PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Asset Purchase Agreement

CONVEYING PARTY DATA

Name	Execution Date
Nanogen, Inc.	05/13/2009

RECEIVING PARTY DATA

Name:	Financiere Elitech SAS
Street Address:	12-12 Bis Rue Jean Jaures
City:	Puteaux
State/Country:	FRANCE
Postal Code:	92800

PROPERTY NUMBERS Total: 3

Property Type	Number
Patent Number:	6461828
Patent Number:	RE39816
Application Number:	12354273

CH $120.00 6461828

CORRESPONDENCE DATA

Fax Number: (202)842-7899
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ATTORNEY DOCKET NUMBER:	NEXU-001/04US 312502-2001
NAME OF SUBMITTER:	Mark L. Hayman

Total Attachments: 175
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ASSET PURCHASE AGREEMENT

BY AND AMONG

FINANCIERE ELITECH SAS,

NANOGEN, INC.,

EPOCH BIOSCIENCES, INC.,

AND

NANOTRONICS, INC.

May 13, 2009

TABLE OF CONTENTS

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("Agreement") is made as of May 13, 2009 (the "Effective Date") by and among Financière Elitech SAS, a *société par actions simplifiée* formed under the laws of France ("Buyer"), Nanogen, Inc., a Delaware corporation ("Nanogen"), Epoch Biosciences, Inc., a Delaware corporation and wholly-owned subsidiary of Nanogen ("Epoch"), and Nanotronics, Inc., a California corporation and wholly-owned subsidiary of Nanogen ("Nanotronics" and, collectively with Nanogen and Epoch, the "Sellers" and each a "Seller"). Buyer and Sellers are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties." All terms used below without definition are defined in Article 1 hereof.

PRELIMINARY STATEMENTS

A. Nanogen, Epoch and Nanotronics anticipate that in the near future they will file voluntary petitions commencing cases under the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. They also anticipate that the cases will be jointly administered. Such cases are referred to in this Agreement collectively as the "Chapter 11 Case," and the court in which the Chapter 11 Case will be pending is referred to as the "Bankruptcy Court."

B. Sellers desire to sell, transfer, convey, assign and deliver to Buyer, in accordance with Sections 363 and 365 and the other applicable provisions of the Bankruptcy Code, all of the Purchased Assets upon the terms and subject to the conditions set forth in this Agreement.

C. Each of the Parties contemplates that the Purchased Assets will be sold pursuant to a Sale Order, and such order will authorize and direct the assumption and assignment by each Seller, as appropriate, of the Assumed Contracts under Section 365 of the Bankruptcy Code and the terms and conditions of this Agreement.

D. Subject to the Bankruptcy Court's (1) approval of certain bid procedures ("Bid Procedures") for the sale of the Purchased Assets pursuant to an auction (the "Auction"), (2) issuance of the Bid Procedure Order, and (3) issuance of the Sale Order, which Sale Order shall be a Final Order and, *inter alia*, incorporate the terms of this Agreement, Buyer will purchase from Sellers, and Sellers will sell, transfer, convey, assign and deliver to Buyer all of the Purchased Assets upon the terms and subject to the conditions set forth in this Agreement.

E. Buyer is entering into employment agreements ("Employment Agreements") with the individuals listed on Exhibit A (the "Transferred Employees") simultaneously with the execution and delivery of this Agreement, which, subject to the Closing and the consummation of the Contemplated Transactions, shall be effective as of the Closing Date.

F. Buyer, Nanogen and the shareholders of Buyer are entering into a mutual termination agreement and release simultaneously with the execution and delivery of this Agreement terminating that certain Share Exchange Agreement by and among Nanogen, Buyer and the shareholders of Buyer dated as of August 14, 2008.

G. In order to make a single bid for the Purchased Assets, Buyer has entered into an agreement with The Bay City Capital Fund V, L.P. (together with its Affiliates, "BCC") pursuant to which BCC will finance a portion of the Purchase Price (provided that Buyer remains obligated to pay the full amount of the Purchase Price subject to the terms of this Agreement) and receive immediately subsequent to the Closing title to certain of the Purchased Assets, license to use certain of the Purchased Assets, and assignments of certain Contracts.

H. The Parties have agreed on the terms and conditions of a sale and assignment of the Purchased Assets to Buyer and the assumption of the Assumed Liabilities by Buyer on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing Preliminary Statements, and of the mutual covenants and agreements contained in this Agreement, the receipt and sufficiency of which each of the Parties hereby acknowledges, the Parties, intending to be legally bound, agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions.

Accounting terms used and not otherwise defined in this Agreement shall have the meanings given to them under GAAP. When used in this Agreement, the following terms in all of their tenses and cases shall have the meanings assigned to them below or elsewhere in this Agreement as indicated below:

"9.75% Convertible Notes" means, collectively, those certain promissory notes entitled "Senior Secured Convertible Note" and "Amended and Restated Senior Secured Convertible Note", in favor of the Investors, as applicable, dated August 14, 2008, in the aggregate original principal amount of $16,245,224.98.

"Acquisition Proposal" means a proposal relating to any merger, consolidation, business combination, sale, license or other disposition of any assets, rights or properties of Sellers or any of their respective assets pursuant to one or more transactions, sale of 50% or more of the outstanding shares of capital stock of any Seller (including by way of a tender offer) or similar transaction involving one or more third parties and any Seller.

"Affiliate" of any Person means any Person directly or indirectly controlling, controlled by or under common control with any such Person and any officer, director or controlling Person of such Person. For purposes of this definition, "control" (including "controlling," "controlled by," and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" is defined in the Preamble.

"Allocation" is defined in Section 4.2.

"Alternative Transaction" means (i) a transaction involving the sale of all of the Purchased Assets contemplated by an Acquisition Proposal from a third party, or (ii) a plan of reorganization of any Seller not involving the sale of the Purchased Assets to Buyer or any third-party investor.

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement executed by Buyer and Sellers, substantially in the form attached to this Agreement as Exhibit B.

"Assumed Contracts" is defined in Section 2.1(j).

"Assumed Liabilities" is defined in Section 3.1.

"Auction" is defined in the Preliminary Statements.

"Bankruptcy Code" means Title 11 of the United States Code, as amended, 11 U.S.C. §§ 101, *et seq.*

"Bankruptcy Court" is defined in the Preliminary Statements.

"BCC" is defined in the Preliminary Statements.

"Bid Letter" or "Bid Letters" means those certain letter agreements entered into on August 14, 2008 between Buyer and each initial holder of Nanogen's senior secured convertible bridge notes, pursuant to which Buyer agreed that upon an event of default under any such convertible bridge note or certain other senior convertible notes of Nanogen and the request of specified parties, Buyer would deliver a firm, binding irrevocable bid to acquire all of the NAD Quotas in an amount of at least seven million Euros (€7,000,000).

"Bid Procedures" is defined in the Preliminary Statements.

"Bid Procedures Order" means an order of the Bankruptcy Court substantially in the form attached as Exhibit C, which authorizes and approves, among other things: (i) the Break-up Fee and all other payments to Buyer arising under Section 9.3 as obligations of Sellers having super-priority as administrative expenses under Section 364(c)(1) of the Bankruptcy Code in the Chapter 11 Case; (ii) Buyer's designation as the stalking horse bidder; (iii) the setting of a deadline for the filing of objections to the entry of the Sale Order; (iv) scheduling the Auction; (v) scheduling the sale hearing; (vi) providing for competitive bidding procedures pursuant to which competing offers may be solicited, made and accepted, including, without limitation, the bid protections and procedures set forth in Article 11 of this Agreement; and (vii) approving and implementing the provisions of Section 4.3.

"Bill of Sale" means a bill of sale executed by each Seller, substantially in the form attached to this Agreement as Exhibit D.

"Break-up Fee" is defined in Section 9.3(b).

"Business" means all the operations carried on by Sellers up to the date hereof and all assets including products, components, regulatory filings, Contracts and Intellectual Property associated with the business of the Sellers, including the Molecular Diagnostics Business and the Point of Care Business.

"Business Day" means any day other than a Saturday, Sunday or any other day that banks located in Wilmington, Delaware, San Diego, California, or Paris, France are authorized or required by law to close.

"Buyer" is defined in the Preamble.

"Buyer Bridge Note" means that certain promissory note of Nanogen in favor of Buyer dated August 14, 2008 in the original principal amount of $3,000,000.

"Chapter 11 Case" is defined in the Preliminary Statements.

"Claim" means any claim, Lien, indenture, escrow, right of first refusal, Order or other Liability (whether arising by Contract or by operation of Law).

"Closing" and "Closing Date" are defined in Section 9.1.

"Contemplated Transactions" means all of the transactions contemplated by this Agreement, including the Chapter 11 Case.

"Contract" means any written commitment, understanding, instrument, lease, pledge, mortgage, indenture, license, agreement, purchase or sale order, promise or similar arrangement evidencing or creating any legally binding obligation.

"Convertible Notes Investors" means, collectively, those certain lenders named as "Holder" on the 9.75% Convertible Notes.

"Cure Costs" means (i) all amounts necessary to cure any default on the part of any Seller under an Assumed Contract, which amounts must be paid to the nondebtor under such Assumed Contract, or with respect to which adequate assurance of prompt delivery by such Seller must be provided in accordance with Section 365(a) of the Bankruptcy Code, and (ii) all amounts which must be paid to a nondebtor as a prerequisite for such nondebtor's consent to the assumption and assignment of an Assumed Contract, all as identified on Schedule 8.7, or in any Order of the Bankruptcy Court.

"Delta Point" means Delta Point Cardiac Diagnostic, Inc., an international business company formed under the laws of Barbados.

"Effective Date" is defined in the Preamble.

"Employee Benefit Plan" means any "employee pension benefit plan" (as defined in Section 3(2) of ERISA), any "employee welfare benefit plan" or other employee benefit plan (as defined in Sections 3(1) or 3(3) of ERISA), and any other written or oral plan, agreement or arrangement involving direct or indirect compensation or benefits to any employees, including

insurance coverage, cafeteria plan benefits, severance benefits, change of control, retention, performance, holiday pay, vacation pay, fringe benefit, disability benefits, pension, retirement plans, profit sharing, deferred compensation, bonuses, stock options, stock purchase, phantom stock, stock appreciation or other forms of incentive compensation or post-retirement compensation, that any Seller or its ERISA Affiliates maintains or to which any of them contributes.

"Employment Agreements" is defined in the Preliminary Statements.

"Epoch" is defined in the Preamble.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any other corporation or trade or business under common control with Seller as determined under Section 414(b), (c) or (m) of the Internal Revenue Code.

"Final Order" means an Order of the Bankruptcy Court that has not been stayed and as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or motion for reargument, rehearing or relief from judgment is then pending and, in the event that any appeal, writ for certiorari, or reargument or rehearing thereof has been sought, such Order of the Bankruptcy Court shall have been upheld by the highest court to which such Order was appealed, or from which certiorari, reargument or rehearing was sought and the time to take any further appeal, petition for certiorari, or motion for reargument or rehearing shall have expired; provided, however, that merely because Rule 9024 of the Federal Rules of Bankruptcy Procedure provides that a motion under Rule 60 of the Federal Rules of Civil Procedure can be filed after such date shall not prevent such Order from being a Final Order.

"Former Nanogen Employee" is defined in Section 8.4(a).

"GAAP" means generally accepted accounting principles, as in effect in the United States from time to time and consistently applied.

"Governmental Approvals" means any approval, consent, permit, license, waiver, or other authorization issued, granted, given or otherwise made available by or under any Governmental Authority or pursuant to any Law.

"Governmental Authority" means any foreign, federal, state, regional or local authority, agency, body, court or instrumentality, regulatory or otherwise, which, in whole or in part, was formed by or operates under the auspices of any foreign, federal, state, regional or local government.

"Harmful Code" means any computer code or other mechanism of any kind designed to disrupt, disable or harm in any manner the operation of any software or hardware or other business processes or to misuse, gain unauthorized access to or misappropriate any business or personal information, including worms, bombs, backdoors, clocks, timers, or other disabling device code, or designs or routines that cause software or information to be erased, inoperable, or

otherwise incapable of being used, either automatically or with passage of time or upon command.

"Intellectual Property" means any and all (i) trade names, trademarks, service marks, mask works and all registrations and applications for any of the foregoing; (ii) works of authorship, all copyrights related thereto and all registrations and applications therefor; (iii) inventions, formulations, discoveries, designs, industrial models, and all United States and foreign patent rights covered by, disclosed in, or otherwise related thereto, all registrations and applications therefor, and all reissues, divisions, continuations-in-part, re-examinations and extensions thereof, (iv) goodwill associated with the foregoing, and (v) undocumented intellectual property, including know-how, trade secrets, processes, technology, discoveries, unpatented inventions and designs, software, formulae, procedures and other intellectual property, documentation relating to any of the foregoing, shop rights and the right to apply for patent, design or similar protection therefor anywhere in the world.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended.

"Inventory" means all inventory of either Seller, wherever located, including all finished goods, work in process, raw materials, spare parts and all other materials and supplies to be used or consumed by such Seller in the production of finished goods related to the Business.

"Investor Bridge Notes" means those certain promissory notes in favor of the Investors, as applicable, dated August 14, 2008, in the aggregate original principal amount of $5,000,000.

"Investors" means, collectively, those certain lenders named as "Holder" on the Investor Bridge Notes.

"Knowledge" of a Person or any similar phrase means, with respect to any fact or matter, the knowledge of such Person or the directors and executive officers of such Person and, with respect to the Knowledge of Sellers, also means the knowledge of Messrs. Merl Hoekstra, Walter Mahoney and Fabrizio Gatti.

"Law" means any federal, state, regional, local or foreign law, rule, statute, ordinance, rule, Order or regulation.

"Legal Proceeding" means any action, suit, litigation, arbitration proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, audit, examination or investigation threatened, commenced, brought, conducted or heard by or before, or otherwise involving any court or other Governmental Authority or any arbitrator or arbitration panel.

"Liability" means any liability, debt, responsibility or obligation of any kind (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due).

"Lien" means any lien, charge, mortgage, covenant, easement, adverse claim, encumbrance, restriction, security interest, pledge, or title defect, whether arising by Contract or by operation of Law.

"Limited Guaranty" means that certain limited guaranty dated August 14, 2008, pursuant to which Buyer agreed to guarantee certain of Nanogen's obligations under the Investor Bridge Notes, including payment of principal amount not to exceed five million dollars ($5,000,000) and certain interest payments.

"Material Adverse Effect" means any result, occurrence, condition, fact, change, violation, event or effect that, individually or in the aggregate with any such other results, occurrences, conditions, facts, changes, violations, events or effects, is or could reasonably be expected to be (whether or not such result, occurrence, condition, fact, change, violation, event or effect has, during the period or at any time in question, manifested itself in the historical financial statements of Nanogen or Epoch) materially adverse to (A) the business, operations, assets, liabilities, condition (financial or other) or results of operations of the Business taken as a whole, or (B) the ability of any Seller to perform its obligations under this Agreement or consummate the Contemplated Transactions; provided, however, that none of the following shall be deemed either alone or in combination to constitute, and none of the following shall be taken into account in determining whether there has been or would be, a Material Adverse Effect on any Seller: (i) any changes affecting the industry in which the Business operates that do not have a disproportionate impact in any material respect on the Business, (ii) any changes in general economic conditions or the capital markets that do not disproportionately impact in any material respect the Business, (iii) the taking of any action required by this Agreement or to which Buyer has given its written consent, (iv) any changes or effects that Sellers can demonstrate are primarily attributable to the commencement, announcement or the pendency of the Contemplated Transactions, including disruption or loss of customers, business partners, suppliers or employee relations, (v) any noncompliance with the terms of the Nanogen Convertible Notes, (vi) any change in the cash reserves of Nanogen or (vii) any noncompliance with the terms of the Nanogen Convertible Notes.

"Material Assumed Contracts" is defined in Section 2.1(j).

"Mirina" means Mirina Corporation, a Delaware corporation.

"Mirina Stock" is defined in Section 2.1(b).

"Molecular Diagnostics Business" means all the operations carried on by Sellers up to the Effective Date and assets including products, components, regulatory filings, Contracts and Intellectual Property associated with the development, production, distribution and sale of products relating to research and diagnostic testing based on amplification and detection of nucleic acid carried out by Nanogen, NAD and Epoch, including the product lines Q-PCR Alert and PCR Alert.

"NAD" means Nanogen Advanced Diagnostics S.r.l., a *società a responsabilità limitata* formed under the laws of Italy.

"NAD Intercompany Receivable" means the accumulated intercompany debt associated with the purchase of Intellectual Property and operational activities between NAD and Nanogen, as reflected in the Nanogen/Epoch March 31 Balance Sheet and the Nanogen/Epoch Closing Date Balance Sheet.

"NAD Quotas" is defined in Section 2.1(a).

"Nanogen" is defined in the Preamble.

"Nanogen Convertible Notes" means, collectively, Nanogen's senior secured convertible bridge notes, 9.75% senior secured convertible notes, 6.25% senior convertible notes, and 9.75% amended and restated senior secured convertible notes.

"Nanotronics" is defined in the Preamble.

"New Bidder" is defined in Section 4.3(a).

"Nexus Real Property Lease" means that certain real property lease agreement dated February 25, 2000, by and between Nexus Canyon Park LLC ("Nexus"), and Epoch f/k/a Epoch Pharmaceuticals, Inc., a Delaware corporation, as amended by the First Amendment to Lease dated April 15, 2003 between Nexus and Epoch.

"Order" means any order, judgment, injunction, award, decree or writ rendered or issued by, or emanating from, any Governmental Authority.

"Party" and "Parties" are defined in the Preamble.

"Periodic Taxes" is defined in Section 10.3.

"Permitted Liens" means easements and other non-material encumbrances on real property that run with the land.

"Person" means any individual, corporation, partnership, limited liability company, association or any other entity or organization.

"PGx Interest" is defined in Section 2.1(n).

"Point of Care Business" means all the operations carried on by Sellers up to the Effective Date and assets including products, components, regulatory filings, Contracts and Intellectual Property associated with the development, production, distribution and sale (whether such activities are being carried out by Sellers at a Sellers' facilities located in Toronto, Canada, San Diego, California or elsewhere) of rapid qualitative tests for cardiac markers, rapid quantitative tests for cardiac markers, rapid tests for infectious disease, or other rapid testing, including Intellectual Property associated with stroke, traumatic brain injury and other diseases; the Vyent, Cardiac STATus and Decision Point product lines; and the NeXus Dx platform.

"Proration Periods" is defined in Section 10.3.

"Purchase Price" is defined in Section 4.1.

"Purchased Assets" is defined in Section 2.1.

"Purchased Intellectual Property" is defined in Section 2.1(c).

"Recognomics" means Nanogen Recognomics GmbH, a majority-owned subsidiary of Nanogen formed under the laws of Germany.

"Registered Intellectual Property" means Intellectual Property that is the subject of an application, certificate, filing, registration or other document issued by, filed with, or recorded by any Governmental Authority or quasi-governmental agency or non-governmental registrar (whether provisional, supplemental, or otherwise), anywhere in the world.

"Retained Contracts" means all Contracts to which any Seller is a party and which are not specifically defined as Assumed Contracts, including the Toronto Lease and the San Diego Lease.

"Sale Date" means the date that the Sale Order is entered on the Bankruptcy Court's docket.

"Sale Order" means the Order of the Bankruptcy Court substantially in the form of Exhibit E (with only such material changes as are approved by Buyer and Sellers, which approval shall not be unreasonably withheld), to be issued by the Bankruptcy Court pursuant to Sections 363 and 365 of the Bankruptcy Code (i) approving this Agreement and the Contemplated Transactions, (ii) approving the sale of the Purchased Assets to Buyer free and clear of all Liens other than Permitted Liens pursuant to Section 363(f) of the Bankruptcy Code, (iii) approving the assumption and assignment to Buyer of any Assumed Contracts, effective upon the Closing of the Contemplated Transactions and subject to Buyer's rights in Section 2.2, and finding that all Cure Costs have been satisfied, (iv) finding that Buyer is a good faith purchaser entitled to the protections of Section 363(m) of the Bankruptcy Code, (v) finding that Buyer is relying on having, immediately after Closing, ownership of the Purchased Assets free and clear of all Liens, other than Permitted Liens, and that Buyer would not pay the Purchase Price if it were not receiving for such consideration all of the Purchased Assets free and clear of all Liens, other than Permitted Liens, and (vi) finding that if the Purchased Assets are not free and clear of all Liens, other than Permitted Liens, upon Closing, then the consideration for the Contemplated Transactions will fail, and the Purchase Price, if paid, will be returned to Buyer.

"San Diego Lease" means the Standard Industrial/Commercial Single-Tenant Lease-Net between Nanogen, Inc. and LMP Properties LTD., dated June 29, 1994 as amended by First Amendment to Lease between Kilroy Realty, L.P. and Nanogen, Inc., dated March 14, 2001.

"SEC" is defined in Section 5.15.

"Sellers" is defined in the Preamble.

"Tangible Personal Property" is defined in Section 2.1(e).

"Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Internal Revenue Code Section 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not.

"Tax Returns" means any return, report or declaration filed with or submitted to any Governmental Authority in connection with the assessment, collection or payment of any Tax.

"Third-Party Intellectual Property" is defined in Section 5.4(b).

"Toronto Lease" means the Lease between 1159006 Ontario Limited and Nanogen, Inc. (o/a Point of Care Diagnostics Division), dated April 19, 2007.

"Transaction Taxes" is defined in Section 10.2.

"Transferred Employees" is defined in the Preliminary Statements.

"Treasury Regulations" means temporary and final regulations promulgated under the Internal Revenue Code by the United States Department of the Treasury (including corresponding provisions of succeeding regulations).

1.2 Interpretation. When a reference is made in this Agreement to a Section, Schedule or Exhibit, such reference shall be to a Section, Schedule or Exhibit of this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "included," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the phrase "without limitation." Unless otherwise indicated, all references to dollars refer to United States dollars. The Parties acknowledge that all Parties have participated in the drafting and preparation of this Agreement and agree that any rule of construction to the effect that ambiguities are to be construed against the drafting party shall not be applied to the construction or interpretation of this Agreement.

ARTICLE 2

PURCHASE AND SALE OF ASSETS

2.1 Purchased Assets. Subject to the terms and conditions of this Agreement and the approval of this Agreement by the Bankruptcy Court and the entry of a Sale Order that is a Final Order, and pursuant to Sections 363 and 365 of the Bankruptcy Code, effective as of the Closing, Sellers shall sell, transfer, convey, assign and deliver to Buyer or Buyer's designee, free and clear of all Liens except the Permitted Liens, and Buyer shall purchase, all of Sellers' respective right, title and interest in and to all of the assets owned by Sellers and used in the Business, including the following assets owned by Sellers (collectively, the "Purchased Assets"):

(a) NAD Quotas. All of the quotas representing the entire outstanding capital stock of fifty thousand Euros (€ 50,000) of NAD (the "NAD Quotas");

(b) Mirina Stock. One million three hundred thousand (1,300,000) shares of common stock, par value $0.001 per share, of Mirina issued to Nanogen as partial consideration for that certain License and Supply Agreement dated August 5, 2008 by and among Nanogen, Epoch and Mirina (the "Mirina Stock").

(c) Intellectual Property. All Intellectual Property owned by, or licensed to, the respective Sellers that is used in the Business, including the Intellectual Property listed and described in Schedule 2.1(c) (collectively, the "Purchased Intellectual Property");

(d) Names. Web sites and contact information to the extent relating to the Business; all corporate and trade names used at any time by Sellers relating to the Business, including the name "Nanogen"; all Internet domain names in all forms that include in whole or in part any words consisting of or similar to the names set forth in Schedule 2.1(d) and all content in electronic and other forms with respect to Sellers' Internet web sites relating to the Business; and all telephone and facsimile numbers and post office boxes used by Sellers relating to the Business;

(e) Tangible Personal Property. All design, manufacturing, laboratory, test, and other tools; all machinery, equipment, furniture, fixtures, tools, spare parts, supplies, maintenance equipment and materials; all computers, servers, routers, and other computer networking components; and all other items of tangible personal property of every description that are used in the Business (collectively, the "Tangible Personal Property"), other than as set forth on Schedule 2.1(e);

(f) Inventory and Supplies. To the extent relating to the Business, all Inventory and supplies of Sellers including all hardware, software, devices, tools, and other products of every kind held for sale, license or other form of distribution to customers in whatever form and media, work-in-progress, office supplies, and goods shipped from vendors on or prior to the Closing Date but not yet received by Sellers;

(g) Receivables and Prepaids. To the extent relating to the Business, all accounts receivable, the NAD Intercompany Receivable, general intangibles, deposits (including the deposit for the Nexus Real Property Lease), refunds, unbilled costs and fees, any items prepaid by any Seller, rights of set-off, promissory notes and other obligations of any kind payable to Sellers, coverage and other rights under any insurance policies, and other receivables of any kind;

(h) Records. All of the charters, minute books and any qualifications to conduct business as a foreign corporation for NAD, customer, supplier and accounting records, catalogues and sales literature, marketing material (including design, graphics, and artwork), forms, technical, production and customer manuals, correspondence, production records, employment records of Former Nanogen Employees (to the extent permitted by Law), financial statements and information, and any other files, records, or information possessed by Sellers,

wherever located and whether in paper, electronic or other form, to the extent they relate to any or all of the assets otherwise described in this Section 2.1 or the Business;

(i) Leased Real Property. All of Sellers' respective interests as tenant in the Nexus Real Property Lease;

(j) Contracts and Licenses. To the extent relating to the Business, and to the extent transferable by their terms or pursuant to any consent or notice obtained in connection with this Agreement or the Sale Order, all rights and benefits under all Contracts, Governmental Approvals, and other documents, commitments, arrangements, undertakings, or authorizations, including the Nexus Real Property Lease, and Contracts listed in Schedule 2.1(j) (collectively, the "Assumed Contracts") (such Contracts listed in Sections 5.4(b), 5.4(h), and 5.10(c) of Sellers' Disclosure Schedule, as well as the Nexus Real Property Lease, are collectively referred to in this Agreement as the "Material Assumed Contracts");

(k) Litigation Claims. Other than (x) as set forth in Schedule 2.1(k) and (y) the avoidance actions described in Section 2.3(d), any and all claims, demands, rights defenses, actions, causes of action, suits, Contracts, obligations, accounts, defenses, offsets, powers, privileges, licenses and franchises of any kind or character whatsoever, known or unknown, suspected or unsuspected, whether arising prior to, on or after the date on which the Chapter 11 Case is commenced, in contract or in tort, at law or in equity, or under any other theory of law, held by Sellers or their estates against any Person, including (i) rights of setoff, counterclaim, or recoupment, and claims on contracts or for breaches of duties imposed by Law and (ii) such claims and defenses as fraud, mistake, duress and usury.

(l) Protective Rights. To the extent relating to the Business, all assignable rights (but no Liabilities) conferred in favor of Sellers by Sellers' predecessors, stockholders, employees, or other Persons, which rights (i) impose obligations of confidentiality, non-disclosure, or assignment of Intellectual Property rights to or for the benefit of Sellers, (ii) provide any term of express or implied indemnity, warranty, guaranty or similar rights arising from or relating to any of the assets listed in this Section 2.1, or (iii) limit competition or non-solicitation of Sellers' respective employees or customers;

(m) Insurance Policies. Other than as set forth in Schedule 2.1(m), all insurance policies of each Seller and all rights thereunder (including any and all insurance refunds owed or claims made under such policies on or before the Closing Date relating to the Purchased Assets);

(n) Other Equity Interests. All equity interests owned by the Sellers in (i) Recognomics, (ii) Pharmacogenetics Diagnostics Laboratory LLC (the "PGx Interest"), and (iii) Delta Point; and

(o) General. All other tangible and intangible personal property wherever located to the extent used by Sellers in connection with any or all of the assets listed above or the Business; provided, however, that in no event shall Purchased Assets include Retained Assets.

