 11.01 of the Plan shall be, and hereby are, approved in all respects, as if fully restated herein.

H. EXCULPATION.

The exculpation provisions contained in Section 11.02 of the Plan is approved in all respects, as if fully restated herein.

I. DISCHARGE, TERMINATION, INJUNCTION AND SUBORDINATION RIGHTS.

1. DISCHARGE OF CLAIMS AND SATISFACTION AND TERMINATION OF INTERESTS.

- (a) Except as provided in the Plan or this Confirmation Order, the rights afforded under the Plan and the treatment of Claims and Interests under the Plan shall be in exchange for and in complete satisfaction, discharge and release of all Claims and termination of all Interests arising on or before the Effective Date, including any interest accrued on Claims from the Petition Date. Except as provided in the Plan or in this Confirmation Order, Confirmation shall, as of the Effective Date: (i) discharge the Debtor from all Claims and other debts that arose on or before the Effective Date, and all debts of the kind specified in §§ 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (A) a Proof of Claim based on such debt is filed or deemed filed pursuant to § 501 of the Bankruptcy Code, (B) a Claim based on such debt is allowed pursuant to § 502 of the

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Bankruptcy Code or (C) the holder of a Claim based on such debt has accepted the Plan; and (ii) terminate all Interests and other rights of equity security holders in the Debtor.

- (b) In accordance with the foregoing, and except as provided in the Plan or in this Confirmation Order, this Confirmation Order constitutes a judicial determination, as of the Effective Date, of a discharge of a Claims and other debts and liabilities against the Debtor and termination of all Interests and other rights of equity security holders in the Debtor, pursuant to §§ 524 and 1141 of the Bankruptcy Code, and such discharge shall void any judgment obtained against the Debtor at any time, to the extent that such judgment relates to a discharged Claim or terminated Interest.

2. INJUNCTIONS.

- (a) Except as provided in the Plan or this Confirmation Order, as of the Effective Date, all entities that have held, currently hold or may hold a Claim or other debt or liability that is discharged or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions on account of any such discharged Claims, debts or liabilities or terminated Interests or rights: (i) commencing or continuing in any manner any action or other proceeding against the Debtor or Reorganized Debtor or their respective property, other than to enforce any right pursuant to the Plan to a distribution; (ii) enforcing, attaching, collecting or

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recovering in any manner any judgment, award, decree or order against the Debtor or Reorganized Debtor or their respective property, other than as permitted pursuant to (i) above; (iii) creating, perfecting or enforcing any lien or encumbrance against the Debtor or Reorganized Debtor or their respective property; (iv) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtor or Reorganized Debtor, except as provided in Article E of this Confirmation Order and (v) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan.

- (b) As of the Effective Date, all entities that have held, currently hold or may hold any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities that are released pursuant to the Plan are permanently enjoined from taking any of the following actions against any released entity or its property on account of such released claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff, right of subrogation or recoupment of any kind

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against any debt, liability or obligation due to any released entity except as provided in Article E of this Confirmation Order, and (v) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan.

- (c) As of the Effective Date, all entities that have held, currently hold or may hold any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities against parties that have given and received releases pursuant to the Plan as part of settlements approved as integral parts of the Plan (the “**Released Parties**”) are permanently enjoined from taking any of the following actions against any Released Party or its property based on substantially the same facts or circumstances that underlie the claims being released by the Debtor and Reorganized Debtor under such settlements: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to any released entity subject to the provisions of Section E of this Confirmation Order; and (v) commencing or continuing any action, in any manner, in any place, against any of the Released Parties.

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- (d) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim receiving distributions pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth herein.

J. PAYMENT OF STATUTORY FEES.

On or before the Effective Date, the Debtor shall pay all fees payable pursuant to 28 U.S.C. § 1930. After the Effective Date, the Reorganized Debtor, on behalf of Debtor, shall pay any further such fees thereafter on behalf of Debtor, as they come due until a final decree is entered closing the Chapter 11 Case in accordance with § 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022.

K. RETENTION OF JURISDICTION.

Notwithstanding the entry of this Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Chapter 11 Cases after the Effective Date as is legally permissible, including jurisdiction over the matters set forth in Article XII of the Plan, which provisions are incorporated herein by reference.

L. NOTICE OF ENTRY OF CONFIRMATION ORDER.

Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c), the Debtor or Reorganized Debtor are directed to serve a notice of the entry of this Confirmation Order and the establishment of bar dates for certain Administrative Claims hereunder, substantially in the form of Exhibit

“A” attached hereto and incorporated herein by reference (the “**Confirmation Notice**”), on all parties that received notice of the Confirmation Hearing, no later than fifteen (15) Business Days after the date of this Order; *provided, however*, that the Debtor or Reorganized Debtor shall be

obligated to serve the Confirmation Notice only on the record holders of Claims or Interests as of the Confirmation Date.

DATED: May 1, 2003.

/s/ Timothy J. Mahoney

UNITED STATES BANKRUPTCY JUDGE

PREPARED & SUBMITTED BY:

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