2.2 Deletion of Purchased Assets. At any time prior to the Closing Date, and upon giving at least five (5) Business Days' prior written notice to Sellers, Buyer shall have the right, in its sole discretion, to delete in whole or part any of the Purchased Assets and not acquire such

deleted Purchased Assets at Closing; provided, however, that no adjustment shall be made to the Purchase Price as a result of any such deletion unless such deletion is a result of Buyer's purchase of the NAD Quotas due to any Person's exercise of rights under the Bid Letters, in which case the Purchase Price shall be reduced dollar for dollar by the amount of the purchase price bid and paid by Buyer for the NAD Quotas pursuant to an agreement other than this Agreement. If required pursuant to the Bid Letters, for purposes of converting the purchase price for the NAD Quotas from Euros to Dollars, the Parties will use the exchange rate as published in *The Wall Street Journal* on the Business Day immediately preceding the date on which such purchase price is actually paid by Buyer.

2.3 Retained Assets. Notwithstanding anything to the contrary in this Agreement, Sellers shall not sell, transfer, convey, assign or deliver and Buyer shall not purchase or acquire any assets of Sellers other than the Purchased Assets as described in this Agreement and the related schedules, including the assets set forth in Schedule 2.3. Without limiting the generality of the foregoing, Buyer shall not acquire any assets of Sellers that do not relate to the Business, including the following:

(a) Retained Contracts. All rights of Sellers under or pursuant to this Agreement (including the Purchase Price) and the Schedules attached to this Agreement, any other Contracts entered into by Sellers with Buyer pursuant to this Agreement, and the Retained Contracts;

(b) Certain Records. The charter, minute book, qualifications to conduct business as a foreign corporation, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, personnel records, stock records and Tax Returns of Nanogen and other similar books and records, financial records, books of account, bank and brokerage records and statements for Affiliates of Nanogen other than Epoch and NAD;

(c) Equity Interests. Any equity interests or other ownership interests in Sellers and their Affiliates (including Nanogen Point of Care, Inc.) other than the NAD Quotas, the Mirina Stock, Recognomics, the PGx Interest and Delta Point;

(d) Avoidance Actions. All of Sellers' claims or causes of action under Chapter 5 of the Bankruptcy Code;

(e) Cash and Cash Equivalents. All of Sellers' cash and cash equivalents (it being agreed that (i) cash or cash equivalents held by NAD, and (ii) cash received by any Seller from and after the Effective Date and prior to the Closing as (y) a prepayment of royalties related to any Purchased Intellectual Property made outside the ordinary course of business and specifically excluding any proceeds of the License Agreement with Life Technologies or (z) a prepayment relating solely to work to be performed by Buyer or its designee subsequent to Closing, shall not be considered a Retained Asset);

(f) Receivables; Deposits. All of Sellers' accounts receivable from employees of the Sellers other than Former Nanogen Employees, and all deposits related to the San Diego Lease and the Toronto Lease; and

(g) Tax Claims. All Tax Claims which any Seller or any Affiliate of any Seller may have against any Governmental Authority for refund or credit of any type with respect to Taxes applicable to the Business for periods ending on or prior to the Closing Date, including any Tax refund due to Sellers with respect to periods ending on or prior to the Closing Date.

ARTICLE 3

ASSUMPTION OF LIABILITIES

3.1 Assumed Liabilities. Notwithstanding anything to the contrary in this Agreement, Sellers shall not sell, transfer, convey, assign or deliver and Buyer shall not purchase, acquire or assume any Liabilities or other obligations of any Seller or of any Seller's respective Affiliates (other than NAD) other than the Assumed Liabilities as specifically described in this Agreement. Without limiting the generality of the foregoing, upon the terms and subject to the conditions of this Agreement, Buyer shall assume, pay, perform and discharge when due, effective as of the Closing Date and thereafter, only the following Liabilities (collectively, the "Assumed Liabilities"):

(a) Assumed Contracts. All of the Liabilities under the Assumed Contracts arising from and after the Closing Date, but only after any and all Cure Costs have been paid or adequately reserved for by Sellers pursuant to Section 4.1 of this Agreement. Sellers shall be responsible for the payment, performance and discharge when due of the Liabilities under the Assumed Contracts arising prior to the Closing Date; and

(b) Former Nanogen Employee Liabilities. All Liabilities for accrued vacation of the Former Nanogen Employees, subject to the limits set forth in Sellers' Employee Benefit Plans and Section 8.4(a), but expressly excluding any Liabilities for bonuses accrued and payable to any Former Nanogen Employees or any other employees of Sellers.

3.2 Excluded Liabilities. Each Seller shall retain all Liabilities not specifically included in the Assumed Liabilities, and Buyer shall have no obligation whatsoever to pay, perform or discharge when due such Excluded Liabilities.

ARTICLE 4

CONSIDERATION

4.1 Purchase Price. The total consideration to be paid by Buyer to Sellers for the Purchased Assets is twenty-five million six hundred eighty-five thousand dollars ($25,685,000) (the "Purchase Price"), which shall be in the following form: (i) the payment to Sellers in cash in an amount equal to twenty-one million five hundred nine thousand thirteen dollars ($21,509,013), (ii) the credit bid amount of four million one hundred seventy-five thousand nine hundred eighty-seven dollars ($4,175,987) based on debt owed by Nanogen to Buyer as of the Effective Date, and (iii) the assumption by Buyer of the Assumed Liabilities. Notwithstanding the foregoing, if any Person exercises its rights under the Limited Guaranty between the Effective Date and the Closing, then the cash portion of the Purchase Price as set forth in

clause (i) of the preceding sentence shall be reduced dollar for dollar by the amount that Buyer is required to pay under the Limited Guaranty, and the credit bid portion of the Purchase Price as set forth in clause (ii) of the preceding sentence shall be increased dollar for dollar by any such amount. Sellers shall be responsible for paying any Cure Costs under the Assumed Contracts on or prior to the Closing Date.

4.2 Allocation of Purchase Price. (a) Within 90 days following the Closing Date, Sellers and Buyer shall each prepare, in accordance with Internal Revenue Code Section 1060 and the applicable Treasury Regulations and any comparable provisions of Law, as appropriate, their proposed allocation, including Internal Revenue Service Form 8594 (the "Allocation"), in respect of the Purchased Assets that such Party intends to use in connection with its Tax Returns, and shall provide the other Party with a copy of same. Each Party agrees to consider any comments received within the following 30-day period from any other Party regarding such Party's proposed Allocation, and shall furnish the other Parties with such cooperation and existing information as is reasonably requested by the other Parties in connection therewith. Notwithstanding the foregoing, nothing herein shall require the Parties to agree upon their respective Allocations, and the Parties specifically acknowledge that, to the extent that they cannot agree, the Allocations submitted to the Internal Revenue Service on their respective Forms 8594 may in fact be inconsistent.

(b) Notwithstanding anything herein or in any credit document relating to Buyer to the contrary, Sellers shall apply the Purchase Price proceeds as follows, and Buyer agrees to support Sellers' application of, and not to contest the receipt by the Persons referred to below of, the Purchase Price in the manner set forth below:

(i) First, the portion of the Purchase Price relating to the assets of the U.S. subsidiaries of Nanogen shall be applied (A) first, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to the Investors under the Investor Bridge Notes, and (B) second, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to Buyer under the Buyer Bridge Note (which allocation, if any, shall take the form of a credit bid, as described in Section 4.1);

(ii) Second, the portion of the Purchase Price relating to the NAD Quotas shall be applied (A) first, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to the Investors under the Investor Bridge Notes, if any, and (B) second, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to Buyer under the Buyer Bridge Note (which allocation, if any, shall take the form of a credit bid, as described Section 4.1), and (C) third, to satisfy the obligations of Nanogen to the Convertible Notes Investors under the 9.75% Convertible Notes; and

(iii) Third, the portion of the Purchase Price relating to the assets of Nanogen other than the NAD Quotas shall be applied (A) first, to satisfy the obligations of Nanogen to the Convertible Notes Investors under the 9.75% Convertible Notes, if any, and (B) second, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to Buyer and the Investors in respect of the Buyer Bridge Note and the Investor

Bridge Notes, if any, each as applicable, which shall be applied pro rata among any such remaining obligations to Investors and Buyer.

4.3 Alternative Transaction Provisions.

(a) No Solicitation Before Entry of Bid Procedures. From and after the Effective Date and until such time as the entry of the Bid Procedures Order on the Bankruptcy Court's docket, Sellers shall not, and shall cause their respective Affiliates not to:

(i) directly or indirectly, (A) solicit, initiate, seek, entertain or knowingly encourage, or take any action to solicit, initiate, seek, entertain or knowingly encourage any inquiries or communications from any New Bidder (as hereinafter defined) relating to, or the making of any proposal or offer that constitutes or may constitute, an Acquisition Proposal, (B) participate in any discussions or negotiations relating to any Acquisition Proposal with any New Bidder, (C) furnish to any New Bidder any information that could reasonably be expected to be used by such New Bidder for the purposes of formulating any inquiry, expression of interest, proposal or offer relating to an Acquisition Proposal, or (D) accept any Acquisition Proposal or enter into any agreement, arrangement or understanding (whether written or oral) with any Person providing for the consummation of any transaction contemplated by any Acquisition Proposal or otherwise relating to any Acquisition Proposal;

(ii) release any Person from any confidentiality and/or standstill provisions of any Contract to which any Seller, NAD or any of their respective Affiliates is a party in connection with an Acquisition Proposal;

(iii) fail to notify Buyer in writing promptly after receipt by any Seller or NAD (or any of their respective officers, directors, advisors or agents) at any time on or before the Closing of any Acquisition Proposal, and such notice to Buyer shall indicate in reasonable detail the identity of the Person making such proposal and the terms and conditions of such proposal, and any written material (including in electronic form) embodying or concerning such proposal; and

(iv) make any Person other than Buyer the "stalking horse bidder".

As used herein, "New Bidder" shall mean any Person who has not been provided access to the Sellers' electronic data room prior to the Effective Date.

(b) Solicitation After Entry of Bid Procedures. Sellers shall be entitled to consider proposals for Alternative Transactions involving only the Purchased Assets as a whole from third parties consistent with their fiduciary obligations as debtors-in-possession in the Chapter 11 Case. Furthermore, Buyer acknowledges that after entry of the Bid Procedures Order on the Bankruptcy Court's docket, Sellers may solicit bids from other prospective purchasers for the sale of all, but not less than all, of the Purchased Assets in accordance with the procedures set forth in the Bid Procedures Order and Article 11.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers represent and warrant to Buyer on the Effective Date and as of the Closing Date that the statements contained in this Article 5 are true and correct, except as set forth in Sellers' Disclosure Schedule attached as Exhibit F ("Sellers' Disclosure Schedule"). Sellers agree to prepare and arrange Sellers' Disclosure Schedule in sections and paragraphs corresponding to the Sections contained in this Article 5, and the disclosure in any section or paragraph of Sellers' Disclosure Schedule qualifies other Sections in this Article 5 only to the extent it is clear that a given disclosure is applicable to other Sections.

5.1 Organization; Corporate Power of Sellers. Each Seller is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was formed. NAD is a *società a responsibilità limitata* duly organized, validly existing and in good standing under the laws of Italy. Delta Point is a corporation duly organized, validly existing and in good standing under the laws of Barbados. Each Seller has full corporate power to: (a) own, lease and operate the Purchased Assets and carry on the Business as and where such assets are now owned or leased and as the Business is presently being conducted; and (b) execute, deliver and perform this Agreement and all other agreements and documents to be executed and delivered by it in connection with this Agreement, subject to and after giving effect to the approval of the Bankruptcy Court as reflected by a Sale Order that is a Final Order (including satisfying any conditions imposed by the Bankruptcy Court) and compliance with all requirements of the Bankruptcy Code. Each of NAD and Delta Point has full corporate power and authority and all material licenses, permits, and authorizations necessary to carry on the business in which it is engaged and to own and use the assets owned and used by it.

5.2 Enforceability. All requisite corporate action to approve, execute, deliver and perform this Agreement and consummate the Contemplated Transactions has been taken by each Seller, subject to the entry of the Sale Order becoming a Final Order with respect to each Seller. This Agreement and each other agreement and document delivered by any Seller in connection with this Agreement have been duly executed and delivered by such Seller and, assuming due authorization, execution and delivery by Buyer, constitute the binding obligation of such Seller, enforceable in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other Laws affecting creditors' rights generally, and by principles of equity.

5.3 No Conflicts; Consents.

(a) No Conflicts. Except as set forth in Section 5.3(a) of Sellers' Disclosure Schedule, each Seller's execution, delivery, and performance of this Agreement and/or the consummation by such Seller of the Contemplated Transactions do not:

(i) Conflict with or violate any provision of the formation or corporate governance documents, each as amended to date, of such Seller, NAD or Delta Point;

(ii) Require such Seller or any of its respective subsidiaries to make any filing with, or obtain any permit, authorization, consent or approval of, any Governmental Authority or other Person, other than as contemplated by this Agreement and the Contemplated Transactions, including the Chapter 11 Case and the motion and related pleadings necessary to seek and obtain the approval of this Agreement;

(iii) Result in a breach or default under, create in any Person the right to accelerate, terminate, modify or cancel, or require any notice, consent or waiver under, any Contract, Governmental Approval, indebtedness, Lien or other agreement or obligation to which such Seller, NAD or Delta Point is a party or to which any of their respective assets is subject, in any case with or without due notice or lapse of time or both;

(iv) Result in the imposition of any Claim upon any assets of such Seller, NAD or Delta Point other than Permitted Liens; or

(v) Violate any Law, Order, writ, or injunction applicable to such Seller, NAD or Delta Point or any of their respective assets or subsidiaries;

except, in the case of (ii), (iii), (iv) and (v), as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Consents. Section 5.3(b) of Sellers' Disclosure Schedule separately lists each filing with, notice to, and/or approval or consent from any Governmental Authority and other Persons that may be necessary to permit Sellers to (i) assign and transfer the Purchased Assets to Buyer without a violation of Law or breach of any Contract with any Persons, and (ii) otherwise carry out their obligations under this Agreement (collectively, the "Third Party Consents"). Neither NAD nor Delta Point is required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority or other Person in connection with this Agreement or the consummation of the Contemplated Transactions.

5.4 Intellectual Property.

(a) Ownership. Sellers own or otherwise have valid and legally enforceable rights to use the Purchased Intellectual Property. The Purchased Intellectual Property constitutes all of the Intellectual Property necessary to conduct the Business as conducted by Sellers. Sellers are the sole owner of, and have valid title to, all of the Purchased Intellectual Property, other than the Third-Party Intellectual Property listed in Sellers' Disclosure Schedule pursuant to Section 5.4(b) (the "Owned Intellectual Property").

(b) Inbound Licenses and Rights. Section 5.4(b) of Sellers' Disclosure Schedule (i) lists all Purchased Intellectual Property that any third party has licensed to one or more of the Sellers or otherwise authorized such Party to use (the "Third-Party Intellectual Property"), other than "shrink-wrap" and similar commercially available end-user licenses, and (ii) indicates any such Third-Party Intellectual Property that requires the consent of any Person in order to be assumed, sold, transferred and assigned to Buyer. None of the Sellers has materially breached any of the Contracts governing the Third-Party Intellectual Property, and, to Sellers' Knowledge, no other party to those Contracts has breached those Contracts.

(c) No Restrictions. Except as set forth in Section 5.4(c) of Sellers' Disclosure Schedule, the Owned Intellectual Property is free of all payment obligations and other Claims and is not subject to any known limitations or restrictions on use or otherwise. To Sellers' Knowledge, there is no Legal Proceeding or Order that prohibits or restricts Sellers from carrying on the Business anywhere in the world or from any use of the Purchased Intellectual Property. No Person has any rights in the Owned Intellectual Property that could cause any reversion or renewal of rights in favor of that Person or termination of Sellers' or, immediately after the Closing, Buyer's rights in the Owned Intellectual Property.

(d) Effect of Closing. Immediately after the Closing, Buyer (or its designee(s)) will be the sole owner of, and will have valid title to, the Owned Intellectual Property, and will have the full right to use, license and transfer the Purchased Intellectual Property in the same manner and on the same terms that Sellers had immediately prior to the Closing. Except as set forth in Section 5.4(d) of Sellers' Disclosure Schedule, Sellers are not legally bound by any agreements or obligations under which the occurrence of the Closing could (i) obligate Sellers or Buyer to license or otherwise grant rights to any other Person in any Intellectual Property (whether owned or used by Sellers or Buyer), (ii) entitle any Person to a release of any source code escrow, (iii) result in a Claim on the Purchased Intellectual Property, or (iv) otherwise increase any burdens or decrease any rights relating to the Purchased Intellectual Property.

(e) Perfection of Ownership Rights. With respect to the Owned Intellectual Property:

(i) Employees and Consultants. Sellers have secured valid written assignments from all consultants and employees who contributed to the creation or development of Owned Intellectual Property of the rights to such contributions that Sellers do not already own by operation of Law. Sellers have delivered or made available to Buyer copies of all such assignments, which are true and complete in all material respects. Except as set forth in Section 5.4(e)(i) of Sellers' Disclosure Schedule, such assignments are and, immediately following the Closing, will continue to be, in full force and effect.

(ii) Effect of Assignments. In each case in which any Seller has acquired from any Person any Purchased Intellectual Property other than a license of the Third-Party Intellectual Property listed under Section 5.4(b), such Seller has obtained a valid and enforceable assignment sufficient to irrevocably transfer all rights in that Intellectual Property to such Seller. If any Seller has so acquired Registered Intellectual Property, such Seller has duly recorded each of these assignments with the appropriate Governmental Authority and listed these assignments in Section 5.4(e) of Sellers' Disclosure Schedule.

(f) Registered Intellectual Property. Section 5.4(f) of Sellers' Disclosure Schedule separately lists all Registered Intellectual Property included in the Owned Intellectual Property.

(i) Fees and Applications. All necessary registration, maintenance, renewal, and annuity fees and taxes have been paid, and all necessary documents have been filed, in connection with the Registered Intellectual Property that is Owned Intellectual Property. In connection with such Registered Intellectual Property, all registrations are in force, all applications for the same are pending in good standing, and except as otherwise set forth on Section 5.4(f) of Sellers' Disclosure Schedule, there are no adverse actions or proceedings

pending or, to Sellers' Knowledge, threatened by or before any Governmental Authority relating to such registrations or applications.

(ii) List of Maintenance Actions. Section 5.4(f) of Sellers' Disclosure Schedule accurately and completely lists all actions that must be taken by any Seller within one hundred twenty (120) days after the Effective Date relating to the payment of any fees or taxes or the filing of any documents necessary or appropriate to maintain, perfect or renew any Registered Intellectual Property that is Owned Intellectual Property.

(g) Validity. All patents and registered or unregistered copyrights, trademarks and service marks included in the Owned Intellectual Property are valid and, to Sellers' Knowledge, subsisting under applicable Law for those respective categories of Intellectual Property. To Sellers' Knowledge, there are no facts or circumstances that would render any of the Owned Intellectual Property invalid or unenforceable. All commercial releases of the software included in the Owned Intellectual Property contain appropriate copyright legends or notices in the name of the appropriate Seller.

(h) Outbound Licenses and Rights. Section 5.4(h) of Sellers' Disclosure Schedule lists all agreements under which any Seller has licensed or otherwise granted rights in any of the Purchased Intellectual Property to any Person. Section 5.4(h) of Sellers' Disclosure Schedule also lists separately any of the following related to the Owned Intellectual Property: (i) any exclusive rights granted to any third Person, (ii) any source code escrow or other form of delivery or disclosure of any source code to or for the benefit of any Person, or (iii) any other agreements that give other Persons the right to use, market or otherwise exploit or commercialize any of the Owned Intellectual Property. To Sellers' Knowledge, Section 5.4(h) of Sellers' Disclosure Schedule also lists separately any of the following related to the Third-Party Intellectual Property: (i) any exclusive rights granted to any third Person, (ii) any source code escrow or other form of delivery or disclosure of any source code to or for the benefit of any Person, or (iii) any other agreements that give other Persons the right to use, market or otherwise exploit or commercialize any of the Third-Party Intellectual Property.

(i) Indemnity Agreements. None of the Sellers has agreed to indemnify, defend or otherwise hold harmless any other Person outside of the ordinary course of business, with respect to damages resulting or arising from the Purchased Intellectual Property.

(j) No Violation of Seller's Rights. Except as set forth in Section 5.4(j) of Sellers' Disclosure Schedule, to Sellers' Knowledge, no Person has infringed or misappropriated any of the Purchased Intellectual Property. Immediately after the Closing, Buyer will have sole rights to bring actions for infringement or misappropriation of the Owned Intellectual Property. None of the Sellers has commenced or threatened any Legal Proceeding or Claim against any Person for infringement or misappropriation of the Purchased Intellectual Property or breach of any Contract involving the Purchased Intellectual Property.

(k) No Violation of Third-Party Rights. To Sellers' Knowledge, neither the conduct of the Business nor Sellers' creation, use, license or other transfer of the Purchased Intellectual Property infringe or misappropriate any other Person's Intellectual Property rights. None of the Sellers has received written notice of any pending or threatened Legal Proceeding or Claim in

which any Person alleges that such Seller, the Business or the Purchased Intellectual Property has violated any Person's Intellectual Property rights. There are no pending Legal Proceedings or Claims between any Seller and any other Person relating to the Purchased Intellectual Property.

(l) Confidentiality. Sellers have taken commercially reasonable steps to protect and preserve trade secrets and other confidential information included in the Purchased Intellectual Property. Sellers have taken commercially reasonable steps necessary to comply with any duties of any Seller to protect the confidentiality of information provided to such Seller by any other Person relating to the Business or the Purchased Assets. Sellers have obtained from each current and former employee, consultant and other independent contractor an executed proprietary information and invention assignment agreement (containing no exceptions or exclusions from the scope of its coverage) substantially in the form(s) attached to Section 5.4(l) to Sellers' Disclosure Schedule. To Sellers' Knowledge, none of those current or former employees, consultants or other independent contractors has violated any of those agreements.

(m) No Harmful Code. Sellers take commercially reasonable steps to assure that all software and data residing on their respective computer networks or licensed or otherwise distributed to customers is free of viruses and other disruptive technological means. The Owned Intellectual Property does not contain any Harmful Code.

(n) Software Functionality. Each of the computer software programs included in the Owned Intellectual Property is functional and operational substantially in accordance with the specifications and documentation of Sellers relating to that software, and each such computer software program has been documented in accordance with the standard practices of Sellers. Sellers possess full and complete source and object code versions of all such software. The Owned Intellectual Property includes all items necessary so that an adequately trained computer programmer can develop, maintain, support, compile and use that software.

(o) No Special Adverse Circumstances. The computer software source and object code that is also Owned Intellectual Property does not contain any source or object code or other Intellectual Property that is not wholly-owned by Sellers. None of the Owned Intellectual Property was developed using any government or university funding or facilities, nor was it obtained from a governmental entity or university. Neither Seller is a member of, nor is any Seller obligated to license or disclose any Intellectual Property to, any official or de facto standards setting or to any such organization's members. Sellers have not used any software of the type commonly referred to as "freeware" or "shareware" in a manner that requires the Owned Intellectual Property to be (i) disclosed or distributed in source code form, (ii) licensed for the purpose of making derivative works, or (iii) redistributable at no charge.

(p) NAD Intellectual Property. NAD owns or has the right to use pursuant to valid and enforceable Contracts all Intellectual Property necessary for the operation of its business as presently conducted. Each item of Intellectual Property owned or used by NAD immediately prior to the Closing will be owned or available for use by NAD on identical terms and conditions immediately subsequent to the Closing. NAD has taken commercially reasonable steps to maintain and protect each item of Intellectual Property that it owns or uses. To Sellers' Knowledge, NAD has not interfered with, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property rights of any third parties.

(q) Delta Point Intellectual Property, Etc. Delta Point owns or has the right to use pursuant to valid and enforceable Contracts all Intellectual Property set forth in Section 5.4(q) of the Sellers' Disclosure Schedule. Each item of Intellectual Property owned or used by Delta Point immediately prior to the Closing will be owned or available for use by Delta Point on identical terms and conditions immediately subsequent to the Closing. Delta Point has taken commercially reasonable steps to maintain and protect each item of Intellectual Property that it owns or uses. To Sellers' Knowledge, Delta Point has not interfered with, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property rights of any third parties. Other than maintenance of the Intellectual Property identified in Section 5.4(q) of the Sellers' Disclosure Schedule in the ordinary course, Delta Point will have no other Liabilities, including any Liabilities for Taxes, as of the Closing. Nanogen owns 100% of the issued and outstanding capital shares of Delta Point and will transfer all of such shares to Buyer (or Buyer's designee) at Closing free and clear of any Liens.

5.5 Changes. Except for events and circumstances related to or resulting from the Chapter 11 Case or as set forth in Section 5.5 of Sellers' Disclosure Schedule, between December 31, 2008 and the Effective Date:

(a) There has not been any Material Adverse Effect;

(b) There has not been any of the following:

(i) change by any Seller or NAD in its accounting methods, principles or practices;

(ii) declaration, setting aside or payment of any dividend or distribution payable upon any capital stock of any Seller or NAD or any redemption, purchase or other acquisition of any of any such Seller's or NAD's securities;

(iii) increase in the cash or non-cash compensation payable to any Seller's, or NAD's directors, officers, consultants or employees, or any new or increased awards or benefits under any employment, severance, "change of control," option, restricted stock, bonus, or other compensatory plan, or Contract for any of those Persons;

(iv) issuance or agreement relating to the issuance or sale by any Seller or NAD of any stock, notes, or other securities;

(v) amendment to any Seller's or NAD's formation or corporate governance documents;

(vi) purchase, sale, assignment, transfer of, or grant or imposition of any Claim on, all or any significant portion of the assets of any Seller or NAD (except for liens for Taxes not yet delinquent and Permitted Liens) relating to the Business;

(vii) waiver of any of either Seller's or NAD's accounts receivable or other rights relating to the Business outside the ordinary course of business;

(viii) damage, destruction or similar loss, whether or not covered by insurance, materially affecting the Business or the Purchased Assets;

(ix) any debt incurred for borrowed money or the purchase of any assets, capitalized leases or off-balance sheet transactions that could reasonably be expected to have a Material Adverse Effect on the Business or the Purchased Assets; or

(x) agreement by any Seller or any of such Seller's Affiliates to do any of the things described in the preceding clauses of this Section 5.5(b).

5.6 Tax Matters. Except as set forth in Section 5.6 of Sellers' Disclosure Schedule:

(a) Timely Filings and Payments. Each of the Sellers and NAD has properly filed all material Tax Returns that it was required to file. All such Tax Returns were correct and complete in all material respects. All material Taxes owed by the Sellers or NAD (whether or not shown on any Tax Return) have been paid. None of the Sellers or NAD currently is the beneficiary of any extension of time within which to file any income Tax Return. Each of the Sellers and NAD has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party, and all Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(b) No Withholding on Purchase Price. To Sellers' Knowledge, no portion of the Purchase Price payable to Sellers is subject to any United States federal Tax withholding based upon the operation of the Business by the Sellers.

(c) No Tax Claims. There is no material dispute or Claim, other than Permitted Liens, concerning any Tax Liability of Sellers or NAD either (i) claimed or raised by any Governmental Authority in writing, or (ii) as to which the Sellers' have Knowledge based upon personal contact with any agent of such Governmental Authority. To Sellers' Knowledge, no income Tax Returns currently are the subject of audit, and neither of the Sellers nor NAD has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency.

(d) Tax-Related Agreements or Consolidation. Neither Sellers nor NAD is a party to any Contract that, as a result in whole or in part of this Agreement or the consummation of the Contemplated Transactions, would result in any excise Tax on parachute payments under the Internal Revenue Code. Neither Sellers nor NAD has ever been a party to or otherwise bound by any Tax sharing, Tax allocation or Tax indemnity agreement.

(e) No Successor Liability for Seller Taxes. Neither Sellers nor NAD has entered into any transactions, taken any positions on any Tax Returns, or otherwise acted or omitted to act in a manner that would create any successor Tax Liability under any United States Tax Law against Buyer as a result of this Agreement or the consummation of the Contemplated Transactions.

5.7 Assets Generally. The Tangible Personal Property is free of any defects that would materially impair its ordinary use and is in good condition and repair. Sellers have good,

valid and transferable title to all of the Purchased Assets. NAD has good and marketable title to, or a valid leasehold interest in, the assets used by it, located on its premises as shown on its most recent balance sheets, free and clear and all Liens except for Permitted Liens and as otherwise set forth on Section 5.7 of Sellers' Disclosure Schedule.

5.8 Legal Compliance. Each Seller and its research, development, use, commercialization, marketing, distribution, licensing and sales of the Purchased Assets and any related operations, business, products or services (including the Business) are in compliance in all material respects with all applicable Laws. NAD has complied in all material respects with all Laws applicable to its operations and businesses. Without limiting the generality of the foregoing, neither Sellers nor NAD has, since January 1, 2005, violated any Laws in any material respect relating to export restrictions, Taxes, the environment, antitrust protection, health and safety of employees, Employee Benefit Plans, employment, privacy or protection of information, consumer protection, false advertising, bribes, gifts, or other unlawful payments to government officials or other Persons, or any legal obligations that would become legal obligations of Buyer as a result of noncompliance by any such Person.

5.9 Permits. Section 5.9 of Sellers' Disclosure Schedule accurately and completely lists all material filings, permits, licenses and approvals of any kind that any Seller or NAD uses in connection with the Purchased Assets or the Business, including permits under any export, environmental, or land use laws relating to the Business or the Purchased Assets. Neither Sellers nor NAD is required to make or obtain any material filings, permits, licenses and approvals under any Law other than the items listed in Section 5.9 of Sellers' Disclosure Schedule. Each of the items listed in Section 5.9 of Sellers' Disclosure Schedule is in force and effective, and, to Sellers' Knowledge, there is no basis for believing that any of these items will be terminated before its normal expiration.

5.10 Contracts.

(a) Sellers have delivered or made available to Buyer a correct and complete copy of each of the Material Assumed Contracts and all amendments, side letters and exhibits and schedules relating to such Assumed Contracts. In addition:

(i) Except as set forth in Section 5.10(a)(i) of Sellers' Disclosure Schedule, none of the Material Assumed Contracts is under negotiation as of the Effective Date. No liquidated damages, penalties or similar remedies are currently imposed or, Sellers' Knowledge, threatened against any Seller under any of the Assumed Contracts. Except as set forth in Section 5.10(a) of Sellers' Disclosure Schedule, as of the Effective Date, neither Sellers nor, to Sellers' Knowledge, any other party, is in material breach or default under any of the Assumed Contracts. Other than the Contemplated Transactions, to Sellers' Knowledge, no event has occurred that with notice or passage of time would (A) constitute a breach or default by any Seller or, to Sellers' Knowledge, by any other party, or (B) permit termination, modification or acceleration of the Assumed Contracts.

(ii) Subject to the approval of the Bankruptcy Court, Sellers will have the right to assume and assign each of the Assumed Contracts to Buyer by virtue of (A) the express provisions of the Assumed Contracts, (B) consents or notices contemplated to be obtained by

Sellers and given to Buyer prior to the Closing, (C) the authority granted under Section 365 of the Bankruptcy Code, and/or (D) applicable Law.

(iii) Each of the Material Assumed Contracts is legal, valid, binding and enforceable obligation of the applicable Seller, enforceable against such Seller in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equitable principles.

(iv) Except as set forth in Section 5.10(a)(iv) of Sellers' Disclosure Schedule, to Sellers' Knowledge, each of the Assumed Contracts will continue to be legal, valid, binding and enforceable and fully effective with respect to Buyer immediately following the Closing in accordance with its terms as in effect prior to the execution of this Agreement.

(b) Except as set forth in Section 5.10(b) of Sellers' Disclosure Schedule, Sellers do not have any outstanding Contracts with any Governmental Authority.

(c) Section 5.10(c) of Sellers' Disclosure Schedule sets forth an accurate and complete list of the following Contracts, if any, to which any Seller is a party or under which any Seller is otherwise legally bound, and that relate to the Business:

(i) non-competition agreements or other Contracts similarly limiting or restricting the operation of the Business anywhere in the world;

(ii) employment, severance, change of control or similar Contracts with employees or other service providers;

(iii) consulting Contracts involving the payment by any Seller of more than fifty thousand dollars ($50,000) between January 1, 2008 and the Effective Date;

(iv) leases of real or personal property other than the Nexus Real Property Lease;

(v) loans or other extensions of credit for borrowed money or deferred purchase price payments;

(vi) Contracts with any stockholder, director, or officer of any Seller or with Affiliates of any of those individuals;

(vii) agency, distributor, sales representative, franchise or similar Contracts; and

(viii) Contracts involving the payment or receipt by any Seller of more than fifty thousand dollars ($50,000) between January 1, 2008 and the Effective Date for goods or other property, services or otherwise.

5.11 Powers of Attorney. There are no outstanding powers of attorney executed on behalf of any Seller that in any way relate to any of the Purchased Assets.

5.12 Legal Proceedings.

(a) As of the Effective Date, except for the Chapter 11 Case or as described in Section 5.12(a) of Sellers' Disclosure Schedule, there is no Legal Proceeding pending or, to Sellers' Knowledge, threatened against any Seller, NAD or any of their respective Affiliates, relating to the Business or any part thereof, or any of the Purchased Assets in or before any court, arbitrator, mediator, or other Governmental Authority. To Sellers' Knowledge, there is no basis for any Legal Proceeding to become pending or threatened against any Seller, NAD or any of their respective Affiliates, relating to the Business or any part thereof, or any of the Purchased Assets other than the Chapter 11 Case.

(b) Without limiting the generality of the foregoing, Section 5.12(b) of Sellers' Disclosure Schedule lists all material Legal Proceedings pending or, to Sellers' Knowledge, threatened as of the Effective Date against any Seller or NAD, or any Purchased Assets in or before any court, arbitrator, mediator, or other Governmental Authority relating in any way to export restrictions, Taxes, the environment, antitrust protection, health and safety of employees, Employee Benefit Plans, other employment matters, privacy or protection of information, consumer protection, false advertising, bribes, gifts, or other unlawful payments to government officials or other Persons, or any other legal obligations of any Seller or NAD.

(c) To Sellers' Knowledge, none of any Seller's or NAD's current executive officers or directors has ever been a defendant or obligor under any judgment, injunction or other Order or ruling of or settlement approved by any court or other Governmental Authority relating to the Business or any other business of any Seller or NAD. None of the Legal Proceedings, if any, set forth in Section 5.12(c) of Sellers' Disclosure Schedule, individually or collectively, if determined adversely to the interests of any Seller or NAD, would have a Material Adverse Effect on the Business or the Purchased Assets.

5.13 Brokers' Fees. Except as set forth in Section 5.13 of Sellers' Disclosure Schedule, none of Sellers, NAD or any of their respective Affiliates has any Liability to pay any fees or commissions to any broker, finder or agent with respect to the Contemplated Transactions.

5.14 Customers and Suppliers. Except as set forth in Section 5.14 of Sellers' Disclosure Schedule, as of the Effective Date, no customer or supplier that (a) accounted for more than fifty thousand dollars ($50,000) of revenue of either Seller or NAD during the year ended December 31, 2008, or (b) is the sole supplier of any significant product, service or other tangible or intangible property or license rights to the Business, has given written notice within the past year that it will stop, or decrease the rate of, its transactions with Sellers or NAD.

5.15 Warranty Claims. Section 5.15 of Sellers' Disclosure Schedule lists Sellers', or NAD's customary forms of guaranty, warranty, right of return, right of credit or other indemnity related to the Business that legally binds any Seller or NAD in connection with any licenses, goods or services sold by such Seller or NAD. Neither Seller nor NAD has any written notice of any outstanding or unpaid warranty or other Claims of any kind related to the Business against such Seller or NAD that are not reserved on the most recent balance sheet filed by Nanogen with the United States Securities and Exchange Commission (the "SEC").

5.16 Product Liability. Neither Seller nor NAD has any Liability for, and, to Sellers' Knowledge, there is no basis for any Liability or Legal Proceeding arising out of, any injury to individuals or property as a result of the ownership, possession, or use of any product or service manufactured, sold, leased or delivered by such Seller or NAD.

5.17 Accounts Receivable. All accounts receivable of Sellers and NAD that are included in the Purchased Assets are reflected properly on their books and records and are valid receivables subject to no setoffs or counterclaims.

5.18 Prepayments, Prebilled Invoices and Deposits. Section 5.18 of Sellers' Disclosure Schedule lists in reasonable detail all prepayments, prebilled invoices and deposits that have been received by any Seller or paid by such Seller as of the Effective Date relating to any licenses, goods or services sold or purchased by such Seller that relate to the Business. All such prepayments, prebilled invoices and deposits have been properly accrued in the appropriate financial statements of Sellers in accordance with GAAP applied on a consistent basis with the past practices of Sellers.

5.19 Insurance. Sellers and NAD are covered by insurance in scope and amount customary and reasonable for the businesses in which they are engaged. The fire, theft, liability and other insurance policies maintained with respect to the business, operations, employees, assets or properties of the Company and its Subsidiaries provide adequate coverage against loss. As of the Effective Date, all premiums due and payable under those policies have been paid. None of the Sellers has Knowledge of any threatened termination of, or material premium increase with respect to, any of those policies. Section 5.19 of Sellers' Disclosure Schedule identifies all claims related to the Business or any of the Purchased Assets asserted by any Seller through the Effective Date pursuant to any insurance policy since January 1, 2008, and describes the nature and status of the claims.

5.20 Employees and Subcontractors.

(a) Section 5.20(a) of Sellers' Disclosure Schedule contains an accurate and complete list of all employees and independent contractors currently performing any services for Sellers, along with the position and date of hire or engagement. Sellers have delivered or made available to Buyer true and complete information with respect to the current compensation and benefits received by each such employee and independent contractor as of the Effective Date.

(b) To Sellers' Knowledge, no employee or group of employees has given written notice of any plans to terminate employment with either Seller or enter into any business that would compete with the Business. Except as set forth in Section 5.20(b) of Sellers' Disclosure Schedule, no Seller is a party to, or bound by, any collective bargaining agreement, nor has any Seller experienced any strikes, grievances, claims of unfair labor practices or other collective bargaining disputes. None of the Sellers has Knowledge of any organizational effort made or threatened, either currently or within the past two (2) years, by or on behalf of any labor union with respect to employees of Sellers.

(c) Except as set forth in Section 5.20(c) of Sellers' Disclosure Schedule, neither this Agreement nor the consummation of the Contemplated Transactions will give rise to any

obligation on the part of any Seller or Buyer to give any notice or otherwise act or omit to act under the Worker Adjustment and Retraining Notification Act or any similar state law.

5.21 Employee Benefits.

(a) Section 5.21(a) of Sellers' Disclosure Schedule contains an accurate and complete list of all Employee Benefit Plans maintained, or contributed to, by any Seller or any ERISA Affiliate of such Seller for employees performing services related to the Business.

(b) Each Seller has delivered or made available to Buyer prior to the Closing complete and accurate copies of the following items relating to such Seller's Employee Benefit Plans: (i) all Employee Benefit Plans that have been reduced to writing; (ii) written summaries of all unwritten Employee Benefit Plans; (iii) all related trust agreements, insurance contracts and summary plan descriptions; and (iv) all employee handbooks.

(c) Except where a failure to do so would not be reasonably likely to have a Material Adverse Effect on the Sellers, each Employee Benefit Plan has been administered in accordance with its terms, and each of Sellers and their respective ERISA Affiliates have met their obligations with respect to those Employee Benefit Plans and have made all required contributions under those Employee Benefit Plans. At no time has any Seller or any ERISA Affiliate of such Seller maintained or contributed to by Seller or any ERISA Affiliate of such Seller that is or was subject to Part 3 of Title I of ERISA or Title IV of ERISA or been obligated to contribute to any "multiemployer plan" (as defined under ERISA).

(d) Except as set forth in Section 5.21(d) of Sellers' Disclosure Schedule, each of Sellers' Employee Benefit Plans may be terminated without Liability to either Seller or Buyer, except for Sellers' sole legal responsibility for benefits accrued through the date of termination, the administrative and professional costs incurred in that transaction, and any health continuation coverage mandated by United States federal law.

5.22 Environmental Matters. None of the Sellers or NAD has released any hazardous materials or waste or other substances regulated by any environmental Law into the environment at any real property or other facility formerly or currently owned, leased, operated or controlled by any Seller, NAD or any of their respective Affiliates that has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Business or the Purchased Assets. Section 5.22 of Sellers' Disclosure Schedule lists all environmental reports, investigations and audits possessed or controlled by any Seller or NAD that were obtained from, or conducted by or on behalf of such Seller or NAD, any Governmental Authority, or any Person during the past three (3) years and relating to premises currently or previously owned, leased, operated or controlled by any Seller or NAD. Sellers have delivered or made available to Buyer complete and accurate copies of each item so listed.

5.23 Certain Business Relationships with Affiliates. Except as set forth in Section 5.23 of Sellers' Disclosure Schedule, none of the Sellers nor, to Sellers' Knowledge, any director or officer of any Seller or NAD owns, directly or indirectly, any interest in any corporation or other business that engages in a business similar or competitive to the Business. Except as set forth in Section 5.23 of Sellers' Disclosure Schedule, to Sellers' Knowledge, no director or officer of any

Seller or NAD (a) owns any tangible or intangible property or right that is used in the Business, (b) has any Claim or cause of action against any Seller or NAD, or (c) owes any money to any Seller or NAD or is owed money by any Seller or NAD other than for payment for services rendered, reimbursement for documented reasonable expenses incurred on behalf of such Seller or NAD, or in connection with their employment.

5.24 Books and Records. All records of Sellers and NAD furnished to Buyer in connection with this Agreement accurately reflect the matters purported to be described in those records.

5.25 Deposit. Section 5.25 of Sellers' Disclosure Schedule identifies the entity holding the deposit relating to the Nexus Real Property Lease.

5.26 Disclosure. No representation or warranty by either Seller contained in this Agreement, and no statement contained in Sellers' Disclosure Schedule, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary, in light of the circumstances under which it was or will be made, in order to make the statements in this Agreement and the Sellers' Disclosure Schedule not misleading.

5.27 Disclaimer of Additional Warranties. Except as expressly provided in this Agreement or in the Sale Order, Buyer agrees and acknowledges that all transfers of the Purchased Assets are "as is" and "where is," and acknowledges and agrees that Sellers make no representation of any kind whatsoever with respect to the Purchased Assets or otherwise, express or implied, including but not limited to any representation or warranty regarding the title or condition of the Purchased Assets, or the fitness, desirability, or the merchantability thereof or suitability thereof for any particular purpose, the current or future Tax Liability, assessment or valuation of any of the Purchased Assets, the compliance of any of the Purchased Assets in their current or future state with applicable Laws or the actual projected income or operating expense of the Business or Purchased Assets.

5.28 BCC Involvement. Sellers have been advised by Buyer and have notified the Collateral Agent for the Nanogen Convertible Notes that they have been advised that BCC: (i) will be involved in funding a portion of the Purchase Price to Buyer (provided that Buyer remains obligated to pay the full amount of the Purchase Price subject to the terms of this Agreement), (ii) has entered into an agreement with Buyer to receive certain of the Purchased Assets after the Closing, and (iii) may in the future sell or transfer some or all assets received from Buyer.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers as follows:

6.1 Organization and Power. Buyer is a *société par actions simplifiée* duly organized, validly existing and in good standing under the laws of France. Buyer has full corporate power to execute, deliver and perform this Agreement and all other agreements and documents to be executed and delivered by it in connection with this Agreement.

6.2 Enforceability. All requisite corporate action to approve, execute, deliver and perform this Agreement and consummate the Contemplated Transactions has been taken by Buyer. This Agreement and each other agreement and document delivered by Buyer in connection with this Agreement have been duly executed and delivered by Buyer and, assuming due authorization, execution and delivery by each Seller, constitute the binding obligation of Buyer, enforceable in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other Laws affecting creditors' rights generally, and by principles of equity.

6.3 Consents. Except for the approval of the Bankruptcy Court, no approval or consent of, or filing with, any Person or Governmental Authority is required in connection with Buyer's consummation of the Contemplated Transactions or the execution, delivery or performance by Buyer of this Agreement or any other agreement or document delivered by or on behalf of Buyer in connection with this Agreement.

6.4 No Conflicts. No action taken by or on behalf of Buyer in connection with this Agreement, including the execution, delivery and performance of this Agreement, and each other agreement and document delivered by it in connection with this Agreement, and consummation of the Contemplated Transactions, (a) gives rise to a right of termination or acceleration under any Contract to which Buyer is a party or by which Buyer is bound; (b) conflicts with or violates (i) any Law, (ii) Buyer's organizational documents, or (iii) any Order to which Buyer is subject; or (c) constitutes an event which, after notice or lapse of time or both, could result in any of the foregoing.

6.5 Legal Proceedings. As of the Effective Date, no Legal Proceeding is pending, or to Buyer's Knowledge, threatened against Buyer that could prevent Buyer from entering into, or performing its obligations under, this Agreement or consummating the Contemplated Transactions.

6.6 Brokers' Fees. Buyer has no Liability to pay any fees or commissions to any broker, finder or agent with respect to the Contemplated Transactions.

6.7 Financing. Buyer has adequate financing from internally-generated sources and has adequate cash on hand, or will obtain adequate financing on or prior to the Sale Date, and will continue to have adequate financing on the Closing Date, to enable it to fulfill its obligations under this Agreement and the Contemplated Transactions. Buyer acknowledges and agrees that Buyer's obligations under this Agreement are not contingent on obtaining adequate financing.

ARTICLE 7

CONDITIONS TO CLOSING

7.1 Conditions to Buyer's Obligations. The obligation of Buyer to consummate the Contemplated Transactions on the Closing Date is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by Buyer:

(a) Representations and Covenants. The representations and warranties of Sellers contained in this Agreement (except for the representations contained in Sections 5.2 and 5.3)

shall be true and correct on and as of the Closing Date with the same effect as though made on the Closing Date, except to the extent such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct as of such other date, except where the failure of such representations and warranties to be so true and correct as of the Closing Date or such other date would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on the Business or the Purchased Assets. The representations and warranties set forth in Sections 5.2 and 5.3 shall be true and correct in all material respects on and as of the Closing Date, except to the extent such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct in all material respects as of such other date. Sellers shall have performed and complied in all material respects with all of the covenants and agreements required by this Agreement to be performed or complied with by Sellers on or prior to the Closing Date. Each Seller shall have delivered to Buyer a certificate, dated the Closing Date and signed by an authorized officer of such Seller, to the foregoing effect and stating that all conditions to Buyer's obligations under this Agreement have been satisfied or waived.

(b) No Orders. On the Closing Date, there shall be no Order of any nature that directs that the Contemplated Transactions, in whole or in part, not be consummated, or that stays, modifies in any material respect or renders the Sale Order ineffective as to the Contemplated Transactions or any material part thereof.

(c) Bankruptcy Court Approval. The Sale Order shall have been entered on the Bankruptcy Court's docket and be a Final Order.

(d) Release of Liens. All Liens on the Purchased Assets, other than Permitted Liens, shall have been fully, finally and unconditionally released and extinguished pursuant to the Sale Order.

(e) Employment Agreements. The Employment Agreements shall be in full force and effect.

(f) Payment of Cure Costs. The Sellers shall have fully paid or reserved for any and all Cure Costs owed under the Assumed Contracts pursuant to Section 4.1 of this Agreement.

(g) Closing Deliveries. Each Seller, as appropriate, shall have delivered to Buyer, or caused to be delivered to Buyer, the following documents, duly executed by such Seller (where appropriate):

(i) NAD Quotas Transfer Instruments. The documents and instruments necessary and required to consummate the sale, assignment, transfer and delivery of the NAD Quotas to Buyer as provided in this Agreement pursuant to Article 2479, paragraph 4 of the Italian Civil Code, as amended by Article 1.2 of the Law No. 310 of August 12, 1993;

(ii) Other Purchased Asset Transfer Instruments. Duly executed copies of the Bill of Sale, the Assignment and Assumption Agreement, and such other transfer instruments in form and substance reasonably satisfactory to Buyer and signed by each Seller, as shall be required to enable Buyer to acquire the Purchased Assets (it being agreed that delivery of the

transfer instruments relating to the Mirina Stock and the equity interests described in Section 2.1(n) is not a condition to Buyer's obligation to consummate the Contemplated Transactions);

(iii) Officer's Certificate. The officer's certificates contemplated by Section 7.1(a);

(iv) Sale Order. A copy of the Sale Order;

(v) Settlement Statement. A copy of the Settlement Statement;

(vi) Release of Limited Guaranty and Bid Letters. Releases duly executed by all of the holders of the Nanogen Convertible Notes forever releasing and discharging Buyer from its obligations under the Limited Guaranty and Bid Letters, with the only condition to the effective of such release and discharge being the Closing and the consummation of the Contemplated Transactions;

(h) Material Adverse Effect. No Material Adverse Effect shall have occurred since the Effective Date.

7.2 Conditions to Sellers' Obligations. The obligation of each Seller to consummate the Contemplated Transactions on the Closing Date is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by Sellers jointly but not severally:

(a) Representations and Covenants. The representations and warranties of Buyer contained in this Agreement (except for the representations contained in Sections 6.2 and 6.4) shall be true and correct on and as of the Closing Date with the same effect as though made on the Closing Date, except to the extent such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct as of such other date, except where the failure of such representations and warranties to be so true and correct as of the Closing Date or such other date would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on Buyer. The representations and warranties set forth in Sections 6.2 and 6.4 shall be true and correct in all material respects on and as of the Closing Date, except to the extent such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct in all material respects as of such other date. Buyer shall have performed and complied in all material respects with all of the covenants and agreements required by this Agreement to be performed or complied with by Buyer on or prior to the Closing Date. Buyer shall have delivered to Sellers a certificate, dated the Closing Date and signed by an authorized officer of Buyer, to the foregoing effect and stating that all conditions to Sellers' obligations under this Agreement have been satisfied or waived.

(b) No Orders. On the Closing Date, there shall be no Order of any nature that directs that the Contemplated Transactions, in whole or in part, not be consummated, or that stays, modifies or in any material respect renders the Sale Order ineffective as to the Contemplated Transactions or any material part thereof.

(c) Bankruptcy Court Approval. The Sale Order shall have been entered on the Bankruptcy Court's docket and be a Final Order (unless Buyer waives in writing the requirement that the Sale Order be a Final Order).

(d) Purchase Price. Buyer shall have delivered the Purchase Price to Sellers as specified in Article 4.

(e) Settlement Statement. A copy of the Settlement Statement;

(f) Closing Deliveries. Buyer shall have delivered to Sellers, or caused to be delivered to Sellers, the following documents, duly executed by Buyer (where appropriate):

(i) Officer's Certificate. The officer's certificate contemplated by Section 7.2(a); and

(ii) Assignment and Assumption Agreement. A duly executed copy of the Assignment and Assumption Agreement.

ARTICLE 8

COVENANTS

8.1 Ordinary Course of Business. From the Effective Date through the Closing Date, each Seller shall use its reasonable efforts to conduct the Business in the ordinary course consistent with past practice, other than as contemplated by this Agreement and the Contemplated Transactions. Without limiting the foregoing, from the Effective Date through the Closing Date, Sellers will take reasonable measures necessary to reasonably protect the Purchased Intellectual Property including instructing third-party escrow agents holding such Purchased Intellectual Property not to release same.

8.2 Conduct of Business. Except for matters expressly permitted by this Agreement, from the Effective Date through the Closing Date, no Seller shall (and Nanogen shall not permit NAD to), with respect to the Business:

(a) other than as contemplated by this Agreement and the Contemplated Transactions, permit any of the Purchased Assets to be subjected to any additional Lien, other than Permitted Liens or Liens resulting from an agreement to provide debtor-in-possession financing or permit Sellers or any one of them to use cash collateral;

(b) sell or dispose of any Purchased Assets (except for Inventory and Tangible Personal Property used, consumed or replaced in the ordinary course of the operation of the Business consistent with past practices of Sellers);

(c) purchase or order any (i) Tangible Personal Property if the dollar amount of any order (or series of related orders) would exceed ten thousand dollars ($10,000), or (ii) Inventory or supplies outside the ordinary course of business, unless first approved in writing by Buyer;

(d) enter into any new Contracts relating to the licensing of Purchased Intellectual Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed;

(e) enter into any new business transactions with NAD, other than commercial transactions for products or the payment of Intellectual Property license fees in the ordinary course of business and consistent with past practices of Seller and NAD, without the prior written consent of Buyer;

(f) (i) declare, set aside or pay any dividends on, or make any other actual, constructive or deemed distributions in respect of, any of its capital stock, or otherwise make any payments to its stockholders in their capacity as such, other than dividends and distributions by a direct or indirect wholly-owned subsidiary of a Seller to its parent, (ii) split, combine or reclassify any of its capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock, (iii) purchase, redeem or otherwise acquire any shares of capital stock of any Seller or any other securities thereof or any rights, warrants or options to acquire any such shares or other securities, or (iv) adopt a plan of or effect any complete or partial liquidation or adopt resolutions providing for or authorizing such liquidation or adopt a plan of or effect any dissolution, merger, consolidation, restructuring, recapitalization or reorganization of any Seller;

(g) authorize for issuance, issue, deliver, sell, pledge, dispose of or grant (i) any shares of its capital stock, (ii) any other equity or voting securities, (iii) any securities convertible into or exchangeable for, or any options, warrants or rights to acquire, any such shares, equity or voting securities or convertible or exchangeable securities, or (iv) any "phantom" stock, "phantom" stock rights, stock appreciation rights or stock-based performance units;

(h) acquire or agree to acquire, by merging or consolidating with, or by purchasing all or a substantial portion of the assets of, or by any other manner, any business of any Person or any corporation, limited liability company, partnership, association or other business organization or division thereof, (i) any assets other than Tangible Personal Property or those assets acquired in the ordinary and usual course of business, and not, individually or in the aggregate, material to Sellers as a whole, or (ii) capital stock or equity interests in any Person;

(i) except as otherwise approved by the Bankruptcy Court, (i) grant to any present or former employee, officer or director of any Seller or any subsidiaries of any Seller any increase in compensation or benefits, (ii) grant to any present or former employee, officer or director of any Seller or any subsidiary of any Seller any increase in severance or termination pay, (iii) other than entering into employment agreements with employees of a Seller which are approved in writing in advance by Buyer, enter into or amend any employment, consulting, indemnification, severance or termination agreement with any such present or former employee, officer or director, (iv) establish, adopt, enter into or amend in any material respect any Employee Benefit Plan (or arrangement that, had it been in existence on the date hereof, would be an Employee Benefit Plan), (v) take any action to accelerate any payments, rights or benefits, or make any material determinations not in the ordinary and usual course of business, under any Employee Benefit Plan, or (vi) loan or advance money or other property to any present or former employee, officer or director of any Seller or any subsidiary of any Seller;

(j) make any change in accounting methods, principles or practices affecting the reported consolidated assets, liabilities or results of operations of any Seller, except insofar as may have been required by the Contemplated Transactions or a change in GAAP;

(k) enter into any transaction with an Affiliate (other than a Seller or a subsidiary of a Seller);

(l) make any loans, advances or capital contributions to, or investments in, any other Person, other than to or in a Seller or any subsidiary of any Seller or the advancement of trade credit to customers of a Seller or a subsidiary of a Seller in the ordinary and usual course of business;

(m) subject to Section 8.2(a), make or agree to make any new capital expenditure or expenditures or otherwise lease or encumber any of the Purchased Assets outside the ordinary course of business without the prior written consent of Buyer;

(n) prepare or file any Tax Return inconsistent with past practice or, on any such Tax Return, take any position, make any election or adopt any method that (i) is inconsistent with positions taken, elections made or methods used in preparing or filing similar Tax Returns in prior periods, and (ii) could reasonably be expected to result in the imposition of a Tax on the Business or any of the Purchased Assets subsequent to the Closing;

(o) pay, discharge or satisfy any Assumed Liabilities, other than the payment, discharge or satisfaction of Assumed Liabilities in the ordinary course of business or in accordance with their terms;

(p) violate in any material respect or fail to perform in any material respect any obligation or duty imposed upon it by any material applicable Law;

(q) waive, release or cancel any claims against third parties or debts owing to it, or any rights which have any value, in each case included in the Purchased Assets;

(r) terminate, rescind, modify, amend or otherwise alter or change any of the terms or provisions of any Material Assumed Contract, or reduce, discount, waive or forego any material payment or right thereunder, or agree to any compromise or settlement with respect thereto;

(s) enter into any Contract that, if it were effective on the Effective Date, would constitute a Material Assumed Contract without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed;

(t) solicit the prepayment of royalties related to any Purchased Intellectual Property; or

(u) enter into any Contract, commitment or arrangement to do any of the foregoing.

8.3 Access. From the Effective Date until the Closing Date, Sellers shall provide Buyer and its representatives reasonable access during normal business hours to Sellers' personnel, facilities and all books and records and such other information and Persons relating to

the Business as Buyer may reasonably request, and shall use commercially reasonable efforts to make available to Buyer any employees identified by Buyer as necessary to assist in the transition of the Business to Buyer.

8.4 Employee Matters.

(a) Buyer may, but is not required to, make offers of employment to some of Sellers' employees or seek to engage some of Sellers' employees as independent contractors or consultants. Effective upon the Closing Date, Sellers hereby waive, for the benefit of Buyer, any and all restrictions in any Contract relating to (i) non-competition with Sellers subsequent to termination of employment, or (ii) maintenance of confidentiality of any information for the benefit of Sellers, but only to the extent such information is related to the Business or the Purchased Assets with any employee who Buyer hires or engages (each such employee, including the Transferred Employees, a "Former Nanogen Employee"). Provided that an individual becomes a Former Nanogen Employee by accepting an employee offer letter distributed to such individual Buyer or an Affiliate of Buyer pursuant to Section 8.4(b), then for the period from the date that such individual actually becomes a Former Nanogen Employee, through at least the first anniversary of the Closing Date, Buyer shall provide such Former Nanogen Employee with compensation, health, welfare and retirement benefits, and severance benefits that are not less favorable than those provided to such Former Nanogen Employee immediately before the Closing Date. Buyer's benefit plans and polices, including vacation, floating holidays, retirement, severance and welfare plans, shall recognize, (i) to the extent permitted by the applicable Contract, for purposes of satisfying any deductible during the coverage period that included the Closing Date, any payment made by any Former Nanogen Employee toward deductibles in any health or other insurance plan of Sellers, and (ii) for purposes of determining eligibility to participate, vesting, and for any schedule of benefits based on service, all service with either Seller. In addition, for purposes of plans providing medical benefits to any Former Nanogen Employee after his or her transfer date, Buyer shall cause all pre-existing condition exclusions and actively-at-work requirements of such plans to be waived for such employee and his or her covered dependents, to the extent permitted by the applicable Contracts. Buyer shall be exclusively liable for all compensation and all health, welfare, disability, retirement, severance and other benefits that Buyer provides to any Former Nanogen Employee as contemplated by this Agreement or otherwise on or after the Closing Date.

(b) Sellers and Buyer will reasonably cooperate with each other so that on a mutually determined date prior to the Closing, Sellers will distribute to their employees designated in writing by Buyer the general form of employee offer letter. Sellers agree to use commercially reasonable efforts under communications reasonably approved in advance by Buyer to obtain signed copies of the offer letters from the designated employees.

8.5 Third Party Consents. Sellers shall use their reasonable best efforts to obtain all Third Party Consents, subject to the limitations of Sellers under the Chapter 11 Case and the Sellers' financial resources. Sellers shall cooperate with Buyer to attempt to ensure that such consents also consent to the subsequent assignment by Buyer and, as applicable, by BCC.

8.6 Adequate Assurances Regarding Assumed Contracts. With respect to each Assumed Contract, Sellers will cure all defaults, or provide adequate assurance of prompt cure,

and Buyer will provide adequate assurance of future performance, as required under Section 365 of the Bankruptcy Code with respect to each such Assumed Contract if requested by a nondebtor party to such Assumed Contract. Buyer and Sellers agree that they will promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court Order finding that all defaults have been cured or adequately reserved for and there has been an adequate demonstration of adequate assurance of future performance under the Assumed Contracts, such as furnishing affidavits, non-confidential financial information or other documents or information for filing with the Bankruptcy Court and making Buyer's and Sellers' employees and representatives available to testify before the Bankruptcy Court.

8.7 Cure Amounts. Set forth on Schedule 8.7 is a list of the Cure Costs of which Sellers have Knowledge on the Effective Date. Prior to the Closing, Sellers and Buyer shall cooperate to resolve any disputes with the nondebtor party to any of the Assumed Contracts regarding the amount of Cure Costs and Sellers shall pay or reserve for all Cure Costs owed to any nondebtor party on or prior to the Closing.

8.8 Use of "Nanogen". From and after the Closing, neither Seller shall use the name "Nanogen" or any trade names, trademarks, identifying logos or service marks included in the Purchased Assets or any part or variation of any of the foregoing or any confusingly similar trade names, trademarks or logos; provided, however, that during the 180-day period following the Closing Date, the Sellers may use the words "(formerly Nanogen, Inc.)" after its use of its new corporate name. Within five (5) Business Days following the Closing Date, Nanogen shall amend its certificate of incorporation and bylaws as necessary to comply with this Section 8.8. The Sellers shall seek to modify any official caption in the Chapter 11 Case to reflect the name changes contemplated herein.

8.9 Publicity. Copies of the text of all public announcements (whether pre-Closing or post-Closing) relating to this Agreement or the Contemplated Transactions will be provided to the other Parties prior to public release of the disclosure to be made and each Party must consent to the use of its name in any such public announcement.

8.10 Expenses. Except to the extent otherwise specifically provided in this Agreement, including Section 9.3(b), each Party shall bear its respective expenses incurred in connection with the preparation, execution and performance of this Agreement and the Contemplated Transactions, including all fees and expenses of agents, representatives, counsel and accountants.

8.11 Transition Plan. Buyer and Sellers agree to undertake a transition program immediately upon Closing of the Contemplated Transactions to transfer the Business and Purchased Assets to Buyer or its designee. Buyer will bear all costs associated with the transition activities. Following the Closing, Sellers (i) shall make available a project manager and other resources to be specified in a transition plan to assist in the physical relocation of assets including equipment, inventory, supplies and other materials, and (ii) shall continue to provide payroll and benefits to transition personnel, from funds provided by Buyer, in each case for a maximum of 60 days following Closing. Sellers will identify resources that would be appropriate to support the transition of the Molecular Diagnostics Business, the Point of Care Business and any other assets, books, records or documentation being transferred pursuant to this Agreement. Buyer will be responsible for recruiting transition personnel, payment of the costs

associated with such personnel, any transition service incentive (as determined by Buyer), and the cost of physical space required for the transfer. Buyer will also be responsible for the activities and costs required for the transition at any receiving location.

8.12 Employment Agreements. Between the Effective Date and the Closing Date, Buyer shall not terminate, amend or modify in any material respect the Employment Agreements.

8.13 Further Assurances.

(a) Each Seller agrees that, at any time and from time to time after the Closing, it will, upon the request of Buyer, do all such further acts, including executing documents or instruments, as may be reasonably required to further transfer and assign to Buyer any of the Purchased Assets, or to vest in Buyer good and marketable title to the Purchased Assets. In the case of licenses, certificates, approvals, authorizations, leases, Contracts and other commitments included in the Purchased Assets that cannot be transferred or assigned effectively without the consent of any third party, which consent has not been obtained prior to the Closing (after giving effect to the Sale Order and the Bankruptcy Code),

(b) Buyer agrees that, at any time and from time to time after the Closing, it will, upon the request of any Seller, do all such further acts as may be reasonably required to cause Buyer to assume the Assumed Liabilities in accordance with this Agreement and as may otherwise be appropriate to carry out the Contemplated Transactions.

ARTICLE 9

CLOSING AND TERMINATION

9.1 Closing. The closing (the "Closing") of the Contemplated Transactions shall be held on or within three (3) Business Days after the Sale Order becomes a Final Order and all other conditions in this Agreement have been met or such conditions have been waived by Buyer in its sole discretion (or such other date as the Parties may agree in writing), at the offices of Jackson Walker L.L.P., 901 Main Street, Suite 6000, Dallas, Texas 75202, at 10:00 a.m., Dallas, Texas time. The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be effective as of midnight, Dallas, Texas time on the Closing Date. The transfers and deliveries described in Article 7 shall be mutually interdependent and regarded as occurring simultaneously, and no such transfer or delivery shall become effective until all the other transfers and deliveries provided for in Article 7 have also been made. Sellers and Buyer shall meet on the date preceding the Closing Date at the offices of Jackson Walker L.L.P. to conduct a pre-Closing at which all deliveries to be made at Closing will be reviewed by the parties and placed in escrow. At 10:00 a.m. Dallas, Texas time, on the Closing Date all instruments and payments shall be distributed and disbursed to Sellers and Buyer, and the Closing shall be consummated.

9.2 Termination. This Agreement and the Contemplated Transactions may not be terminated except as follows:

(a) Upon the mutual written consent of Sellers and Buyer;

(b) By Sellers acting jointly but not severally, provided that neither Seller is then in material breach of any representation, warranty, covenant or other agreement contained in this Agreement, if there shall have been a material breach or misrepresentation of any of the representations or warranties or a material breach of any of the covenants set forth in this Agreement on the part of Buyer, which breach would give rise to the failure of the condition set forth in Section 7.2(a), and such breach is not cured within thirty (30) days following written notice to Buyer or which breach, by its nature, cannot be cured prior to the Closing;

(c) By Buyer, provided that Buyer is not then in material breach of any representation, warranty, covenant or other agreement contained in this Agreement, if there shall have been a material breach or misrepresentation of any of the representations or warranties or a material breach of any of the covenants set forth in this Agreement on the part of either Seller, which breach would give rise to the failure of the condition set forth in Section 7.1(a), and such breach is not cured within thirty (30) days following written notice to Sellers or which breach, by its nature, cannot be cured prior to the Closing;

(d) By Buyer, if (i) the filing of the Chapter 11 Case has not occurred prior to 6:00 p.m. Eastern Daylight Time on the date occurring two Business Days following the Effective Date, provided that such failure to file is not the result of any act or failure to act of Buyer, or (ii) the Chapter 11 Case once filed, as it applies to any Seller, shall have been dismissed or withdrawn for any reason or, as it applies to any Seller, shall have been converted to a liquidation case to be adjudicated under Chapter 7 of the Bankruptcy Code;

(e) By Buyer or any Seller, if the Closing has not occurred on or before August 31, 2009;

(f) By Buyer, if the Sale Order has not been entered on the Bankruptcy Court's docket and become a Final Order by July 31, 2009;

(g) By either Sellers or Buyer if any Seller executes a definitive agreement pursuant to which such Seller obligates itself to consummate an Alternative Transaction, regardless of whether such agreement contains conditions precedent to such Seller's obligations under the agreement;

(h) By Buyer in the event that the use by the Sellers of the cash collateral of the agent for the holders of the Investor Bridge Notes and the 9.75% Convertible Notes is terminated or otherwise limited or restricted by the agent for the holders of the Investor Bridge Notes and the 9.75% Convertible Notes in a manner that prevents the material compliance by Sellers of their covenants under Section 8.1 of this Agreement; or

(i) By either Sellers or Buyer, if there shall be in effect an Order restraining, enjoining or otherwise prohibiting the consummation of the Contemplated Transactions or any material part of the Contemplated Transactions.

9.3 Effect of Termination.

(a) Upon the termination of this Agreement in accordance with Section 9.2, the Parties shall be relieved of any further obligations or Liability under this Agreement other than

obligations or liabilities in accordance with the expense allocation provisions under Section 8.10 and the provisions of Section 9.3(b) below; provided, however, that nothing in this Section 9.3 shall relieve any Party from liability which such Party may have for any breach of this Agreement which occurs upon or prior to termination hereof.

(b) Sellers shall pay to Buyer, by wire transfer of immediately available funds to an account designated by Buyer, (i) a fee (the "Break-up Fee") in the amount of seven hundred fifty thousand dollars ($750,000), and (ii) reimbursement for Buyer's reasonable and documented costs and expenses, including fees to professionals, incurred in connection with this Agreement and the Contemplated Transactions in an amount not to exceed five hundred thousand dollars ($500,000) (the "Expense Reimbursement"), as follows: (A) following any termination by any Party pursuant to Section 9.2(g), the Break-up Fee and Expense Reimbursement shall be paid concurrently with the closing of such Alternative Transaction, and (B) following any termination by Buyer pursuant to Section 9.2(d)(ii), Section 9.2(e), Section 9.2(f) or Section 9.2(h), or by Seller pursuant to Section 9.2(e), and in each case provided that Buyer is not then in material breach of any representation, warranty, covenant or other agreement contained in this Agreement, then the Break-up Fee and Expense Reimbursement shall be paid concurrently with the closing of any Alternative Transaction (or any other transaction or series of transactions involving the sale, license or other disposition of any of the Purchased Assets for aggregate consideration in excess of $2,550,000) that occurs within the six month period following such termination. Each Seller shall be jointly and severally liable for the payment of the Break-up Fee and the Expense Reimbursement to Buyer.

(c) Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 9.3 and Article 12 shall survive any termination of this Agreement.

9.4 Limitation of Liability. Notwithstanding anything to the contrary contained in this Agreement or in any other document, each of Sellers' damages and Buyer's damages shall be limited to actual damages, and the other Party shall not be entitled to any consequential, punitive, or non-economic damages for any termination, breach, or failure to perform by Sellers' or Buyer, as the case may be.

ARTICLE 10

TAX MATTERS

10.1 Filing of Returns. In connection with the preparation and filing of Tax Returns as of and after the Closing Date, Buyer and Sellers shall cooperate and exchange information as reasonably required to accomplish the matters contemplated by this Article 10.

10.2 Transaction Taxes. Buyer shall bear and be responsible for paying any sales, use, stamp, transfer, documentary, registration, business and occupation and other similar taxes (including related penalties (civil or criminal), additions to tax and interest) imposed by any Governmental Authority with respect to the transfer of the Purchased Assets to Buyer ("Transaction Taxes"), regardless of whether any Tax authority seeks to collect such taxes from Sellers or Buyer. Buyer shall also be responsible for (i) administering the payment of such

Transaction Taxes, (ii) defending or pursuing any proceedings related thereto, and (iii) paying any expenses related thereto. Sellers shall give prompt written notice to Buyer of any proposed adjustment or assessment of any Transaction Taxes with respect to the Contemplated Transactions. In any proceedings, whether formal or informal, Sellers shall permit Buyer to participate and control the defense of such proceeding with respect to such Transaction Taxes, and shall take all commercially reasonable actions and execute all documents required to allow such participation.

10.3 Tax Prorations. As to any Purchased Assets acquired by Buyer, Sellers and Buyer shall apportion the Liability for personal property Taxes and ad valorem Taxes ("Periodic Taxes") for the current year Tax periods that include, but do not begin or end on, the Closing Date (the "Proration Periods"). For purposes of this Section 10.3, the Proration Period for ad valorem Taxes and personal property Taxes shall be the fiscal period for which such Taxes were assessed by the relevant Tax jurisdiction. The Periodic Taxes described in this Section 10.3 shall be apportioned between Sellers and Buyer as of the Closing Date, with Buyer liable for that portion of the Periodic Taxes equal to the Periodic Taxes for the Proration Period multiplied by a fraction, the numerator of which is the number of days remaining in the Proration Period including and after the Closing Date, and the denominator of which is the total number of days covered by such Proration Period. Sellers shall be liable for that portion of the Periodic Taxes for the Proration Period for which Buyer is not liable under the preceding sentence. Buyer and Sellers shall pay or be reimbursed for personal property Taxes (including instances in which such property Taxes have been paid before the Closing Date) on this prorated basis. In order to implement the above-described calculation, Buyer and Sellers shall agree on an estimate of the prorated personal property Taxes accrued but not paid prior to the Closing Date, and Buyer will reduce the Purchase Price to be paid at Closing by an amount equal to such estimate. To the extent such estimate of the prorated personal property Taxes is in excess of the actual Tax Liability, Buyer shall reimburse Sellers for such excess amount. Similarly, to the extent such estimate of the prorated personal property Taxes is below the actual Tax Liability, Sellers shall reimburse Buyer for such deficit amount. After the Closing Date, Buyer shall be liable for timely payment of the entire current year Tax bill which was taken into account in the adjustment of the Purchase Price. If a payment on a bill for Periodic Taxes is due after the Closing Date, the Party that is legally required to make such payment shall make such payment and, except as set forth in the preceding sentences of this Section, promptly forward an invoice to the other Party for its pro rata share, if any, based upon the Closing Date estimated proration. If the other Party does not pay the invoice within thirty (30) calendar days of receipt, the amount of such payment shall bear interest at the rate of six percent (6%) per annum. The Party responsible for paying a Tax described in this Section 10.3 shall be responsible for administering the payment of (and any reimbursement for) such Tax.

10.4 Tax Refunds. Any Tax refunds (including any interest related thereto) received by Buyer, its Affiliates or successors relating to the Purchased Assets and to Tax periods or portions thereof ending on or before the Closing Date shall be for the account of Sellers, and Buyer shall pay over to Sellers any such amount within five (5) business days of receipt thereof. Buyer shall, if Sellers so request and at Sellers' direction and expense, file or cause its Affiliates to file for and obtain any Tax refunds with respect to the Purchased Assets and to Tax periods or portions thereof ending on or before the Closing Date. Buyer shall give prompt written notice to Sellers if Buyer has Knowledge of any potential Tax refunds with respect to the Purchased

Assets and to Tax periods or portions thereof ending on or before the Closing Date other than Tax refunds related to NAD. Buyer and Sellers shall equally share any Tax refunds (including any interest related thereto) attributable to Proration Periods based on the same formula set forth in Section 10.3. Any costs associated with pursuing any Tax refunds attributable to Proration Periods will be shared by Buyer and Sellers based on the day allocation formula set forth in Section 10.3. Notwithstanding anything in this Agreement to the contrary, however, any Tax refund (including any interest related thereto) received by or on behalf of NAD for Tax periods or portions thereof ending on or before the Closing Date shall belong solely to NAD and shall not be for the account of Sellers.

ARTICLE 11

AUCTION PROCESS

Subject to Section 4.3, Sellers and Buyer acknowledge and agree that until the termination of this Agreement in accordance with its terms, Sellers and their respective Affiliates, officers, directors, employees, attorneys, investment bankers, accountants and other agents and representatives shall be permitted to (i) market and solicit offers for the Purchased Assets and Assumed Liabilities and may issue press releases, place advertisements or make other releases or disclosures in connection therewith, (ii) solicit additional qualified bids pursuant to the Auction Procedures and (iii) take any other affirmative action (including entering into any agreement or letter-of-intent with respect thereto) to cause, promote or assist with a successful overbidder transaction. Without limiting the foregoing, Sellers and their respective Affiliates and their respective officers, directors, employees, attorneys, investment bankers, accountants and other agents and representatives shall be permitted to supply information relating to Sellers and the Purchased Assets and Assumed Liabilities to prospective purchasers. Except as expressly set forth in Section 9.3(b), neither Sellers nor any of their respective Affiliates shall have any Liability to Buyer, either under or relating to this Agreement or any applicable Law, by virtue of entering into or seeking Bankruptcy Court approval of such definitive agreement for a successful overbidder transaction pursuant to this Article 11. Sellers and Buyer agree to comply in all material respects with the terms of the Auction Procedures. Sellers agree that they will seek to have included in the Bid Procedures Order a provision that requires any bid to exceed a previously high bid by an amount of not less than three hundred thousand dollars ($300,000).

ARTICLE 12

GENERAL PROVISIONS

12.1 Bankruptcy Court Approval. This Agreement and the Contemplated Transactions are contingent upon the approval and authorization of the Bankruptcy Court.

12.2 Notices. All notices shall be in writing delivered as follows:

(a) If to Buyer, to:

Financière Elitech SAS
12-12bis, rue Jean Jaurès
92800 Puteaux
France
Attn: Pierre Debiais
Facsimile: +33-1-41-45-07-19
E-mail: p.debiais@elitechgroup.com

With copies to:

Jackson Walker L.L.P.
901 Main Street, Suite 6000
Dallas, Texas 75202
United States of America
Attn: L. Scott Brown
Facsimile: +1-214-661-6869
E-mail: sbrown@jw.com

(b) If to Sellers, to:

Nanogen, Inc.
10398 Pacific Center Court
San Diego, California 92121
United States of America
Attn: David Ludvigson
Facsimile: +1-858-410-4949
E-mail: dludvigson@nanogen.com

With copies to:

Morgan, Lewis & Bockius LLP
One Market, Spear Tower
San Francisco, California 94105
United States of America
Attn: Scott D. Karchmer and William A. Myers
Facsimile: +1-415-442-1001
E-mail: skarchmer@morganlewis.com; wmyers@morganlewis.com

and

Ashby & Geddes
500 Delaware Avenue, 8th Floor
Wilmington, Delaware 19801
Attn: Bill Bowden
Facsimile: +1-302-654-2067
E-mail: wbowden@ashby-geddes.com

or to such other address as may have been designated in a prior notice. Notices sent by registered or certified mail, postage prepaid, return receipt requested, shall be deemed to have been given two Business Days after being mailed; notices sent by a nationally recognized commercial overnight carrier shall be effective the next Business Day after receipted delivery to such courier specifying overnight delivery; notices sent by facsimile shall be effective upon confirmation of receipt at the number specified above; otherwise, notices shall be deemed to have been given when received at the address specified above (or other address specified in accordance with the foregoing).

12.3 Survival of Representations, Warranties, Covenants and Agreements. All representations and warranties made by Sellers in this Agreement shall terminate on the Closing Date upon the purchase of the Purchased Assets by Buyer except for those in Section 5.1, and Sellers shall have no Liability after the Closing Date for any breach of any representation or warranty except for those in Section 5.1. Except as specifically set forth otherwise in the Agreement, all covenants and agreements of Sellers shall lapse at, and be of no further force and effect following, the Closing.

12.4 Binding Effect. Except as may be otherwise provided in this Agreement, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, including any trustee, responsible Person, estate administrator, representative or similar Person. Except as otherwise provided in this Agreement, nothing in this Agreement is intended or shall be construed to confer on any Person other than the Parties any rights or benefits under this Agreement.

12.5 Exhibits and Schedules. The Exhibits and Schedules referred to in this Agreement shall be deemed to be an integral part of this Agreement.

12.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.

12.7 Governing Law; Consent to Jurisdiction and Service of Process; Venue. This Agreement shall be governed by and construed under laws of the State of Delaware, without regard to conflict of laws principles, except to the extent a provision of the Bankruptcy Code is applicable. All judicial proceedings brought against any of the undersigned with respect to this Agreement may be brought in any state or federal court of competent jurisdiction sitting in the State of Delaware, and by execution and delivery of this Agreement, each of the Parties accepts for itself and in connection with its properties, generally and unconditionally, the nonexclusive jurisdiction of the aforesaid courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. A copy of any process served shall also be mailed by registered mail to the address set forth in Section 12.2, except that unless otherwise provided by applicable law, any failure to mail such copy shall not affect the validity of service of process. If any person appointed by any Party refuses to accept service, each Party hereby agrees that service upon it by mail shall constitute sufficient notice. Each of the Parties hereby waives any defense based upon improper venue, inconvenient venue or lack of personal jurisdiction.

12.8 Waivers. Compliance with any provision of this Agreement may be waived only by a written instrument specifically referring to this Agreement and signed by the Party waiving compliance. No course of dealing, nor any failure or delay in exercising any right, shall be construed as a waiver, and no single or partial exercise of a right shall preclude any other or further exercise of that or any other right.

12.9 Modification. No supplement, modification or amendment of this Agreement shall be binding unless made in a written instrument that is signed by all of the Parties and that specifically refers to this Agreement.

12.10 Assignment. No assignment by any Party of this Agreement or any right or obligation under this Agreement may be made without the prior written consent of all other Parties, and any assignment attempted without such consent will be void *ab initio*. Notwithstanding the foregoing, Sellers expressly acknowledge and agree that Buyer may assign and transfer all or any part of its rights in this Agreement upon two (2) Business Days' prior written notice to one or more majority-owned entities to effectuate the Contemplated Transactions, to BCC, or to any majority-owned entity of BCC; provided, however, that such assignment shall not relieve Buyer from its obligations under this Agreement or the Contemplated Transactions.

12.11 Entire Agreement. This Agreement, the agreements and documents referred to in this Agreement or delivered under this Agreement, and the letter agreement dated as of the Effective Date among the Sellers, Buyer and Portside Growth and Opportunity Fund, as agent for the holders of the Investor Bridge Notes and the 9.75% Convertible Notes, are the exclusive statement of the agreement among the Parties concerning the subject matter of this Agreement.

12.12 Enforcement. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. The Parties agree that, in the event of any breach or threatened breach by any Party of any covenant or obligation contained in this Agreement, each Party shall be entitled (in addition to any other remedy that may be available to it, including monetary damages) to seek and obtain (a) a decree or order of specific performance to enforce the observance and performance of such covenant or obligation, and (b) an injunction restraining such breach or threatened breach. The Parties further agree that no party shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 12.12, and each Party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

12.13 Access to Books and Records. Following the Closing Date, Buyer shall provide Sellers and Sellers' representatives and successors reasonable access during normal business hours to the books and records of Sellers that are delivered to Buyer at Closing, and to Buyer's personnel and facilities, to allow Sellers to liquidate their remaining assets and wind up their business affairs.

12.14 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future Laws effective during the term of this Agreement, the

legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected by such present or future Laws, and in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be legal, valid, and enforceable.

12.15 No Third-Party Rights. Nothing expressed or referred to in this Agreement will be construed to give any Person, including BCC, other than the Parties any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to Section 12.10.

INTENDING TO BE LEGALLY BOUND, the Parties have duly executed and delivered this Agreement as of the date written in the first sentence of this Agreement.

BUYER:

FINANCIÈRE ELITECH SAS
A French *société par actions simplifiée*

By: _____
Pierre Débiais, President

SELLERS:

NANOGEN, INC.
a Delaware corporation

By: _____
Name: _____
Title: _____

EPOCH BIOSCIENCES, INC.
a Delaware corporation

By: _____
Name: _____
Title: _____

NANOTRONICS, INC.
a California corporation

By: _____
Name: _____
Title: _____

INTENDING TO BE LEGALLY BOUND, the Parties have duly executed and delivered this Agreement as of the date written in the first sentence of this Agreement.

BUYER:

FINANCIÈRE ELITECH SAS
A French *société par actions simplifiée*

By: _____
Pierre Debiais, President

SELLERS:

NANOGEN, INC.
a Delaware corporation

By: _____
Name: David Ludvigson
Title: President + CEO

EPOCH BIOSCIENCES, INC.
a Delaware corporation

By: _____
Name: David Ludvigson
Title: President

NANOTRONICS, INC.
a California corporation

By: _____
Name: David Ludvigson
Title: Director

INDEX OF SCHEDULES

INDEX OF EXHIBITS

SCHEDULE 2.1(c)

PURCHASED INTELLECTUAL PROPERTY

- The intellectual property listed on Sections 5.4(b) and 5.4(f) of Sellers' Disclosure Schedule is hereby incorporated by reference.

SCHEDULE 2.1(d)

TRADENAMES AND BUSINESS NAMES

Trademarks

Shared

- Nanogen

Molecular Diagnostics

- MGB Alert
- PCR Alert
- Q-PCR Alert
- MGB Eclipse
- Super A
- Super G
- Super T
- Super N
- Aquaphluor
- Redmond Red
- Yakima Yellow

Point of Care Diagnostics

- Cardiac STATus
- Tox STATus
- Vyent
- Nexus Dx
- Decision Point Diagnostics
- i-Lynx

Other/Microarray

- NanoChip
- Assay Toolbox
- Assay Blueprint

Domain Names

Shared

- nanogen.com

- nanogenad.com
- nanogenad.it

Molecular Diagnostics

- cftr23.com
- epochbio.com
- mgbalert.com
- ngenasr.com
- pgxstars.com

Point of Care Diagnostics

- cardiacstatus.net
- statusfirst.com
- toxstatus.com

Other/Microarray

- assayblueprint.com
- assayblueprint.net
- uranochip.com
- urnanochip.com
- urnaknowchip.com
- nc400.com

SCHEDULE 2.1(e)

EXCLUDED TANGIBLE PERSONAL PROPERTY

Item Excluded from sale	Manu facturer	Model	Serial #	Asset Tag #	Ngen QA #	GE Capital	Lease mgt ser/other	Ngen ID	Description	Location	Est age	Est. value
Centrifuge - micro (2)	RPI-Tomy	PMC-060	any								>6 yr	80
Chemical storage cabinet (flam)										Chem	>8 yr	t20
Digital Analyzer LogicWave	HP	E9340A	US39510544		t129	This may have been purchased with grant monies					>t0yr	400
Efos Novacure (out of service)	Efos (EXFO)	N2000	7693	248					For gel spot curing	Chem	>t0yr	500
Efos Novacure (out of service)	Efos (EXFO)	N2000	433	2t3					For gel spot curing	Chem	>t0yr	500
Heat Block	Lab Dev	Digiblock 4		181	QA 0722				Heating block for pcr tubes	Mol Bio II	8	100
Heal block (not accurate)	Boekel	t1002	0t343		557					BL-3	t1yr	20
Microcentrifuge (recalled)	Fisher	Micro-t4	M0019645	452	QA t380				small centrifuge	Cust App	4	25
Microcentrifuge (recalled)	Fisher	Micro-t4	M0017631		1391					BL-3	4	25
Microscope	Leica	MZ12	none		1793				Microscope w/ Camera	Chemisty	8	800
Microscope light source	Dynalight	DL150	7289717							Systems		20
Microscope, stereo	Nikon	ZMZ2B			53					Systems	>8 yr	50
Multimeter	Fluke	Fluke 83III	none		QA0902				For carbon array	Proc Dev	>t0	40
Multimeter	Fluke	Fluke 87	none		QA1569				For carbon array	Proc Dev	>t0	35
NC400 (8 new)												4,000
NC400 (10 used/spare parts)												300
Pipet aids (2)	Drummond		any								>6	60
Pipetman set (t000, 200, 20, 10, 2)	Rainin	LTS models	any									300
Pipetman set (t000, 200, 20, 10, 2) x 5 (Old style-not ergonomic)	Rainin	P series	any								> 5 yr	500
Potentiostat	AutoLab	PGSTAT30	AUT7t099		t409				Potentiostat	Proc Dev	>8	550
Potentiostat	AutoLab	PGSTAT10	AU7970471		088				Potentiostat	Chemistry	>t0 yr	300
Power Supply	Topward	6302A	none	23	120			19674-18	Power supply for LED on carbon	Mol Bio II	8 yr	50
Power supply, gel	EC	t05	8377	288	195					Amp rm	>8 yr	20
Power supply, Source Measure Unit	Keithley	236	594088	558	18t				Power supply for carbon array	Mol Bio II	>12 yr	t50
Transilluminator	Fisher	FBTIV-816	532699				20018			Amp room	14 yr	25
Vortex Genee2 (3)	Fisher		any							MBII	>5	75
Waveform Generator	HP	33120A	US36031985	463	58				Arbitrary Waveform Generator	App. Lab	>8	30
AB-M UV illuminator	AB-M	AB-M								Chem		2,000
Centrifuge, micro	PMC-060	RPI-Tomy	any							MBII		80
Chemical storage cabinets (2)	any	Scimat Co										120
Controller, micromanipulator	MP285/5246	Sutter /Eppendorf		586					Micromanipulator	Chemistry	>t5 yr	20
Current Probe	AM503B	Tektronix			0163				AC Current Measurement Probe	Chemistry	>5	40
Differential Scanning Calorimeter DSC7	DSC7	PE		none					Differential Scanning Calorimeter	App. Lab	>10	400
FLUKE 83III Multimeter	Fluke 83III	Fluke							For carbon array	Proc Dev		40
Heat Block (Digiblock)					229							60
Heat Block (Digiblock)					577							60
Incubator, Economy		Precision	698051037	t61	757					MBII	11yr	t00
Laminar Flow Hood	PN62675	Envirco						2220		Proc Dev	>10yr	100
Microprocessor Thermometer	HH23	Omega	T208801		QA132t				For carbon array	Proc Dev	>t0 yr	20
Microscope	INM100	Leica		218						App. Lab	>t0yr	700
Microscope	5MZ-2B	Nikon			QA108				For carbon array	Mol Bio II	>t0yr	t50
Microscope for cell work	Labophot 2	Nikon	461219	197			22225			BSL3	14 yr	400
Microstripper (Not functional) + pump	200/2015C2	Technics/Altec						2t92	Surface Stripper (Non-Functional)	Chemistry		300
Oscilloscope	TDS220	Tektronix			QA 019		41370			Mol Bio II	8	140
Pipetman set (1000, 200, 20, 10, 2) X 2	LTS models	Rainin	any									600
Pipetter		Eppendorf repeat	any								10 yr	40
Potentiostat	PGSTAT30	Autolab		150	QA14tt				power supply/converter	Cust App		550
Power Supply, CPS250	CP5250	Tektronix			QA090t				Power supply for carbon array	Proc Dev	7	40
Power Supply, Digital	EC105	EC	8BO702131-1-A	287	1341				gel power supply	Amp		20
Pump for sample prep device	KH36KNA5tO	GE Com	1005604136									100
Scintillation Counter	C t600TR	Packard	404822	458						BL-3	14 yr	300
Shaker	t0102	Dynyl	0701-2739							BL-3		40
Source Measure Unit	236	Keithley		none	1410				Source Voltage/Current General	Chem	>8 yr	t50
Survey Meter	450B	Victoreen	t733							BL-3	> 6 yr	90
Survey Meter	PUG-7	Tech Asso	3416							BL-3	>8 yr	40
Thermal cyler - Mastercycler gradient	533t	Eppendol			t367	097639		t469	gradient cycler	Mol Bio II	>t0yr	400

Item Excluded from sale	Manu facturer	Model	Serial #	Asset Tag #	Ngen QA #	GE Capital	Lease mgt ser/other	Ngen ID	Description	Location	Est age	Est. value
Vacuum pump	VDE 0531	ABM	not found				26829			BL-3		75
Vortexer multitube	945057	VWR	5227			097744					4 yr	180
Waveform Generator	DS345	Stan Res Sys			167				Signal Generator	Chem		30
Computer - Desktop	GST	GST		1554					with Programmable High Voltag	App. Lab		120
Computer - Desktop	GST	GST		1211					for RIP	Chem		120
Computer XPA	Nexar	D690PCX5000001							computer for the autolab system	Cust App	8	50
Computer -Desktop Data logging	GST	GST system						1415		Chem		50
Dell Desktop		Optiplex GX 520				97883		2146	and Nikon camera	Mol Bio II		150
Dell Desktop		Optiplex GX 520						2051		Mol Bio II		150
Dell Dimension Desktop	Dell	4600						1760	for RIP USB Thermocouples	Chem		150
Dell laptop	Dell	D505				97765		1953	Operates Optics	Mol Bio II		150
Dell Optiplex Laptop	Dell	GS1		none					with Differential Scanning Calor	App. Lab		100
Desktop computer with win 2000		GST system						1648	For Haydon motor driver	Proc Dev		50
Desktop computer with win 2000		GST system						n/a	For Haydon motor driver	Proc Dev		50
Monitor	Nokia	447Za		none					with Differential Scanning Calor	App. Lab		50
Monitor	ViewSonic	vg700b		1750					With computer 2	Mol Bio II		50
Monitor	ViewSonic	vg700b		1751					With computer 2	Mol Bio II		50
Monitor	ViewSonic			1752								50
Monitor	ViewSonic	vg700b		1753				1753	with computer	Proc Dev		50
Monitor - Sync Master	Samsung	765MB		1709					with Programmable High Voltag	App. Lab		50
Monitor - Sync Master	Samsung	770b		none					for RIP	Chem		50
Monitor - Sync Master	Samsung	700S		59					for RIP USB Thermocouples	Chem		50
Monitor - Sync Master	Samsung	7001FT						1416		Chem		50
Monitor for Autolab	HP	HP								Chem		50
Vectra VL Desktop for Autolab	Vectra	Vectra VL								Chem		50
Software	DNASTAR											50
Software	NTI Vector											50
Lap tops, NC400 service (3)												450
Laptop, Dalibor												150
Laptop, Paul												150
Benches										Systems	>8	200
										Total est value		19,000

Items purchased or build using Government grant funds (to follow grant projects, can't be sold)

WorkStation for Nikon Camera	Nanogen											
Heat Sealer (Iron) with Temp Control	Nanogen											
MDMx Linear Actuator Towers (2)	Nanogen											
MDMx Spare Parts	Nanogen											
MDMx Molded Cartridges	Nanogen											
MDMx Cardboard Mock-up	Nanogen											
RIP PCR PLC systems (2)	Nanogen											
Nikon Camera	Nikon	D80							Camera for fl imaging of C array			
DUST box	Nanogen	1							Operates carbon array fluidics			
DUST box	Nanogen	2							operates optics			
DUST box	Nanogen	3							With sample prep on top			
DUST box	Nanogen	Spare parts							Spare parts			
Sample prep device	Nanogen											
Sonicator	Nanogen	PN33995-540										
Freeze Dryer	Virtis	Advantage		1747					Freeze Dryer (Lyophilizer)			
Drummel drill press	Drummel											
Drummel router	Drummel											
Digital Analyzer LogicWave	HP	E9340A	US39510544		1129							

SCHEDULE 2.1(j)

ASSUMED CONTRACTS

Molecular Diagnostics

1. Collaboration and License/Supply Agreements

1. Second Amended and Restated Collaboration, License and Supply Agreement between Epoch Pharmaceuticals, Inc.(doing business as Epoch Biosciences, Inc.) and PE Corporation (the Perkin-Elmer Corporation) dated August 17, 2000. "First Side Agreement" between Epoch Biosciences, inc. and PE Corporation dated October 31, 2001. "Amendment No. 1 to Second Amended and Restated Collaboration, License and Supply Agreement " between Epoch Biosciences Inc. and Applera Corporation dated July 26, 2002. "Amendment No. 2 to Second Amended and Restated Collaboration, license and Supply Agreement" between Epoch Biosciences, Inc. and Applera Corporation dated December 31, 2005.
2. Development, License and Supply Agreement between Third Wave Technologies, Inc. and Epoch Biosciences, Inc. dated October 9, 2000.
3. Collaborative Research, Development and License Agreement between Epoch Biosciences, Inc. and Specialty Laboratories dated May 9, 2000.
4. License Agreement between Epoch Biosciences, Inc. and TriLink Biotechnologies, Inc. dated December 18, 2000.
5. License Agreement between Epoch Biosciences, Inc. and Takara Bio, Inc. dated December 10, 2002.
6. Co-Exclusive License and Supply Agreement between Epoch Biosciences, Inc. and Qiagen NV dated November 4, 2002.
7. Quencher License and Supply Agreement between Epoch Biosciences, Inc. and Applera Corporation, through its Applied Biosystems Group dated September 2, 2003.
8. License and Supply Agreement between Epoch Biosciences, Inc. and BioControl Systems, Inc. dated September 29, 2003. Letter changes August 8, 2008. "First Amended and Restated License and Supply Agreement" between Epoch Biosciences.
9. License Agreement between Epoch Biosciences, Inc. and Celera Diagnostics, LLC dated January 22, 2004. Letter Amendment dated April 30, 2004. Second Amendment to License Agreement between Epoch Biosciences, Inc. and Celera Corporation dated July 1, 2008.
10. License and Supply Agreement between Third Wave Technologies, Inc. and Epoch Biosciences, Inc. dated June 25, 2004.
11. License and Supply Agreement between Epoch Biosciences, Inc. and Cambrex Bio Science Walkersville dated September 30, 2004. License and Supply Agreement between Epoch Biosciences, Inc. and Cambrex Bio Science Walkersville dated January 2, 2008 (amended and extended doc).
12. License & Supply Agreement between Epoch Biosciences, Inc. and Blood Cell Storage, Inc. dated May 1, 2005.
13. License and Supply Agreement between Epoch Biosciences, Inc. and Cepheid, Inc. dated August 29, 2005.

14. License and Supply Agreement between Epoch Biosciences, Inc. and Amplimedical Spa dated September 30, 2005 and amended to include MGB-Pleiades on December 30, 2008.
15. University of Washington Subcontract Agreement between University of Washington and Epoch Biosciences, Inc. dated August 23, 2005 (Bill and Melinda Gates Foundation).
16. Distribution and License Agreement between Epoch Biosciences, Inc. and Thermo Fisher ScientificInc. Dated February 28, 2008.
17. License and Supply Agreement between Epoch Biosciences, Inc. and Mirina Corporation dated August 5, 2008.
18. License and Supply Agreement between Epoch Biosciences, Inc. and Scandinavian Gene Synthesis AB dated January 29, 2009.
19. License Agreement between Epoch Biosciences, Inc. and HandyLab, Inc. dated February 24, 2009.
20. Royalty Interest Assignment Agreement, dated September 29, 2006, among Epoch, Drug Royalty Trust 9 ("DRT 9") and Nanogen; Security Agreement, dated September 29, 2006, between DRT 9 and Epoch; Collateral Assignment Agreement, dated September 29, 2006, by Epoch; Escrow Agreement, dated September 29, 2006, among Epoch, DRT 9, and HSBC Bank, USA, National Association ("HSBC)"; Royalty Interest Assignment Agreement, dated March 28, 2008, among Epoch, Drug Royalty LP2 ("DR LP2") and Nanogen; Security Agreement, dated March 28, 2008, between Epoch and DR LP2; Collateral Assignment Agreement, dated March 28, 2008, by Epoch; Amendment to Escrow Agreement, dated March 28, 2008, among Epoch, Drug Royalty LP1 ("DR LP1"), DR LP2, and HSBC; Supplemental Royalty Interest Assignment Agreement, dated March 28, 2008, among Epoch, DR LP1 and Nanogen; Security Agreement, dated June 20, 2008, between Epoch and DR LP1; Collateral Assignment Agreement, dated June 20, 2008, by Epoch; Amendment to Escrow Agreement, dated June 20, 2008, among Epoch, DR LP1, DR LP2, and HSBC (collectively, the "Drug Royalty Agreements").
21. License and Supply Agreement between Epoch Biosciences, Inc. and Applied Biosystems, LLC and Life Technology Corporation dated May 8, 2009

2a. Technology In-License

1. License Agreement between Epoch Biosciences, Inc. and PE Corporation dated May 14, 2001.
2. Development and License Agreement between Epoch Biosciences, Inc. and Celadon Laboratories, Inc. dated August 27, 2001.
3. Roche – IVD Products Patent License Agreement between roche Molecular Systems, Inc., F. Hoffman-La Roche Ltd. And Amplimedical s.p.a. dated May 25,, 2005
4. Cepheid Europe SA CMV OEM Supply Agreement dated July 19, 2005 with Amplimedical Spa amended April 1, 2006.
5. Applera Italia Supply Agreement with Nanogen Advanced Diagnostics Srl dated March 14, 2008; and Applied Biosystems Quality Statement and Agreement for Nanogen Advanced Diagnostics Srl dated March 14, 2008.
6. Patent License Agreement between Amplimedical SPA and Invitrogen IP Holdings, Inc. dated March 30, 2006.

7. License and Supply Agreement between Nanogen, Inc. and Invitrogen Corporation dated June 9, 2008.

2b. Nucleic Acid BioMarkers – In-License

1. Non-Exclusive License Agreement between Variagenics, Inc. and Nanogen, Inc. dated November 15, 2001
2. License Agreement between biomerieux B.V. and Nanogen, Inc. dated March 1, 2002
3. Non-Exclusive Technology Rights License Agreement between Vironovative B.V. and Nanogen, Inc. dated July 20, 2005
4. License Agreement between the University of North Carolina at Chapel Hill and Nanogen, Inc. dated April 18, 2006
5. Non-Exclusive Patent License Agreement between Nanogen and the University of Washington dated January 31, 2007

3. Supply/OEM/Distribution Agreements

1. Original Equipment Manufacturer Agreement between Epoch Biosciences, Inc. and Glen Research Corporation dated January 21, 2002.
2. Original Equipment Manufacturer and Supply Agreement between Epoch Biosciences, Inc. and Fluorescent Genomics dated February 1, 2002.
3. Supply Agreement between Epoch Biosciences, Inc. and Eurogentec S.A. dated December 6, 2001. First Amendment to Supply Agreement between Epoch Biosciences, Inc. and Eurogentec S.A. dated January 21, 2002
4. Collaboration and Supply Agreement between Epoch Biosciences, Inc. and Associated Regional and University Pathologists, Inc. (ARUP) dated April 16, 2004.
5. Supply and Services License Agreement between Epoch Biosciences, Inc. and DeCode genetics dated April 15, 2005.
6. Distributorship Agreement between Nanogen, Inc. and Fisher Healthcare dated August 4, 2006.
7. Exclusive Distribution Agreement between Nanogen, Inc. and A. Menarini Diagnostics S.r.l. dated September 16, 2008.
8. Regional Distribution Management Proposal Terms and conditions between Alliance Global FZ-LLC (AGBL) and Nanogen, Inc. dated May 29, 2007.
9. Agreement for Reagents and Supplies between ARUP Laboratories, Inc. and Nanogen, Inc. dated May, 12, 2009.

4. End User Licenses for MGB Products

1. End-User License Agreement for MGB™ Products between Epoch Biosciences, Inc.. and Prometheus Laboratories, Inc. dated September 15, 2005.
2. End-User License Agreement for MGB™ Products between Epoch Biosciences, Inc.. and Laboratory Corporation of America Holdings (LabCorp) dated August 22, 2006.
3. End-User License Agreement for MGB™ Products between Genzyme and Nanogen, Inc. dated March 30, 2007.
4. End-User License Agreement for MGB™ Products between ViraCor LLC and Nanogen, Inc. dated May 17, 2007.

5. End-User License Agreement for MGB™ Products between the University of Washington and Nanogen, Inc. dated July 1, 2007.
6. End-User License Agreement for MGB™ Products between AviaraDx and Nanogen, Inc. dated October 1, 2007.
7. End-User License Agreement for MGB™ Products between Capital Health, on behalf of Provincial Laboratory Corporation, and Nanogen, Inc. Agreement dated October 1, 2007
8. End-User License Agreement for MGB™ Products between Rosetta Genomics, Inc. and Nanogen, Inc. dated November 15, 2007.
9. End-User License Agreement for MGB™ Products between CardioDx, Inc. and Epoch Biosciences, Inc. dated November 21, 2008.
10. End-User License Agreement for MGB™ Products between Quest Diagnostics, Inc. and Epoch Biosciences, Inc. dated January 23, 2009.

5. Other

1. Mirina Common Stock Purchase Agreement by and between Mirina Corporation and Nanogen, Inc. dated as of August 5, 2008
2. Stock Restriction Agreement by and between Mirina Corporation, Nanogen, Inc. and Epoch Biosciences, Inc. dated as of August 5, 2008
3. Stockholders' Agreement by and between Mirina Corporation and Investors, Institute for Systems Biology, and Nanogen, Inc. dated as of August 5, 2008
4. Investors' Rights Agreement by and between Mirina Corporation and Investors dated as of August 5, 2008
5. Three-Party Escrow Service Agreement between Epoch Biosciences, Inc., Mirina Corporation and Iron Mountain Intellectual Property Management, Inc. dated October 23, 2008.
6. Third-Party Escrow Agreement between Escrow Associates, LLC, BioControl Systems, Inc. and Epoch Biosciences, Inc. dated March 31, 2009.
7. Preferred Escrow Agreement between Epoch Biosciences, Inc., Third Wave Technologies, Inc., and DSI Technology Escrow Services, Inc. dated November 8, 2000.
8. ABI Escrow Agreement
9. Three-Party Escrow Service Agreement between Epoch Biosciences, Inc., Thermo Fisher Scientific, Inc. and Iron Mountain Intellectual Property Management, Inc. dated February 29, 2008.
10. Amended and Restated Operating Agreement of Pharmacogenetics Diagnostics Laboratory LLC, dated July 5, 2005.
11. Independent Contractor Agreement for Consulting Services between Ensign Software, Inc. (William J. Ashcraft) and Nanogen, Inc. dated August 19, 2009.
12. Independent Contractor Agreement for Consulting Services between Top Flight Software, Inc. (Sidney Conner)and Nanogen dated August 19, 2008.
13. Independent Contractor Agreement for Consulting Services between Nanogen, Inc. and ApT Consultants, Inc. (C. Thomas Guadagnola) dated February 3, 2009.

Point-of-Care

1. License Agreements

1. Second Amended and Restated License Agreement between Nanogen, Inc. and Genzyme Corporation dated May 23, 2007.
2. Development and License Agreement between 2750 Diagnostics, Inc. (now HX Diagnostics, Inc.) and Nanogen, Inc. dated June 30, 2006.
3. Assay Development and License Agreement between HX Diagnostics, Inc. and Nanogen, Inc. dated July 23, 2008. Amendment to Assay Development and License Agreement between HX Diagnostics, Inc. and Nanogen, Inc. dated September 21, 2008. Second Amendment to Assay Development and License Agreement between HX Diagnostics, Inc. and Nanogen, Inc. dated April 1, 2009.
4. Phoenix BioPharm License dated October 1, 2005 and extended October 15, 2008; non-exclusive license for certain antibodies in a stroke therapeutic.
5. License Agreement between International Point of Care, Inc. and Nanogen, Inc. dated October 15, 2008.
6. Offset Agreement between Nanogen, Inc. and International Point of Care, Inc. dated March 19, 2009.

2. In-License

1. License Agreement between Primecare B.V. and Spectral Diagnostics, Inc. dated September 3, 1993.
2. License Agreement between Nanogen, Inc. and LRE GmbH dated July 2, 2008
3. Cross-License Agreement on NT-proBNP between SynX Pharma, Inc. and Roche Diagnostic GmbH dated July 27, 2003.
4. Drug Royalty – License agreement for diagnostic kit for diagnosing and distinguishing chest pain in early onset thereof dated December 18, 1991.
5. License Agreement between Ottawa Heart Instutitue Research Corporation and Synx Pharma, Inc. dated November 25, 2002.

3. Distribution Agreements

1. Distribution Agreement between Nanogen, Inc. and CV Inti Jaya Lestari dated December 16, 2008.
2. Exclusive Supply and Distribution Agreement Renewal from January 1, 2009 to December 21, 2009 between Nanogen, Inc. and Astra Zeneca GmbH dated January 6, 2009.
3. Distribution Agreement between Nanogen, Inc. and BioCare SystemsSA dated March 26, 2009.
4. Distribution Agreement between Nanogen, Inc. and Fuad Al-Fadhli Trading Est dated March 30, 2009.
5. Best Value Distribution Agreement between Cardinal Health and Spectral Diagnostics, Inc. dated January 1, 2003, assumed by Nanogen, Inc,; amended March 1, 2007 between Cardinal Health and Nanogen, Inc.

4. Other

1. Development Agreement between Princeton Biomeditech Corporation and Nanogen, Inc. dated January 13, 2006.
2. Manufacturing and Distribution Agreement between Princeton Biomeditech Corporation and Nanogen, Inc. dated October 27, 2005.
3. Pharmagistics – Distribution and warehousing agreement of product developed under the PBM product development agreement dated 1/13/06; May 30, 2007.
4. Common Stock Purchase Agreement between HX Diagnostics, Inc. and Nanogen, Inc.; dated October 2006; Warrants to Purchase Common Stock dated October 2006 and July 2008; Amendment Number One to the July 2008 Common Stock Purchase Warrant dated January 2009.
5. Consulting Agreement between George Jackowski and Nanogen, Inc.; April 29, 2009.
6. BioRad – Material Transfer Agreement between Nanogen, Inc. and Bio-Rad dated February 11, 2008.
7. Bonfils – Bonfils Blood Center Material Transfer Agreement between Bonfils Blood Center and Nanogen, Inc. dated July 12, 2007.
8. Center Hospitalier Universitaire de Quebec – Materials and Transfer Procurement Agreement between Center Hospitalier Universitaire de Quebec and Nanogen, Inc. dated June 6, 2006.
9. Aventis - Patent Purchase Agreement between Aventis Research & Technologies GmbH & Co. KG and Nanogen, Inc. – June 28, 2002
10. Supply Agreement between Seradyn, Inc. and Nanogen, Inc. dated May 30, 2008.
11. Biosite Settlement Agreement between Spectral Diagnostics, Inc. and Biosite Diagnostics, Inc. dated February 5, 1999 – agreement not to sue; assigned to Nanogen, Inc. in the purchase of Spectral assets.
12. Biosite - Settlement Agreement between SynX Pharma, Inc. and Nanogen, Inc. dated April 22, 2005 – settlement of patent interference
13. Cooperation and Shareholders' Agreement among Aventis Research & Technologies GmbH & Co KG, Nanogen and Nanogen Recognomics GmbH dated June 29, 2001 and Contribution Agreement among Aventis Research & Technologies GmbH & Co KG, Nanogen and Nanogen Recognomics GmbH dated June 27, 2001.

SCHEDULE 2.1(k)

EXCLUDED CLAIMS

Any claims by Sellers to setoff amounts owed to any party to whom Sellers are obligated to pay Cure Costs.

SCHEDULE 2.1(m)

EXCLUDED INSURANCE

D&O insurance

SCHEDULE 2.3
RETAINED CONTRACTS AND ASSETS

Retained Contracts:

- Standard Industrial/Commercial Single-Tenant Lease-Net between Nanogen, Inc. and LMP Properties LTD., dated June 29, 1994 as amended by First Amendment to Lease between Kilroy Realty, L.P. and Nanogen, Inc., dated March 14, 2001.
- Davpart - NPOC facility lease in Toronto, Canada. Current rent is $57K CAD per month (includes CAM, taxes & GST).
- ApoPharma - Current NPOC facility sub-tenant - $4K CAD per month; November 24, 2008.
- Lumigene - NPOC facility sub-tenant beginning 5/1/09 - $3K CAD per month; January 15, 2009.
- IPOC - Current NPOC facility sub-tenant - $7K CAD per month; October 9, 2008.

Retained Assets:

- Excluded Tangible Personal Property listed on Schedule 2.1(e)
- Stock in the following subsidiaries:
    - Nanogen Point of Care, Inc.
    - Nanogen Europe BV
- Assets of Nanogen Point of Care, Inc.
- Assets of Nanogen Europe BV
- Stock in Oy Jurilab Ltd.

SCHEDULE 8.7

CURE COSTS

Rent due under Nexus Real Property Lease	$ 400,000
Amounts due under Regional Distribution Management Proposal Terms and conditions between Alliance Global FZ-LLC (AGBL) and Nanogen, Inc. dated May 29, 2007	$ 10,000
Copier rentals	$ 500
Royalties due to Applied Biosystems under "Livak" License Agreement between Epoch Biosciences and PE Corporation (Applied Biosystems) dated May 14, 2001	$ 21,000
Royalties due to University of North Carolina under License Agreement between the University of North Carolina at Chapel Hill and Nanogen, Inc. dated April 18, 2006	$ 7,000
Royalties due to Vironovative under Non-Exclusive Technology Rights License Agreement between Vironovative B.V. and Nanogen, Inc. dated July 20, 2005	$ 250
Transfer fee under "Livak" License Agreement between Epoch Biosystems, Inc. and PE Corporation (Applied Biosystems) dated May 14, 2001; for assignment of agreement to Buyer	$ 100,000
Royalties due to Roche under the Cross-License Agreement on NT-proBNP between SynX Pharma, Inc. and Roche Diagnostic GmbH dated July 27, 2003	$ 43,000
Drug Royalty license payments under License Agreement for diagnostic kit for diagnosing and distinguishing chest pain in early onset thereof dated December 18, 1991.	$ 35,000
Royalties due to Ottawa Heart Institute under License Agreement between Ottawa Heart Instutitue Research Corporation and Synx Pharma, Inc. dated November 25, 2002	$ 12,000
Agreement Relating to Patent Rights and Know-How, dated August 30, 1994, between Delta Point and X Flow B.V	$ 10,000
Total	$ 638,750

Note: Nanogen has a secured credit facility with GE Capital that is currently in default. GE Capital's debt will be paid out of proceeds based on priority, and is therefore not included in the cure costs above.

EXHIBIT A

TRANSFERRED EMPLOYEES

Merl Hoekstra
Walter Mahoney

EXHIBIT B

FORM OF

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement ("Agreement") is made as of _____ ___, 2009 by and between _____, a _____ corporation ("Assignee"), and _____, a _____ corporation ("Assignor").

PRELIMINARY STATEMENTS

A. Pursuant to that certain Asset Purchase Agreement (the "Purchase Agreement") made as of May 13, 2009, by and among Financière Elitech SAS, a *société par actions simplifiée* formed under the laws of France ("Elitech"), Nanogen, Inc., a Delaware corporation ("Nanogen"), Epoch Biosciences, Inc., a Delaware corporation and wholly-owned subsidiary of Nanogen ("Epoch"), and Nanotronics, a California corporation and wholly-owned subsidiary of Nanogen ("Nanotronics" and collectively with Epoch and Nanogen, the "Sellers"), Sellers agreed to transfer and assign unto [Assignee][Elitech] all of Sellers' right, title and interest in and to certain assets and contracts of Assignor, and [Assignee][Elitech] agreed to assume certain obligations of Assignor. Capitalized terms used but not otherwise defined in this Agreement have the respective meanings ascribed to them in the Purchase Agreement.

B. Section 12.10 of the Purchase Agreement permitted Parent to assign and transfer all or any part of its rights in the Purchase Agreement to certain entities to effectuate the Contemplated Transactions, and Parent transferred its rights to receive certain of the Purchased Assets at Closing to Assignee pursuant to that certain Assignment Agreement dated _____ _____, 2009, a duly executed copy of which has been delivered to Sellers by Parent.

AGREEMENT

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

1. Assignment of Contracts. For value received, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby transfers and assigns to Assignee all of its right, title, and interest in the Contracts identified on Schedule A (the "Assumed Contracts").

2. Assumption of Contracts. Assignee hereby assumes and agrees to fully pay, perform and discharge, as and when the same may become due and payable and/or performable and in accordance with the respective terms thereof, all of Assignor's obligations and liabilities accruing and arising from and after the date of this Agreement under the Assumed Contracts.

3. Representation and Warranty. Assignor represents and warrants to Assignee that Assignor has the right to transfer and assign each of the Assumed Contracts to Assignee by virtue of (a) the express provisions of the Assumed Contracts, (b) consents or notices obtained by

Sellers and given to [Assignee][Elitech] prior to the Closing, (c) the authority granted under Section 365 of the Bankruptcy Code, and/or (D) applicable Law.

4. **Binding Effect.** The assumption of the liabilities and obligations contained in this Agreement shall bind and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

5. **Choice of Law.** This Agreement shall be construed under and enforced in accordance with the laws of the State of Delaware.

6. **Subject to Purchase Agreement; Modification.** This Agreement is being executed pursuant to the Purchase Agreement and is subject to the terms and conditions contained in the Purchase Agreement. This Agreement may not be changed, modified, discharged or terminated in any manner other than by a written agreement signed by the parties to this Agreement or their respective successors and assigns.

7. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

[Remainder of page intentionally left blank. Signature page follows.]

The parties have executed and delivered this Agreement as of the date indicated in the first sentence of this Agreement.

_____

By:_____
Name: _____
Title: _____

_____

By: _____
Name: _____
Title: _____

SCHEDULE A

CONTRACTS

EXHIBIT C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
NANOGEN, INC. et al.,[1]	)	Case No. 09-_____ (____)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	**Related to Docket No. ___**

ORDER (A) APPROVING BID PROCEDURES; (B) AUTHORIZING AND SCHEDULING AN AUCTION; (C) APPROVING PAYMENT OF A BREAK-UP FEE AND EXPENSE REIMBURSEMENT; (D) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS; (E) APPROVING THE FORM AND MANNER OF NOTICES; AND (F) SCHEDULING A SALE HEARING

Upon the motion, dated May __, 2009 (the "Motion"), filed by the above-captioned debtors and debtors-in-possession (the "Debtors") for entry of:

(i) an order (the "Bid Procedures Order") (a) approving certain bid procedures (the "Bid Procedures") in connection with the sale (the "Sale") of the Purchased Assets; (b) authorizing and scheduling an auction (the "Auction") in connection with the Sale; (c) approving the payment of a Break-Up Fee[2] and Expense Reimbursement to Elitech in accordance with the terms and conditions of the Purchase Agreement; (d) establishing and approving the procedures to determine, and the form and manner of notice with respect to, the amounts to be paid and actions to be taken to cure defaults, if any, under the executory contracts and unexpired leases to be assumed by the applicable Debtor and assigned to the Successful Bidder in connection with

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Nanogen, Inc. (9621), Epoch Biosciences, Inc. (1592) and Nanotronics, Inc. (9618). Addresses for the Debtors can be found in the Debtors' petitions, which are presently available at http://www.bmcgroup.com.

the Sale; (e) approving the form and manner of notices of the proposed Sale, the Bid Procedures, the Auction and the Sale Hearing; and (f) scheduling a Sale Hearing; and

(ii) an order (the "Sale Order") authorizing and approving: (a) the sale of the Purchased Assets to Elitech pursuant to the terms of the Purchase Agreement substantially in the form attached to the Motion, or the person(s) or entity(s) making an otherwise higher and better offer at the Auction, free and clear of liens, claims and encumbrances, for all of the Purchased Assets; and (b) the assumption and assignment of the executory contracts and unexpired leases to be assumed by the applicable Debtor and assigned to the Successful Bidder in connection with the foregoing sale;

and the Court having determined that, to the extent set forth herein, the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors and other parties in interest; due and appropriate notice of the Motion and the relief requested therein was provided by the Debtors pursuant to Bankruptcy Rules 2002, 4001, 6004, 6006 and 9014; and after consideration of the Motion to the extent of the relief granted herein; and the remainder of the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby:

FOUND, CONCLUDED, AND DECLARED THAT:[3]

A. This Court has jurisdiction over this matter and over the property of the Debtors and their estates pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District and before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

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[2] All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

B. Good and sufficient notice of the Motion and the relief sought therein has been given and no other or further notice is required. A reasonable opportunity to object or be heard regarding the relief requested in the Motion has been afforded to parties in interest, and no other or further notice is required under the circumstances.

C. The Debtors' proposed notices of (i) the Auction and Sale, (ii) the assumption and assignment of the Assumed Contracts and any Cure Costs payable in respect thereof, (iii) the Purchase Agreement, (iv) the Bid Procedures, in substantially the form attached hereto as Exhibit 1, are appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the proposed Sale, the assumption and assignment of Assumed Contracts and the Cure Costs associated therewith, the Purchase Agreement and the Bid Procedures to be employed in connection therewith.

D. The Bid Procedures are fair, reasonable and appropriate and are designed to maximize the value of the Debtors' assets that are contemplated to be sold in accordance with such procedures.

E. In order to make a single bid for all of the Debtors' Purchased Assets, Elitech has entered into an agreement with The Bay City Capital Fund V, L.P. (together with its affiliated entities, "BCC") pursuant to which BCC will finance a portion of the Purchase Price and receive concurrently (as an assignee of Elitech under the Purchase Agreement) and/or immediately subsequent to the Sale: (a) title to certain of the Purchased Assets; (b) license to use certain of the Purchased Assets; and (c) assignment of certain executory contracts and unexpired leases of the Debtors. Notwithstanding the foregoing, Elitech remains obligated to pay the full amount of the Purchase Price for the Purchased Assets.

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[3] Findings of fact shall be construed as conclusions of law and conclusions of law shall be

F. Absent the Break-up Fee, the Expense Reimbursement and the Overbid Increment, the Debtors may lose the opportunity to obtain the highest and best available offer for their assets and the protection afforded by the Purchase Agreement.

G. The Debtors have articulated good and sufficient reasons for this Court to grant the relief requested in the Motion regarding the Bid Procedures and have demonstrated sound business justifications to support such relief.

H. The entry of this Bid Procedures Order is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it is therefore

ORDERED, ADJUDGED AND DECREED THAT:

1. The relief requested in the Motion is granted, to the extent set forth herein.

2. Any objections to the entry of this Bid Procedures Order that have not been withdrawn, waived, resolved or settled, and all reservations of rights included therein, are hereby overruled.

Bidding Procedures

3. The Bid Procedures, as set forth in Exhibit 1 attached hereto, are hereby approved in their entirety, and shall apply to the proposed Sale in all respects. The Debtors are authorized to take any and all actions necessary to implement the Bid Procedures.

4. The failure in this Bid Procedures Order to include specifically or reference any particular provision, section or article of the Bidding Procedures shall not diminish or impair the effectiveness of the Bid Procedures, it being the intent of this Court that the Bid Procedures be authorized and approved in their entirety and are incorporated herein by reference.

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construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

Break-Up Fee and Expense Reimbursement

5. The Debtors are hereby authorized to provide the Stalking Horse Purchaser with a Break-Up Fee in the amount of approximately 3% of the Purchase Price (as defined in the Purchase Agreement) and to reimburse the Stalking Horse Purchaser its actual out-of-pocket expenses reasonably incurred by the Stalking Horse Purchaser in connection with the Sale up to $500,000.00, in accordance with the terms and conditions set forth in the Purchase Agreement.

6. The Break-Up Fee and Expense Reimbursement shall be paid as a carve-out to, and free and clear of, the Encumbrances of the Lenders and any secured creditors on the proceeds of such sale and shall constitute a superpriority administrative expense claim under sections 503(b) and 507 of the Bankruptcy Code.

7. The obligation of the Debtors to pay to Elitech the Break-Up Fee and Expense Reimbursement shall be taken into account in the Debtors' determination of the highest and best bid in each round of bidding.

8. The Sellers (as defined under the Purchase Agreement) shall apply the Purchase Price proceeds as follows:[4]

> (i) First, the portion of the Purchase Price relating to the assets of the U.S. subsidiaries of Nanogen shall be applied (A) first, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to the Initial Bridge Note Holders under the Initial Bridge Notes, and (B) second, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to Elitech under the Additional Bridge Note (which allocation, if any, shall take the form of a credit bid, as described in Section 4.1 of the Purchase Agreement);

[4] To the extent defined terms are used in this paragraph 8 that are not defined herein, the definitions used in the Purchase Agreement shall apply.

(ii) Second, the portion of the Purchase Price relating to the NAD Quotas (as defined in the APA) shall be applied (A) first, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to the Initial Bridge Note Investors under the Initial Bridge Notes, if any, and (B) second, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to Elitech under the Additional Bridge Note (which allocation, if any, shall take the form of a credit bid, as described Section 4.1 of the Purchase Agreement), and (C) third, to satisfy the obligations of Nanogen to the Holders under the 9.75% Convertible Notes; and

(iii) Third, the portion of the Purchase Price relating to the assets of Nanogen other than the NAD Quotas shall be applied (A) first, to satisfy the obligations of Nanogen to the Holders under the 9.75% Convertible Notes, if any, and (B) second, to satisfy the obligations of Nanogen (and Epoch/Nanotronics under that certain Guaranty dated August 14, 2008) to Elitech and the Initial Bridge Note Holders in respect of the Buyer Bridge Note and the Investor Bridge Notes, if any, each as applicable, which shall be applied pro rata among any such remaining obligations to Investors and Buyer.

The Auction

9. The Debtors may conduct an auction (the "Auction") to determine the highest and best bid for the Debtors' assets beginning at 10:00 a.m. (Eastern time) on June __, 2009 at the offices of Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, Delaware 19801, or at such later time and at such other place as the Debtors shall notify all Qualifying Bidders and all other persons entitled to attend the Auction.

10. In the event the Debtors do not receive by the Bid Deadline at least one Qualified Bid for the Purchased Assets, other than the Purchase Agreement, the Debtors shall report the same to the Bankruptcy Court and seek approval of their sale to the Stalking Horse Purchaser pursuant to the Purchase Agreement at the Sale Hearing.

The Sale Hearing

11. A hearing to approve the proposed Sale of the Debtors' Purchased Assets shall be conducted on June ___, 2009 at []:[ ] [.]m. (Eastern time), or such later time as determined by this Court.

Notice of Auction and Proposed Sale

12. The Auction and Sale Notice, substantially in the form attached hereto as Exhibit 2, is approved in all respects.

13. Not later than three (3) days after the entry of this Bid Procedures Order, the Debtors shall cause the Auction and Sale Notice, and a copy of this Bid Procedures Order to be sent by first-class mail, postage-prepaid, to (i) counsel to the Creditors Committee, or in the event no Creditors Committee is appointed, the creditors holding the 20 largest unsecured claims against the Debtors' estates; (ii) all entities that claim any interest in or lien on any of the Debtors' assets; (iii) all parties to executory contracts and unexpired leases which the Debtors may seek to assume and assign to the Successful Bidder for any of the Debtors' Purchased Assets; (iv) all governmental taxing authorities that have, or as a result of the sale of any of the Debtors' assets may have, claims, contingent or otherwise, against the Debtors; (v) all parties that filed requests for notices under Bankruptcy Rules 2002 and/or 9010(b); (vi) all interested governmental, pension, and environmental entities; (vii) the Office of the United States Trustee; (viii) the Lender; (ix) all entities which within the 12 months prior to the Petition Date have expressed to any of the Debtors an interest in purchasing any of the Purchased Assets; and (x) all equity security holders of the Debtors.

14. Not later than five (5) days after the entry of this Bid Procedures Order, the Debtors shall cause the Auction and Sale Notice to be published in the national edition of one of the following: The Wall Street Journal, The New York Times, or The USA Today, as to be determined by Debtors, pursuant to Bankruptcy Rule 2002(l). Such publication notice shall be sufficient and proper notice to any other interested parties, including those whose identities are unknown to Debtors.

Cure Amount Notice

15. The Cure Amount Notice, substantially in the form attached hereto as Exhibit 3, is approved in all respects.

16. To further facilitate the Sale, the Debtors will serve, via first class mail, a notice (the "Cure Amount Notice"), in a form substantially similar to the form attached to the Bid Procedures Order as Exhibit 3, not later than three (3) days after the entry of the Bid Procedures Order on each counterparty to an executory contract or unexpired lease which the Debtors may seek to assume and assign to the Stalking Horse Purchaser or the Successful Bidder for the Purchased Assets.

17. The Debtors will attach to the Cure Amount Notice their calculation of the undisputed cure amounts that they believe must be paid to cure all defaults under all executory contracts and unexpired leases which may be assumed and assigned in connection with the Sale (the "Cure Cost"). If no amount is listed on the Cure Amount Notice, the Debtors believe that there is no Cure Cost. Unless the non-debtor party files an objection (the "Cure Amount Objection") to their scheduled Cure Cost by June ___, 2009, at 4:00 p.m. (Eastern Time) and serves the objection, so that it is actually received before such deadline, upon: (a) counsel to the Debtors: Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, DE 19801, Attn: William P. Bowden, Esq. and Ricardo Palacio, Esq.; (b) counsel to the Creditors Committee, or in the event no Creditors Committee is appointed, the creditors holding the 20 largest unsecured claims against the Debtors' estates; (c) counsel to the Lender: Bingham McCutchen LLP, 399 Park Avenue, New York, NY 10022-4689, Attn: Jeffrey S. Sabin, Esq. and R. Jeffery Black, Esq.; (d) counsel to the Stalking Horse Purchaser: Jackson Walker LLP, 901 Main Street, Suite 6000 Dallas, Texas 75202, Attn: Robert Richardson Esq.; and (e) counsel to the Office of the United States Trustee: 844 King Street, Suite 2207, Lockbox 35,

Wilmington, DE 19801, Attn: Jane Leamy, Esq., then the Debtors may assume and assign such contracts and leases to the Stalking Horse Purchaser or the Successful Bidder and such non-debtor party shall (i) be forever barred from objecting to the Cure Cost and from asserting any additional cure or other amounts with respect to such contract or lease, and the Debtors shall be entitled to rely solely on the Cure Cost; (ii) be forever barred and estopped from asserting or claiming against the Debtors, the Stalking Horse Purchaser, or such other Successful Bidder or BCC or any other assignee of the relevant contract or lease that any additional amounts are due or defaults exist under such contract or lease; or any successor or assignee thereof; and (iii) be deemed to have consented to the assumption and assignment of each unexpired lease, license agreement and executory contract.

18. Moreover, unless the non-debtors party files a Cure Amount Objection on a timely basis pursuant to and in accordance with the requirements set for above, such non-debtor party shall be deem to have been provided with adequate assurance of future performance under any assumed and assigned unexpired lease, license agreement or executory contract, and shall be forever barred from raising any defense, claim, or objection with respect to the assignment of such lease, license agreement or executory contract on account of the Successful Bidder financial condition.

19. If a Cure Amount Objection is timely filed, the Cure Amount Objection must set forth: (a) the basis for the objection; (b) with specificity, the amount the party asserts as the Cure Cost; and (c) appropriate documentation in support of the Cure Cost.

20. Hearings on Cure Amount Objections (and objections to the adequate assurance of future performance under the executory contracts, licenses and unexpired leases to be assumed and assigned to the Successful Bidder, which must be raised in accordance with the procedures

below) shall be held (a) at the Sale Hearing, or (b) on such other date that the Debtors determine in their sole discretion or the Court directs; provided, however, that if a contract, license or lease is assumed and assigned, the Cure Cost asserted by the objecting party (or such lower amount as may be fixed by the Court) shall be deposited and held in a segregated escrow account by the Debtors, free and clear of all liens, claims and encumbrances, pending further order of this Court or mutual agreement of the parties.

21. If an Auction is conducted, a notice identifying the Successful Bidder will be sent by overnight courier or facsimile to all parties to the executory contracts and leases identified for assumption and assignment within twenty four hours of the conclusion of the Auction.

22. If the Stalking Horse Purchaser is not the Successful Bidder for all of the Purchased Assets, and the Successful Bidder for the Purchased Assets is seeking to have certain executory contracts, licenses and unexpired leases assumed and assigned as part of its Bid, the Debtors will provide financial information for the Successful Bidder to all non-debtor parties to such contracts and leases immediately following the Auction via facsimile or overnight courier.

23. The Debtors' decision to assume and assign executory contracts, licenses and unexpired leases shall be subject to Court approval and consummation of the sale of any of the Debtors' assets. Absent consummation of the Sale, each of the executory contracts, licenses and unexpired leases shall neither be deemed assumed nor assigned and shall in all respects be subject to further administration under the Bankruptcy Code.

24. Except to the extent otherwise provided in the Purchase Agreement, or the definitive purchase agreement with the Successful Bidder, other than Cure Costs, the assignee of any executory contract, license or unexpired lease which is assumed and assigned and any successor and assignee thereof will not be subject to any liability to the counterparty of the

assigned executory contract or unexpired lease that accrued or arose before the closing date, and the Debtors shall be relieved of all liability accruing or arising thereafter pursuant to section 365(k) of the Bankruptcy Code.

Objection to Relief Sought at Sale Hearing

25. Objections, if any, to the Sale, including any objections based upon lack of adequate assurance of future performance under section 365(b)(1)(C) of the Bankruptcy Code, must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Bankruptcy Rules; (c) be filed with the Clerk of the Bankruptcy Court, and be served so as to be received no later than 4:00 p.m. (Eastern Time) on June ___, 2009 upon: (a) counsel to the Debtors: Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, DE 19801, Attn: William P. Bowden, Esq. and Ricardo Palacio, Esq.; (b) counsel to the Creditors Committee, or in the event no Creditors Committee is appointed, the creditors holding the 20 largest unsecured claims against the Debtors' estates; (c) counsel to the Lender: Bingham McCutchen LLP, 399 Park Avenue, New York, NY 10022-4689, Attn: Jeffrey S. Sabin, Esq. and R. Jeffery Black, Esq.; (d) counsel to Elitech: Jackson Walker LLP, 901 Main Street, Suite 6000, Dallas, Texas 75202, Attn: Robert Richardson, Esq.; and (e) counsel to the Office of the United States Trustee: 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Jane Leamy, Esq..

26. If the Stalking Horse Purchaser is not the Successful Bidder for all of the Purchased Assets, and such Successful Bidder is/are seeking to have certain executory contracts, licenses and unexpired leases assumed and assigned as part of the Sale, the non-debtor parties to such contracts, licenses and leases shall have until 4:00 p.m. on the day prior to the Sale Hearing to raise objections under section 365(b)(1)(C) of the Bankruptcy Code.

27. The failure of any person to timely file its objection shall be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the consummation of the Sale or the Debtors' assumption and assignment of any executory contract, license or lease, including the sale and transfer of any of the Debtors' assets free and clear of any and all Encumbrances (other than permitted encumbrances provided for expressly in the Purchase Agreement or alternative purchase agreement entered into with the Successful Bidder).

Additional Provisions

28. Pursuant to Bankruptcy Rules 6004(h) and 6006(d), this Bid Procedures Order shall be effective and enforceable immediately upon entry.

29. Service of the notices described herein on the parties entitled to receive such notices pursuant to this Bid Procedures Order shall constitute proper, timely, adequate and sufficient notice thereof and satisfies the requirements of sections 105 and 363 of the Bankruptcy Code, Rules 2002, 6004, 7004, 9006, 9008 and 9014 of the Bankruptcy Rules and Rules 2002-1(b) and 9006-1 of the Local Rules and no other or further notice is or shall be required.

30. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

31. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Bid Procedures Order and the Bid Procedures.

32. Notwithstanding any provision of this Bid Procedures Order or the Motion to the contrary, the Lender shall be deemed a Qualified Bidder at the Auction, whether or not it submits a bid in advance of the Auction, and the Lender's rights to credit bid, to the extent of all applicable allowed claims, under Section 363(k) of the Bankruptcy Code, are hereby preserved in all respects.

Dated: _____, 2009

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

(Bid Procedures)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
NANOGEN, INC. et al.,	)	Case No. 09-_____ (___)
	)	
Debtors.	)	(Jointly Administered)
	)	

BID PROCEDURES

Bidding Process

The Debtors, in consultation with the representatives of the Official Committee of Unsecured Creditors (the "Creditors Committee"), and Portside Growth and Opportunity Fund, as collateral agent to various secured parties (the "Lender"), will:

(a) determine the steps to be completed, and the timing in respect of such steps, for the marketing and sale of the Purchased Assets;

(b) determine whether any person is a Qualified Bidder (as defined below);

(c) determine whether a Qualified Bidder has made a Qualified Bid (as defined below); and

(d) negotiate any offer set forth in a Qualified Bid,

(collectively, the "Bidding Process").

Participation Requirements

Unless otherwise ordered by the Bankruptcy Court, in order to participate in the Bidding Process, each person (a "Potential Bidder") must first deliver to: (i) Nanogen, Inc., 10398 Pacific Center Court, San Diego, CA 92121, Attn: David Ludvigson; (ii) counsel to the Debtors, Ashby & Geddes, 500 Delaware Avenue, 8th Fl., Wilmington, DE 19801, Attn: Bill Bowden, Esq. and Ricardo Palacio, Esq.; and (iii) Cowen & Company, LLC, 1221 Avenue of the Americas, 14th Floor, New York, NY 10020, Attn: Mark Secrest (collectively, the "Notice Parties"), no later than 5:00 p.m. (Eastern Time) on May __, 2009, the following items (the "Participation Requirements"):

(a) Confidentiality Agreement: An executed confidentiality agreement (unless previously delivered) in form and substance reasonably acceptable to the Debtors; and

(b) Proof of Financial Ability to Perform: The most current audited and latest unaudited financial statements of the Potential Bidder, or, if the Potential Bidder

is an entity formed for the purpose of making a Bid, ,the current audited and latest unaudited financial statements of the equity holder(s) of the Potential Bidder or such other form of financial disclosure evidencing the Potential Bidder's ability to close the proposed sale transaction, the sufficiency of which shall be determined by the Debtors in their discretion in consultation with the Creditors Committee and the Lenders.

Access To Due Diligence Materials

Upon a Potential Bidder's satisfaction of the Participation Requirements such Potential Bidder shall be deemed to be a "Qualified Bidder". The Debtors shall afford each Qualified Bidder due diligence access to the Debtors' assets and businesses, which diligence may include access to the Data Room, management presentations and site visits, and such other diligence which Potential Bidders may request and to which the Debtors, in their discretion, may agree, provided, however, that the Debtors shall have no obligation to provide due diligence access to any Qualified Bidder after the Bid Deadline (as defined below). The Debtors will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access for Qualified Bidders.

Bid Deadline

The deadline for submitting bids by a Qualified Bidder shall be June __, 2009 at 9:00 a.m. (Eastern time) (the "Bid Deadline"). A bid received after the Bid Deadline shall not constitute a Qualified Bid (as defined below).

No later than the Bid Deadline, a Qualified Bidder that desires to make a bid to acquire the Purchased Assets (a "Bid"), shall deliver written copies of its Bid to the Notice Parties by the Bid Deadline. The Debtors shall transmit copies of all Bids to counsel for the Creditors' Committee, if appointed, (the "Creditors Committee"), the Lender and Elitech via facsimile, hand-delivery, overnight mail, or electronic mail, immediately after receipt.

Determination Of Qualified Bid Status

To be eligible to participate in the bidding process, each prospective Qualified Bidder must deliver a written Bid to the parties identified immediately above so to be received by the Bid Deadline, and that complies with each of the following conditions:

(a) Marked Purchase Agreement: A Bid shall be in the form of a black-lined copy of the Purchase Agreement showing the changes requested by the Bidder, including those related to the Purchase Price and other material terms such that the Debtors, in consultation with the Creditors Committee and the Lender, may determine how such Bid compares to the terms of the Purchase Agreement.

Assets: The Debtors are considering Bids for the Purchased Assets. Prospective Qualified Bidders may submit a "joint bid" for the Purchased Assets, provided, however, that the identity of each Person participating in such "joint bid" must be disclosed in the Bid, and such "joint bid" shall be subject to section 363(n) of the Bankruptcy Code.

(b) Conditions/Contingencies: A Bid shall NOT be subject to material conditions or contingencies to closing, including without limitation obtaining financing, internal approvals or further due diligence.

(c) Authorization: A Bid shall include evidence of authorization and approval from such Qualified Bidder's board of directors or governing body with respect to the submission, execution, delivery and closing.

(d) Good Faith Deposit: Except for Elitech, BCC and the Lender, each Bid shall be accompanied by a good faith deposit in the amount of 10% of the cash consideration in each Bid in the form of a certified check or other form acceptable to the Debtors in their discretion. Each good faith deposit will be deposited and held in Ashby & Geddes' escrow account.

(e) Minimum Bid Requirement For Purchased Assets: A Qualified Bidder's Bid to acquire the Purchased Assets shall have an initial minimum bid requirement equal to the sum of: (i) the Purchase Price; (ii) the Break-Up Fee; (iii) the Expense Reimbursement; and (iv) the proposed Overbid Increment in the amount of $300,000.00 (the aggregate of such amounts is referred to herein as the "Minimum Initial Bid").

(f) Other Evidence: Each Bid must contain evidence satisfactory to the Debtors, in consultation with the Creditors Committee and the Lenders, that the bidder is reasonably likely (based upon availability of financing, experience and other considerations) to be able to timely consummate a sale transaction if selected as the Successful Bidder (as defined below).

(g) Irrevocable: A Bid must be irrevocable until two (2) business days after the closing of the sale or sales pursuant to an order of the Bankruptcy Court that is no longer subject to appeal.

A Bid received from a Qualified Bidder on or before the Bid Deadline that meets the above requirements, in the Debtors' discretion, in consultation with the Lenders and the Creditors Committee, shall constitute a qualified bid (a "Qualified Bid"). In the event a Bid is determined not to be a Qualified Bid, such Bidder shall be refunded its Good Faith Deposit within three (3) business days of that determination.

The Stalking Horse Purchaser is a Qualified Bidder and the Purchase Agreement is a Qualified Bid. For purposes of the Auction BCC is also a Qualified Bidder by reason of its interests related to the Purchase Agreement. Notwithstanding anything to the contrary in the Motion or the Bid Procedures Order, the Lender shall also be deemed a Qualified Bidder.

Bid Protections

The Debtors have agreed to pay the Stalking Horse Purchaser the Break-Up Fee and the Expense Reimbursement in accordance with the terms and conditions set forth in the Purchase Agreement.

"As Is Where Is"

The sale of the Debtors' assets that are the subject of the Motion shall be on an "as is, where is" basis without representations or warranties of any kind or nature, except to the extent set forth in the respective definitive purchase agreement(s) with the Successful Bidder. Except as may be set forth in the definitive purchase agreement(s), any and all of the Debtors' assets shall be sold free and clear of any and all liens, claims, encumbrances, restrictions, charges and encumbrances of any kind or nature to the fullest extent permissible under the Bankruptcy Code, with such to attach to the net proceeds of sale in their order of priority as set forth herein.

Auction

The Debtors shall conduct an auction (the "Auction") to determine the highest and best bid for the Debtors' Purchased Assets beginning at 10:00 a.m. (Eastern time) on June __, 2009 at the offices of Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, Delaware 19801, or at such later time and at such other place as the Debtors shall notify all Qualifying Bidders and all other persons entitled to attend the Auction.

In the event the Debtors do not receive by the Bid Deadline at least one Qualified Bid for the Purchased Assets, other than the Purchase Agreement, the Debtors will report the same to the Bankruptcy Court and seek approval of the sale of the Purchased Assets to the Stalking Horse Purchaser at the Sale Hearing.

Only the Debtors, Qualified Bidders, the Creditors Committee, the Lender, and such other persons expressly invited by the Debtors, including in each case their respective advisors, will be permitted to attend the Auction. The Debtors and their advisors shall direct and preside over the Auction, in consultation with the Creditors Committee and the Lenders.

At the opening of the Auction, the Debtors shall announce the then highest and best bid for the Purchased Assets (the "Baseline Bid"), and the manner in which bidding on the Purchased Assets will proceed at the Auction. Bidding thereafter shall be made on an open basis, on the record of the Auction, and all material terms of each successive Bid shall be fully disclosed to all other Qualified Bidders (including the Stalking Horse Purchaser and the Lender) present at the Auction.

The Debtors may announce at the Auction such additional rules that they believe reasonable and necessary to maximize the value of their estates, so long as such rules are not inconsistent with the Bid Procedures.

Bidding Increments

Each Bid made at the Auction for the Purchased Assets in a single transaction following announcement of the Baseline Bid or Bids will be in increments of $300,000 ("Overbid Increment"); provided, however, that if the Baseline Bid is not the Stalking Horse Bid, such Baseline Bid must be at least $27.235 million.

An Overbid made by a Qualified Bidder must remain open and binding on the Qualified Bidder until and unless the Debtors accept a higher Qualified Bid as an Overbid. The Debtors

shall announce at the Auction the material terms of each Overbid and the basis for calculating the total consideration offered in each such Overbid.

Closing The Auction

At the conclusion of the bidding, the Debtors, following consultation with the Creditors Committee and the Lenders, shall determine in the exercise of the Debtors' judgment the highest and best bid (the "Successful Bid"). Such exercise of judgment must include consideration of the Debtors' obligation to pay Elitech the Break-up Fee and the Expense Reimbursement if Elitech has not made the highest bid. The Debtors reserve the right, in consultation with the Lender and the Creditors Committee, to select the next highest or otherwise best offer after the Successful Bid as a back-up bid (the "Back-Up Bid") for the Purchased Assets.

In the event the Successful Bidder fails to close the sale as a result of the Successful Bidder's default or breach under the applicable purchase agreement(s) by the closing dates specified in such purchase agreement, the Debtors: (a) shall retain the Successful Bidder's Good Faith Deposit as liquidated damages; and (b) be authorized but not required to consummate the Back-Up Bid with the Back-Up Bidder without further notice or order of the Bankruptcy Court.

Sale Hearing

The Debtors shall seek approval of the Successful Bid at the Sale Hearing to be conducted by the Bankruptcy Court on June __, 2009, or on such date as may be established by the Bankruptcy Court. The Debtors will not have accepted the Successful Bid unless and until the Bankruptcy Court has approved the Successful Bid at the Sale Hearing and entered the Sale Order.

Return of Good Faith Deposit

Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at Closing. The Good Faith Deposit of the Back-up Bidder shall be held in an interest-bearing account until five (5) days after the Closing of the transactions contemplated by the Successful Bid, and thereafter returned to the Back-up Bidder. Good Faith Deposits of all other Qualified Bidders shall be held in an interest-bearing escrow account until no later than two (2) business days after the Sale Hearing, and thereafter returned to the respective bidders. If a Successful Bidder or the Back-up Bidder, as appropriate, fails to consummate an approved sale because of a breach or failure to perform on the part of such Bidder, the Debtors shall be entitled to retain the Good Faith Deposit as part of its damages resulting from the breach or failure to perform by such Bidder.

Miscellaneous Provisions

The Debtors reserve the right, in their discretion, after consultation with the Creditors Committee and the Lender to modify the Bid Procedures as the Debtors deem appropriate to obtain the highest and best Bid for the Purchased Assets, so long as such modification is consistent with the terms hereof, including the Bid Procedures.

The Debtors, in their discretion, may, in consultation with the Creditors Committee and the Lender, (a) determine which Qualified Bid, if any, is the highest and best offer for the Purchased Assets, and (b) reject at any time before entry of the Sale Order any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interests of the Debtors, their estates, and creditors.

Exhibit 2

(Auction and Sale Notice)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
NANOGEN, INC. et al.,	)	Case No. 09-_____ (____)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	

NOTICE OF AUCTION AND SALE

PLEASE TAKE NOTICE that, on May__, 2009, Nanogen, Inc. ("Nanogen") and its affiliated debtors and debtors-in-possession (collectively, the "Debtors") filed their motion for entry of (I) an Order (a) approving certain bid procedures (the "Bid Procedures") in connection with the sale (the "Sale") of the Debtors' Purchased Assets; (b) authorizing and scheduling an auction (the "Auction") in connection with the Sale; (c) approving the payment of a Break-Up Fee and Expense Reimbursement to the Stalking Horse Purchaser, in each case in accordance with the terms and conditions of the Purchase Agreement; (d) establishing and approving the procedures to determine, and the form and manner of notice with respect to, the amounts to be paid and actions to be taken to cure defaults, if any, under the executory contracts, licenses and unexpired leases to be assumed by the applicable Debtor and assigned to the Successful Bidder in connection with the Sale; (e) approving the form and manner of notices of the proposed Sale, the Bid Procedures, the Auction and the Sale Hearing; and (f) scheduling a Sale Hearing; and (II) an Order approving the Sale and the assumption and assignment of the executory contracts, licenses and unexpired leases to be assumed by the applicable Debtor and assigned to Successful Bidder in connection therewith.

PLEASE TAKE FURTHER NOTICE that on May ___, 2009, the Bankruptcy Court entered an order (the "Bid Procedures Order") approving the Bid Procedures (a copy of the Bid Procedures Order and the Bid Procedures are attached hereto as Exhibit 1) which, among other things, established procedures for the submission of Bids, the holding of an Auction regarding the Sale and scheduled the Sale Hearing for June __, 2009, at [ ]:[ ]0 [].m.

PLEASE TAKE FURTHER NOTICE that, in order to participate in the Bidding Process, each person (a "Potential Bidder") must first deliver to: (i) Nanogen, Inc., 10398 Pacific Center Court, San Diego, CA 92121, Attn: David Ludvigson; (ii) counsel to the Debtors, Ashby & Geddes, 500 Delaware Avenue, 8th Fl., Wilmington, DE 19801, Attn: Bill Bowden, Esq. and Ricardo Palacio, Esq.; and (iii) Cowen & Company, LLC, 1221 Avenue of the Americas, 14th Floor, New York, NY 10020, Attn: Mark Secrest (collectively, the "Notice Parties"), no later than 5:00 p.m. (Eastern Time) on May __, 2009, the following items (the "Participation Requirements"):

(a) Confidentiality Agreement: An executed confidentiality agreement (unless previously delivered) in form and substance reasonably acceptable to the Debtors; and

(b) Proof of Financial Ability to Perform: The most current audited and latest unaudited financial statements of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of making a Bid, the current audited and latest unaudited financial statements of the equity holder(s) of the Potential Bidder or such other form of financial disclosure evidencing the Potential Bidder's ability to close the proposed sale transaction, the sufficiency of which shall be determined by the Debtors in their discretion in consultation with the Creditors' Committee and the Lender.

PLEASE TAKE FURTHER NOTICE that, upon a Potential Bidder's satisfaction of the Participation Requirements, such Potential Bidder shall be deemed by the Debtors to be a "Qualified Bidder". The Debtors shall afford each Qualified Bidder due diligence access to the Debtors' businesses and assets, which diligence may include access to the Data Room, management presentations and site visits, and such other diligence which Potential Bidders may request and to which the Debtors, in their discretion, may agree, provided, however, that the Debtors shall have no obligation to provide due diligence access to any Qualified Bidder after the Bid Deadline (as defined below). The Debtors will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access for Qualified Bidders.

PLEASE TAKE FURTHER NOTICE that the deadline for submitting bids by a Qualified Bidder shall by June __, 2009 at ____ __.m. (Eastern time) (the "Bid Deadline"). No later than the Bid Deadline, a Qualified Bidder that desires to make a Bid to acquire the Purchased Assets (a "Bid"), shall deliver written copies of its Bid to the Notice Parties by the Bid Deadline. The Debtors shall transmit copies of all Bids to counsel for the Official Committee of Unsecured Creditors, if appointed, (the "Creditors Committee"), the Lender and Elitech via facsimile, hand-delivery, over night mail, or electronic mail, immediately after receipt. All Qualified Bidders, other than Elitech, BCC and the Lender, that submit a Bid must deliver to the Debtors in the form of a certified check or other form acceptable to the Debtors, in their sole discretion, by the Bid Deadline, an amount equal to 10% of the cash consideration in each Bid.

PLEASE TAKE FURTHER NOTICE that the Debtors shall conduct an auction (the "Auction") to determine the highest and best bid for the Debtors' assets beginning at 10:00 a.m. (Eastern time) on June __, 2009 at the offices of Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, Delaware 19801, or at such later time and at such other place as the Debtors shall notify all Qualifying Bidders and all other persons entitled to attend the Auction.

PLEASE TAKE FURTHER NOTICE that only the Debtors, Qualifying Bidders, the Creditors Committee, the Lenders, and such other persons expressly invited by the Debtors, including in each case their respective advisors, will be permitted to attend the Auction. The Debtors and their advisors shall direct and preside over the Auction, in consultation with the Creditors Committee and the Lender.

PLEASE TAKE FURTHER NOTICE that if you seek to object to the sale of the Debtors' assets or any portion thereof, you must comply with the terms for making such objections as set forth in the Bid Procedures and the Bid Procedures Order. Such objections must be filed with the Court and served on the parties set forth in the Bid Procedures Order. If any party fails to timely file and serve an objection in accordance with the Bid Procedures Order, the Court may disregard such objection. The failure of any person to timely file its objection

shall be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Sale or the Debtors' assumption and assignment of any executory contract, license or unexpired lease or the consummation of the Sale and performance under the Purchase Agreement (or any alternative agreement entered into with the Successful Bidder), free and clear of Encumbrances (other than permitted encumbrances provided for expressly in the Purchase Agreement or alternative purchase agreement entered into with the Successful Bidder).

Dated: May __, 2009
Wilmington, Delaware

ASHBY & GEDDES, P.A.

William P. Bowden (I.D. No. 2553)
Ricardo Palacio (I.D. No. 3765)
Karen Skomorucha (I.D. No. 4759)
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, Delaware 19899
Tel: (302) 654-1888
Fax: (302) 654-2067

Proposed Attorneys for the Debtors and Debtors in Possession

Exhibit 3

(Cure Amount Notice)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
NANOGEN, INC. et al.,	)	Case No. 09-_____ (____)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	**Hearing Date: June __, 2009 at]]:[]0 [].m. (E.T.)** **Objection Deadline: June __, 2009 at 4:00 p.m. (E.T.)**

NOTICE OF CURE AMOUNTS

PLEASE TAKE NOTICE that, on May__, 2009, Nanogen, Inc. ("Nanogen") and its affiliated debtors and debtors-in-possession (collectively, the "Debtors") filed their motion for entry of (I) an order (a) approving certain bid procedures (the "Bid Procedures") in connection with the sale (the "Sale") of the Debtors' Purchased Assets; (b) authorizing and scheduling an auction (the "Auction") in connection with the Sale; (c) approving the payment of a Break-Up Fee and Expense Reimbursement to the Stalking Horse Purchaser, in each case in accordance with the terms and conditions of the Purchase Agreement; (d) establishing and approving the procedures to determine, and the form and manner of notice with respect to, the amounts to be paid and actions to be taken to cure defaults, if any, under the executory contracts, licenses and unexpired leases to be assumed by the applicable Debtor and assigned to the Successful Bidder in connection with the Sale; (e) approving the form and manner of notices of the proposed Sale, the Bid Procedures, the Auction and the Sale Hearing; and (f) scheduling a Sale Hearing; and (ii) an order approving the Sale and the assumption and assignment of the executory contracts, licenses and unexpired leases to be assumed by the applicable Debtor and assigned to Successful Bidder in connection therewith.

PLEASE TAKE FURTHER NOTICE that on May ___, 2009, the Bankruptcy Court entered an order (the "Bid Procedures Order") approving the Bid Procedures.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing to consider the Sale of the Purchased Assets to the Successful Bidder for June __, 2009 at []:[]0 [].m. (Eastern time).

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bid Procedures Order, Debtors may assume, sell, and assign certain of their unexpired leases, license agreements, and executory contracts (collectively, the "Assumed Contracts") free and clear of all liens, claims, encumbrances, and interests on satisfaction of the cure amounts required under section 365(b)(1)(A) of the Bankruptcy Code (the "Cure Costs"). The Assumed Contracts that the Debtors may seek to assume, sell, and assign and corresponding Cure Costs are listed on the attached Exhibit A. If no amount is listed, the Debtors believe that there is no Cure Cost.

PLEASE TAKE FURTHER NOTICE that unless the non-debtor party to an Assumed Contract files an objection (the "Cure Amount Objection") to their scheduled Cure Cost by **June__, 2009, at 4:00 p.m. (Eastern Time)** and serves the objection, so that it is actually received before such deadline, upon: (a) counsel to the Debtors: Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, DE 19801, Attn: William P. Bowden, Esq. and Ricardo Palacio, Esq.; (b) counsel to the Creditors Committee, or in the event no Creditors Committee is appointed, the creditors holding the 20 largest unsecured claims against the Debtors' estates; (c) counsel to the Lender: Bingham McCutchen LLP, 399 Park Avenue, New York, NY 10022-4689, Attn: Jeffrey S. Sabin, Esq. and R. Jeffery Black, Esq.; (d) counsel to the Stalking Horse Purchaser: Jackson Walker LLP, 901 Main Street, Suite 6000, Dallas, Texas 75202, Attn: Robert Richardson, Esq. and (e) counsel to the Office of the United States Trustee: 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Jane Leamy, Esq., then the Debtors may assume and assign such contracts and leases to the Stalking Horse Purchaser or the Successful Bidder and such non-debtor party shall (i) be forever barred from objecting to the Cure Cost and from asserting any additional cure or other amounts with respect to such contract or lease, and the Debtors shall be entitled to rely solely on the Cure Cost; (ii) be forever barred and estopped from asserting or claiming against the Debtors, the Stalking Horse Purchaser, BCC or such other Successful Bidder or any other assignee of the relevant contract or lease or any successor or assignee thereof that any additional amounts are due or defaults exist under such contract or lease; and (iii) be deemed to have consented to the assumption and assignment of each unexpired lease, license agreement or executory contract.

PLEASE TAKE FURTHER NOTICE that if a Cure Amount Objection is timely filed, the Cure Amount Objection must set forth (a) the basis for the objection; (b) with specificity, the amount the party asserts as the Cure Cost; and (c) the documentation relied upon in support of the Cure Cost.

PLEASE TAKE FURTHER NOTICE that non-debtor parties to any Assumed Contract must file and serve objections, if any, to the adequate assurance of future performance under the Assigned Contract (if and as assumed) so as to be received by the foregoing parties by **June ___ at 4:00 p.m. (Eastern Time)**. Non-debtor parties to Assumed Contracts may contact Karen B. Skomorucha, Esq., Ashby & Geddes, P.A., 500 Delaware Avenue, 8th Floor, Wilmington, DE 19801, Tel: (302) 654-1888, to obtain information relating to the determination of adequate assurance of future performance.

PLEASE TAKE FURTHER NOTICE the Sale Hearing may be adjourned, from time to time, without further notice to creditors or other parties-in-interest other than by announcement of said adjournment before this Court or on this Court's calendar on the date scheduled for said hearing.

Dated: May __, 2009
Wilmington, Delaware

ASHBY & GEDDES, P.A.

William P. Bowden (I.D. No. 2553)
Ricardo Palacio (I.D. No. 3765)
Karen Skomorucha (I.D. No. 4759)
500 Delaware Avenue, 8th Floor
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Tel: (302) 654-1888; Fax: (302) 654-2067

Proposed Attorneys for the Debtors and Debtors in Possession

EXHIBIT D

FORM OF BILL OF SALE

This Bill of Sale ("Agreement") is made as of _____ ___, 2009 by and between _____, a _____ corporation ("Buyer"), and _____, a _____ corporation ("Seller").

PRELIMINARY STATEMENTS

A. On May 13, 2009, Financière Elitech SAS, a *société par actions simplifiée* formed under the laws of France ("Elitech"), Nanogen, Inc., a Delaware corporation ("Nanogen"), Epoch Biosciences, Inc., a Delaware corporation and wholly-owned subsidiary of Nanogen ("Epoch"), and Nanotronics, a California corporation and wholly-owned subsidiary of Nanogen ("Nanotronics" and collectively with Epoch and Nanogen, the "Sellers") entered into an Asset Purchase Agreement (the "Purchase Agreement"), pursuant to which (a) Sellers agreed to sell and [Buyer][Elitech] agreed to purchase all of Sellers' assets constituting the Business in accordance with the Purchase Agreement; and (b) Sellers agreed to assign and [Buyer][Elitech] agreed to assume certain of Sellers' Liabilities. Capitalized terms used but not otherwise defined in this Agreement have the respective meanings ascribed to them in the Purchase Agreement.

B. Section 12.10 of the Purchase Agreement permitted Parent to and transfer all or any part of its rights in the Purchase Agreement to certain entities to effectuate the Contemplated Transactions, and Parent transferred its rights to receive certain of the Purchased Assets at Closing to Buyer pursuant to that certain Assignment Agreement dated _____ ____, 2009, a duly executed copy of which has been delivered to Sellers by Parent.

AGREEMENT

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

1. **Sale and Transfer of Assets.** For good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and as contemplated by Section 2.1 of the Purchase Agreement, Seller hereby sells, conveys, assigns, transfers and delivers to Buyer all of the Purchased Assets, free and clear of all Liens other than Permitted Liens, which Purchased Assets include the following:

a) [To be completed prior to Closing based on Purchased Assets being transferred.]

2. **Power of Attorney.** Without limiting Section 3 of this Agreement, Seller constitutes and appoints [Buyer][Buyer and Parent, both jointly and severally,] the true and lawful agent and attorney in fact of Seller, with full power of substitution and resubstitution, in whole or in part, in the name and stead of Seller but on behalf and for the benefit of [Buyer][Buyer or Parent] and [its][their respective] successors and assigns, from time to time:

(a) to demand, receive and collect any and all of the Purchased Assets and to give receipts and releases for and with respect to the same, or any part thereof;

(b) to institute and prosecute, in the name of Seller or otherwise, but at the expense and for the benefit of Buyer, any and all proceedings at law, in equity or otherwise, which [Buyer][Buyer or Parent] or [its][their respective] successors and assigns may deem proper to collect or reduce to possession any of the Purchased Assets and to collect or enforce any claim or right of any kind hereby assigned or transferred, or intended so to be; and

(c) to do all things legally permissible, required, or reasonably required, to recover and collect the Purchased Assets.

Seller declares that the foregoing powers are coupled with an interest and are and will be irrevocable by Seller.

4. Relationship to the Purchase Agreement. The terms of the Purchase Agreement (including the definition and usage provisions) are incorporated in this Agreement by this reference, and will not be superseded by this Agreement, but will remain in full force and effect to the full extent provided in the Purchase Agreement. If there is any inconsistency between the Purchase Agreement and this Agreement, the Purchase Agreement will control.

5. Governing Law. This Agreement will be governed by and construed under the laws of the State of Delaware, without regard to conflicts of laws principles that would require the application of any other law.

6. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

[Remainder of page intentionally left blank. Signature page follows.]

The parties have executed and delivered this Agreement as of the date indicated in the first sentence of this Agreement

_____

By:_____
Name: _____
Title: _____

_____

By: _____
Name: _____
Title: _____

EXHIBIT E

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
NANOGEN, INC. et al.,[1]	)	Case No. 09-_____ (____)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	**Related to Docket No. ____**

ORDER (I) AUTHORIZING AND APPROVING (A) THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES AND (B) THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND FIXING OF CURE AMOUNTS; AND (II) GRANTING RELATED RELIEF

Upon the motion dated May __, 2009 (the "Sale Motion") of the above-captioned debtors and debtors in possession (collectively, the "Debtors") seeking, inter alia, entry of an order or orders authorizing and approving: (a) the sale of the Debtors' Purchased Assets[2] free and clear of all liens, claims and encumbrances to Financiere Elitech SAS ("Elitech", sometimes referred to herein, together with its affiliates, subsidiaries, successors and permitted assigns, including, as applicable BCC, as "Buyer") pursuant to the terms of the Asset Purchase Agreement (the "Purchase Agreement"), or the person(s) or entity(s) making, at the Auction, an otherwise higher and better offer for the Purchased Assets; and (b) the assumption and assignment of the executory contracts, license agreements and unexpired leases to be assumed by the applicable Debtor and assigned to the successful bidder(s) in connection with the foregoing sales; and this Court having entered an order dated _____, 2009 (the "Bid Procedures Order") approving the

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Nanogen, Inc. (9621), Epoch Biosciences, Inc. (1592), and Nanotronics, Inc. (9618). Addresses for the Debtors can be found in the Debtors' petitions, which are presently available at http://www.bmcgroup.com/.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Purchase Agreement and the Sale Motion.

bid procedures attached as Exhibit 1 thereto, the "Bid Procedures") authorizing the Debtors to conduct, and approving the terms and conditions of, the Auction and Bid Procedures to consider higher and better offers for the Debtors' assets, establishing a date for the Auction and approving, inter alia, (a) the Bid Procedures in connection with the Auction; (b) the form and manner of notice of the Auction and Bid Procedures; (c) procedures relating to certain executory contracts and unexpired leases, including notice of proposed cure amounts; and (d) the Break-Up Fee and the Expense Reimbursement; and the Court having established the date of the sale hearing (the "Sale Hearing"); and the Court having jurisdiction to consider the Sale Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157(b)(2) and 1334; and after consideration of the Sale Motion, the relief requested therein, and the responses thereto, if any, this being a core proceeding in accordance with 28 U.S.C. § 157(b); and the appearance of all interested parties and all responses and objections, if any, to the Sale Motion having been duly noted in the record of the Sale Hearing; and upon the record of the Sale Hearing, and all other pleadings in these cases, including the Sale Motion; and it appearing that there is good cause for the relief requested in the Sale Motion, and such relief is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and after due deliberation sufficient cause appearing therefore;

IT IS HEREBY FOUND, DETERMINED AND CONCLUDED THAT:[3]

A. Jurisdiction. The Court has jurisdiction over this matter and over the property of the Debtors and their estates, including the property to be sold, transferred or conveyed pursuant to the Purchase Agreement, pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding

[3] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

pursuant to 28 U.S.C. § 157(b)(2). Venue of these cases and the Sale Motion is proper in this District and this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Statutory Predicates. The statutory predicates for the relief sought in the Sale Motion and the basis for the approvals and authorizations herein are (i) sections 105, 363, 365, 1123, 1141 and 1146 of chapter 11 of title 11 of the United States Code (as amended, the "Bankruptcy Code") and (ii) Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

C. Final Order. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the parties may consummate the transactions provided for under the terms and conditions of the Purchase Agreement immediately upon entry of this Order.

D. Retention of Jurisdiction. It is necessary and appropriate for the Court to retain jurisdiction to, among other things, interpret and enforce the terms and provisions of this Order and the Purchase Agreement, and to adjudicate, if necessary, any and all disputes relating in any way to the transactions provided for under the terms and conditions of the Purchase Agreement.

E. The Petition Date. On May 13, 2009 (the "Petition Date"), each of the Debtors filed voluntary petitions under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued in possession and management of their businesses and properties as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

F. Time is of the Essence. Time is of the essence in consummating the sale. In order to maximize the value of the Purchased Assets, it is essential that the sale of the Purchased Assets occur within the time constraints set forth in the Purchase Agreement. Accordingly, there is cause to lift the stays contemplated by Bankruptcy Rules 6004 and 6006.

G. Notice of the Sale Motion. As evidenced by the affidavits of service and publication filed with the Court, (i) proper, timely, adequate and sufficient notice of the Sale Motion, the Auction, and the Sale Hearing (including due and proper notice of the assumption, assignment and sale of each Assumed Contract to each non-debtor party under each such Assumed Contract) have been provided in accordance with sections 102(1) and 363(b) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, 9008 and 9014, the local rules of this Court, the procedural due process requirements of the United States Constitution, and in compliance with the Bid Procedures Order; (ii) such notice was good and sufficient and appropriate under the particular circumstances; and (iii) no other or further notice of the Sale Motion, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, or of the entry of this Order is necessary or shall be required.

H. Actual written notice of the Sale Motion, the Auction, and the Sale Hearing (including due and proper notice of the assumption, assignment and sale of each Assumed Contract to each non-debtor party under each such Assumed Contract) and a reasonable opportunity to object or be heard regarding the requested relief has been afforded to all interested persons and entities, including, (i) counsel to the Creditors Committee, or in the event no Creditors Committee was appointed, the creditors holding the 20 largest unsecured claims against the Debtors' estates; (ii) all entities that claim any interest in or lien on the Purchased Assets; (iii) all parties to the Assumed Contracts which the Debtor seeks to assume and assign to the Buyer pursuant to this Order; (iv) all governmental taxing authorities that have, or as a result of the sale may have, claims, contingent or otherwise, against the Debtors; (v) all parties that filed requests for notices under Bankruptcy Rules 2002 and/or 9010(b); (vi) all interested governmental, pension, and environmental entities; (vii) the Office of the United States Trustee;

(viii) Portside Growth & Opportunity Fund, as collateral agent (the "Bridge Collateral Agent") for the holders of the Bridge Notes (as defined herein), and as collateral agent for the holders of the 9.75% Convertible Notes (collectively, the "Lenders"); (ix) all entities that within the past 12 months have expressed to the Debtors an interest in purchasing the Purchased Assets; and (x) all equity security holders of the Debtors. Other parties interested in bidding on the Purchased Assets were provided, upon request, sufficient information to make an informed judgment on whether to bid on the Purchased Assets.

I. The Notice of Auction and Sale was published in _____ on _____, 2009. Such publication notice was sufficient and proper notice to any other interested parties, including those whose identities are unknown to the Debtors.

J. Compelling Circumstances for Immediate Sale. The Debtors have demonstrated a sufficient basis and the existence of exigent circumstances requiring them to enter into the Purchase Agreement, sell the Purchased Assets and assume and assign the Assumed Contracts under sections 363, 365, 1123 and 1141 of the Bankruptcy Code, and such actions are appropriate exercises of the Debtors' business judgment and in the best interests of the Debtors, their estates and their creditors, in that:

K. Elitech Bid. In order to make a single bid for all of the Debtors' assets, Elitech has entered into an agreement with The Bay City Capital Fund V, L.P. (together with its affiliated entities, "BCC") pursuant to which BCC will finance a portion of the Purchase Price and receive concurrently (as an assignee of Elitech under the Purchase Agreement) and/or immediately subsequent to the Sale: (a) title to certain of the Purchased Assets; (b) license to use certain of the Purchased Assets; and (c) assignment of certain executory contracts and unexpired

leases of the Debtors. Notwithstanding the foregoing, Elitech remains obligated to pay the full amount of the Purchase Price for the Purchased Assets.

L. Good Faith. Neither the Buyer nor BCC is an "insider" or "affiliate" of the Debtors (as such terms are defined in the Bankruptcy Code). The Buyer is a purchaser in good faith,[4] as that term is used in the Bankruptcy Code and court decisions thereunder, and is entitled to the protections of section 363(m) of the Bankruptcy Code. The Purchase Agreement was negotiated and entered into in good faith, based upon arm's length bargaining, and without collusion or fraud of any kind. The sales process and Auction were conducted in accordance with the Bid Procedures Order and in good faith within the meaning of section 363(m) of the Bankruptcy Code. Neither the Debtors nor the Buyer (or BCC) have engaged in any conduct that would prevent the application of section 363(m) or cause the application of or implicate section 363(n) of the Bankruptcy Code to the Purchase Agreement or to the consummation of the sale transaction and transfer of the Purchased Assets to Buyer and Assumed Contracts to Buyer and BCC. The Buyer (together with BCC) is entitled to all the protections and immunities of section 363(m). The Buyer and BCC will be acting in good faith within the meaning of section 363(m) in closing the transactions pursuant to the terms and conditions of the Purchase Agreement any time after the entry of this Order, including immediately after its entry. The Court has found that the Buyer (together with BCC) has acted in good faith in all respects in connection with these chapter 11 cases and the transactions under the Purchase Agreement in that, among other things: (i) the Buyer (together with BCC) recognized that the Debtors were free to negotiate with any other party that expressed interest in purchasing their assets; (ii) the Buyer (together with BCC) agreed to subject its bid to the competitive bidding procedures set

[4] To the extent BCC as a subsequent purchaser from Elitech of certain assets of Debtors could be deemed a purchaser under section 363 of the Bankruptcy Code, BCC is also a purchaser in good faith.

forth in the Bid Procedures Order; (iii) neither the Buyer nor BCC induced, caused, or required the commencement of the Debtors' chapter 11 cases; (iv) all payments to be made by Buyer and other agreements or arrangements entered into by Buyer with the Debtors in connection with the Purchase Agreement have been disclosed; and (v) the negotiation and execution of the Purchase Agreement and all other aspects of the transactions contemplated thereby were conducted in good faith and at arms' length.

M. In the absence of a stay pending appeal, the Buyer and BCC will be acting in good faith, pursuant to section 363(m) of the Bankruptcy Code, in closing the transactions contemplated by the Purchase Agreement at any time on or after the entry of this Order and cause has been shown as to why this Order should not be subject to the stay provided by Bankruptcy Rules 6004(h) and 6006(d).

N. No Collusion. Neither the Buyer nor BCC has violated section 363(n) of the Bankruptcy Code by any action or inaction. The sale price to be paid by Buyer was not limited by an agreement among potential bidders at such sale. The transactions under the Purchase Agreement may not be avoided, and no damages may be assessed against the Buyer, BCC or any other party under section 363(n) of the Bankruptcy Code or any other applicable bankruptcy or non-bankruptcy law.

O. Bid Procedures Fair. The Bid Procedures set forth in the Bid Procedures Order were non-collusive, substantively and procedurally fair to all parties and were the result of arms length negotiations between the Debtors and the Buyer.

P. The Debtors and their professionals have complied, in good faith, in all respects with the Bid Procedures Order as demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the

Sale Hearing. Through marketing efforts and a competitive sale process conducted in accordance with the Bid Procedures Order, the Debtors (i) afforded interested potential purchasers a full, fair and reasonable opportunity to qualify as bidders and submit their highest or otherwise best offer to purchase the Debtors' Purchased Assets, (ii) provided potential purchasers, upon request, sufficient information to enable them to make an informed judgment on whether to bid on the Purchased Assets, (iii) considered any bids submitted on or before the Bid Deadline, and (iv) commenced the Auction on _____ __, 2009.

Q. Marketing Efforts Leading to Sale. Prior to the Auction, the Debtors and their investment bankers, Cowen & Company, LLC ("Cowen"), diligently and in good faith marketed the Purchased Assets that are subject to the Purchase Agreement to secure the highest and best offer therefor by, among other things, delivering offering materials to potential purchasers, inviting the potential purchasers to meet with the Debtors' management, Cowen and other of the Debtors' professionals; and providing each of the potential purchasers with the opportunity to conduct extensive due diligence and bid for the Purchased Assets in accordance with the Bid Procedures.

R. Auction. The Auction was held in Wilmington, Delaware on June _, 2009 in accordance with the Bid Procedures Order.

S. Highest and Best Offer. At the conclusion of the Auction, the Debtors announced that, after consultation with the Creditors Committee and the Lenders, they had determined that the offer submitted by the Buyer in the Purchase Agreement was the highest and best offer and that the Buyer is the Successful Bidder for the Purchased Assets in accordance with the Bid Procedures Order. The Bid Procedures obtained the highest value for the Purchased Assets for the Debtors and their estates.

T. The offer of the Buyer, upon the terms and conditions set forth in the Purchase Agreement, including the form and total consideration to be realized by the Debtors pursuant to the Purchase Agreement, (i) is the highest and best offer received by the Debtors for the Purchased Assets; (ii) is fair and reasonable; (iii) is in the best interests of the Debtors' creditors and estates; (iv) constitutes full and adequate consideration and reasonably equivalent value for the Purchased Assets; and (v) will provide a greater recovery for the Debtors' creditors and other interested parties than would be provided by any other practical and available alternative. The Debtors' determination that the Purchase Agreement constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

U. The Purchase Agreement and the transactions thereunder are not being entered into to escape liability for the estates' debts. The Debtors' estates are unable to satisfy all of the Debtors' debts.

V. No Fraudulent Transfer. The total consideration provided by the Buyer for the Purchased Assets is the highest and best offer received by the Debtors, and the Purchase Price constitutes (a) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (b) fair consideration under the Uniform Fraudulent Conveyance Act, and (c) under any other applicable laws of the United States, any state, territory or possession, or the District of Columbia, reasonably equivalent value, fair consideration and fair value for the Assets.

W. Validity of Transfer. Prior to the transactions contemplated under the Purchase Agreement, the Purchased Assets are property of the Debtors' estates and title thereto is vested in the Debtors' estates.

X. The Debtors have full corporate power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the sale of the Purchased Assets has been duly and validly authorized by all necessary corporate authority by the Debtors to consummate the transactions contemplated by the Purchase Agreement. No consents or approvals, other than as may be expressly provided for in the Purchase Agreement, are required by the Debtors to consummate such transactions.

Y. The Debtors have advanced sound business reasons for seeking to enter into the Purchase Agreement and to sell and/or assume, assign and sell the Purchased Assets and the Assumed Contracts, as more fully set forth in the Sale Motion and as demonstrated at the Sale Hearing, and it is a reasonable exercise of the Debtors' business judgment to sell and assign the Purchased Assets and the Assumed Contracts and to consummate the transactions contemplated by the Purchase Agreement. Notwithstanding any requirement for approval or consent by any person, the transfer of the Purchased Assets to the Buyer and to the extent applicable to BCC, and the assumption, assignment and sale of the Assumed Contracts to the Buyer and to the extent applicable to BCC is a legal, valid and effective transfer of the Purchased Assets and any Assumed Contracts. And upon such transfer, the Buyer and BCC, as applicable, shall have good and indefeasible title to all the Purchased Assets.

Z. The terms and conditions of the Purchase Agreement, including the consideration to be realized by the Debtors pursuant to the Purchase Agreement, are fair and reasonable, and the transactions contemplated by the Purchase Agreement are in the best interests of the Debtors, the Debtors' estates, their creditors and other parties in interest.

AA. Section 363(f) is Satisfied. Except as otherwise provided in the Purchase Agreement, the Purchased Assets shall be sold free and clear of all of the following (collectively,

the "Encumbrances"): mortgages, security interests, conditional sale or other retention agreements, pledges, liens (as that term is defined in section 101(37) of the Bankruptcy Code), claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, guaranties, debts, obligations, rights, contractual commitments, interests, judgments, demands, easements, charges, encumbrances, defects, options, rights of first offer, negotiation, or refusal, other encumbrances, Liens (as defined in the Purchase Agreement), and restrictions of any kind or nature whether imposed by agreement, understanding, law, equity, or otherwise, including, without limitation (i) encumbrances that purport to give any party a right or option to effect any forfeiture, modification or termination of any Debtor or of the Buyer or BCC in the Purchased Assets or (ii) in respect of taxes, in each case accruing, arising, or relating to a period prior to the Closing. All such Encumbrances shall attach to the consideration to be received by the Debtors in the same priority and subject to the same defenses and avoidability, if any, as before the Closing, and Buyer would not enter into the Purchase Agreement to purchase the Purchased Assets otherwise.

BB. The transfer of the Purchased Assets to Buyer and BCC will be a legal, valid and effective transfer of the Assets, and, except as may otherwise be provided in the Purchase Agreement, shall vest Buyer and BCC with all right, title and interest of the Debtors to the Purchased Assets free and clear of any and all Encumbrances. Except as specifically provided in the Purchase Agreement or this Order, neither the Buyer nor BCC shall assume or become liable for any Encumbrances relating to the Purchased Assets being sold by the Debtors.

CC. The transfer of the Purchased Assets to the Buyer and BCC free and clear of all Encumbrances will not result in any undue burden or prejudice to any holders of any Encumbrances as all such Encumbrances of any kind or nature whatsoever shall attach to the net

proceeds of the sale of the Purchased Assets received by the Debtors in the order of their priority, with the same validity, force and effect which they now have as against the Purchased Assets and subject to any claims and defenses the Debtors or other parties may possess with respect thereto. All persons having Encumbrances of any kind or nature whatsoever against or in any of the Debtors or the Purchased Assets shall be forever barred, estopped and permanently enjoined from pursuing or asserting such Encumbrances against the Buyer, any of its assets, property, successors or assigns, or the Purchased Assets.

DD. The Debtors may sell the Purchased Assets free and clear of all Encumbrances of any kind or nature whatsoever because, in each case, one or more of the standards set forth in section 363(f) of the Bankruptcy Code has been satisfied. Those (i) holders of Encumbrances and (ii) non-debtor parties, who did not object or who withdrew their objections to the sale of the Purchased Assets and the Sale Motion, are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Encumbrances who did object fall within one or more of the other subsections of section 363(f) and are adequately protected by having their Encumbrances, if any, attach to the proceeds of the sale of the Purchased Assets ultimately attributable to the property against or in which they claim or may claim any Encumbrances, with such Encumbrances being subject to treatment as prescribed in the Debtors' Plan or by separate order of this Court.

EE. Not selling the Purchased Assets free and clear of all Encumbrances would adversely impact the Debtors' estates, and the sale of Purchased Assets other than free and clear of all Encumbrances would be of substantially less value to the Debtors' estates.

FF. Neither the Buyer nor BCC shall have any obligations with respect to any Liabilities of the Debtors other than the Assumed Liabilities and its obligations under the Purchase Agreement.

GG. Cure under Assumed Contracts; Adequate Assurance of Future Performance. The Debtors and the Buyer have, to the extent necessary, satisfied the requirements of section 365 of the Bankruptcy Code. Pursuant to the terms and subject to the conditions of this Order and the Purchase Agreement, the Debtors shall, within the time period and pursuant to the terms set forth in the Purchase Agreement, (i) cure or provide adequate assurance of cure of any undisputed existing default prior to the Closing under any of the assigned Assumed Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code and (ii) provide compensation or adequate assurance of compensation to any party other than the Debtors for any undisputed actual pecuniary loss to such party resulting from an undisputed default prior to the Closing under any of the assigned Assumed Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. The Buyer and BCC have demonstrated adequate assurance of future performance with respect to the Assumed Contracts, within the meaning of section 365(b)(1)(C) of the Bankruptcy Code. The Assumed Contracts are assignable to the Buyer and BCC notwithstanding any provisions contained therein to the contrary pursuant to section 365(f) of the Bankruptcy Code, and, to the extent a non-debtor party to any Assumed Contract has failed timely to object to the assumption and assignment of its respective Assumed Contract, including an executory contract, license agreement or unexpired lease respecting a non-exclusive license of intellectual property, any such party shall be deemed to consent to the assumption and assignment thereof to the Buyer or BCC, as applicable, pursuant to section 365(c)(1)(B). The assumption and assignment of the Assumed Contracts pursuant to the terms of this Order is

integral to the Purchase Agreement and is in the best interests of the Debtors, their estate, creditors and other parties in interest, and represents the exercise of sound and prudent business judgment by the Debtors.

HH. No Successor Liability. The transactions contemplated under the Purchase Agreement do not amount to a consolidation, merger or de facto merger of the Buyer or BCC and the Debtors and/or the Debtors' estates, there is not substantial continuity between the Buyer or BCC and the Debtors, there is no continuity of enterprise between the Debtors and the Buyer or BCC, neither the Buyer nor BCC is a mere continuation of the Debtors or their estates, and neither the Buyer nor BCC, nor any successor or assignee thereof constitutes a successor to the Debtors or their estates.

II. Except as expressly set forth in the Purchase Agreement, the transfer of the Purchased Assets to the Buyer and assumption and assignment to Buyer and BCC of the Assumed Contracts and the Assumed Liabilities by Buyer do not and will not subject the Buyer or BCC or any of their successors, assigns, affiliates or subsidiaries to any liability by reason of such transfer under (i) the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based in whole or part on, directly or indirectly, including without limitation, any theory of antitrust, environmental, products liability, successor or transferee liability, labor law, de facto merger, or substantial continuity or (ii) any employment contract, understanding or agreement, including without limitation collective bargaining agreements, employee pension plans, or employee welfare or benefit plans.

JJ. Miscellaneous. The sale of the Purchased Assets outside of a plan of reorganization pursuant to the Purchase Agreement neither impermissibly restructures the rights

of the Debtors' creditors nor impermissibly dictates the terms of a plan of liquidation or reorganization for the Debtors. The sale does not constitute a sub rosa chapter 11 plan.

NOW, THEREFORE, BASED UPON ALL OF THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The relief requested in the Sale Motion is granted in its entirety, subject to the terms and conditions contained herein.

2. All objections, responses, and requests for continuance concerning the Sale Motion are resolved in accordance with the terms of this Order and as set forth in the record of the Sale Hearing. To the extent any such objection, response or request for continuance was not otherwise withdrawn, waived, or settled, it, and all reservations of rights contained therein, is overruled and denied on the merits.

3. Notice of the Sale Hearing was fair and adequate under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006.

4. Approval of Sale. The sale of the Purchased Assets, the terms and conditions of the Purchase Agreement (including all schedules and exhibits affixed thereto), the bid by the Buyer and the transactions contemplated thereby be, and hereby are, authorized and approved in all respects.

5. The sale of the Purchased Assets and the consideration provided by the Buyer under the Purchase Agreement is fair and reasonable and shall be deemed for all purposes to constitute a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law.

6. The Buyer (together with BCC) is hereby granted and is entitled to all of the protections provided to a good faith buyer under section 363(m), including with respect to the transfer of the Designated Contracts as part of the sale of the Purchased Assets pursuant to section 365 and this Order.

7. The Debtors hereby are authorized and directed to fully assume, perform under, consummate and implement the terms of the Purchase Agreement together with any and all additional instruments and documents that may be reasonably necessary or desirable to implement and effectuate the terms of the Purchase Agreement, this Order and sale of the Purchased Assets contemplated thereby, including, without limitation, deeds, assignments, stock powers and other instruments of transfer, and to take all further actions as may reasonably be requested by the Buyer or BCC for the purpose of assigning, transferring, granting, conveying and conferring to the Buyer or, as applicable, BCC, or reducing to possession any or all of the Purchased Assets or Assumed Liabilities and the assumption and assignment of the Assumed Contracts, as may be necessary or appropriate to the performance of the Debtors' obligations as contemplated by the Purchase Agreement, without any further corporate action or orders of this Court. The Buyer shall have no obligation to proceed with the Closing of the Purchase Agreement until all conditions precedent to its obligations to do so have been met, satisfied or waived. The Buyer may consummate the transactions under the Purchase Agreement at any time after the entry of this Order (including immediately thereafter) by waiving all closing conditions set forth in the Purchase Agreement that have not been satisfied and by proceeding to close such transactions, without any notice to the Court, any pre-petition or post-petition creditor of the Debtors or any other party in interest.

8. The Debtors and each other person or entity having duties or responsibilities under the Purchase Agreement, any agreements related thereto or this Order, and their respective directors, officers, employees, members, agents, representatives, and attorneys, are authorized and empowered, subject to the terms and conditions contained in the Purchase Agreement, to carry out all of the provisions of the Purchase Agreement and any related agreements; to issue, execute, deliver, file, and record, as appropriate, the documents evidencing and consummating the Purchase Agreement, and any related agreements; to take any and all actions contemplated by the Purchase Agreement, any related agreements or this Order; and to issue, execute, deliver, file, and record, as appropriate, such other contracts, instruments, releases, indentures, mortgages, deeds, bills of sale, assignments, leases, or other agreements or documents and to perform such other acts and execute and deliver such other documents, as are consistent with, and necessary or appropriate to implement, effectuate, and consummate, the Purchase Agreement, any related agreements and this Order and the transactions contemplated thereby and hereby, all without further application to, or order of, the Court or further action by their respective directors, officers, employees, members, agents, representatives, and attorneys, and with like effect as if such actions had been taken by unanimous action of the respective directors, officers, employees, members, agents, representatives, and attorneys of such entities. The secretary or any assistant secretary of the Debtors shall be, and hereby is, authorized to certify or attest to any of the foregoing actions (but no such certification or attestation shall be required to make any such action valid, binding, and enforceable). The Debtors are further authorized and empowered to cause to be filed with the secretary of state of any state or other applicable officials of any applicable governmental units any and all certificates, agreements, or amendments necessary or appropriate to effectuate the transactions contemplated by the

Purchase Agreement, any related agreements and this Order, including amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings, or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors may determine are necessary or appropriate. The execution of any such document or the taking of any such action shall be, and hereby is, deemed conclusive evidence of the authority of such person to so act. Without limiting the generality of the foregoing, this Order shall constitute all approvals and consents, if any, required by the corporation laws of the State of Delaware and all other applicable business corporation, trust, and other laws of the applicable governmental units with respect to the implementation and consummation of the Purchase Agreement, any related agreements and this Order, and the transactions contemplated thereby and hereby.

9. Effective as of the Closing, (a) the sale of the Purchased Assets by the Debtors to the Buyer or, as applicable, BCC shall constitute a legal, valid and effective transfer of the Purchased Assets notwithstanding any requirement for approval or consent by any person and shall vest Buyer with all right, title and interest of the Debtors in and to the Purchased Assets, free and clear of all Claims, Liens, Encumbrances and interests of any kind, pursuant to section 363(f) of the Bankruptcy Code, and (b) the assumption of any Assumed Liabilities by the Buyer shall constitute a legal, valid and effective delegation of any Assumed Liabilities to the Buyer and shall divest the Debtors of all liability with respect to any Assumed Liabilities.

10. The sale of the Purchased Assets is not subject to avoidance, and no damages may be assessed against the Buyer or BCC or any other party, pursuant to section 363(n).

11. Transfer of Purchased Assets. Except to the extent specifically provided in the Purchase Agreement, upon the closing, pursuant to section 1141(c) of the Bankruptcy Code, the

Debtors shall be, and hereby are, authorized, empowered, and directed, pursuant to sections 105, 363(b), 1123 and 1141, to sell the Purchased Assets to the Buyer or, as applicable, BCC. The sale of the Purchased Assets shall vest Buyer or, as applicable, BCC with all right, title and interest of the Debtors to the Purchased Assets free and clear of any and all Encumbrances and other liabilities and claims, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or noncontingent, liquidated or unliquidated, matured or unmatured, disputed or undisputed, or known or unknown, whether arising prior to or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity or otherwise, with all such Encumbrances and other liabilities and claims to attach only to the proceeds of the sale (if any) with the same priority, validity, force, and effect, if any, as they now have in or against the Purchased Assets, subject to all claims and defenses the Debtors may possess with respect thereto. Following the Closing Date, no holder of any Encumbrance in the Purchased Assets shall interfere with the Buyer's, BCC's, or any successors' or assigns' use and enjoyment of the Purchased Assets based on or related to such Encumbrance, or any actions that the Debtors may take in their chapter 11 cases and no person shall take any action to prevent, interfere with or otherwise enjoin consummation of the transactions contemplated in or by the Purchase Agreement or this Order. To the extent provided for in the Purchase Agreement, any and all of the Debtors' security deposits, or other security held by landlords, lessors and other counterparties to the contracts, leases, and licenses that are to be assumed and assigned under the Purchase Agreement are being transferred and assigned to, and shall be the property of, the Buyer or BCC, as applicable, from and after the Closing, which transfer and assignment of security deposits, other deposits, or security shall

satisfy in full the requirements of section 365(l) of the Bankruptcy Code for all contracts, leases, and licenses assumed and assigned pursuant to this Order or the Purchase Agreement.

12. The provisions of this Order authorizing the sale of the Purchased Assets free and clear of Encumbrances, other than Assumed Liabilities, shall be self-executing, and neither the Debtors, the Buyer nor BCC shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the provisions of this Order. However, the Debtors and the Buyer, and each of their respective officers, employees, agents, successors and assigns are hereby authorized and empowered to take all actions and execute and deliver any and all documents and instruments that either the Debtors or the Buyer deem necessary or appropriate to implement and effectuate the terms of the Purchase Agreement and this Sale Order. Moreover, effective as of the Closing, the Buyer, BCC and their respective successors and assigns, including BCC, shall be designated and appointed the Debtors' true and lawful attorney and attorneys, with full power of substitution, in the Debtors' name and stead, on behalf and for the benefit of the Buyer, its successors and assigns, to demand and receive any and all of the Purchased Assets and to give receipts and releases for and in respect of the Purchased Assets, or any part thereof, and from time to time to institute and prosecute in the Debtors' name, for the benefit of the Buyer, BCC and their respective successors and assigns, any and all proceedings at law, in equity or otherwise, which the Buyer, BCC and their respective successors and assigns, may deem proper for the collection or reduction to possession of any of the Purchased Assets, and to do all acts and things with respect to the Purchased Assets which the Buyer, BCC and their respective successors and assigns, shall deem desirable. The foregoing powers are coupled with an interest and are and shall be irrevocable by the Debtors.

13. On or before the Closing Date, all parties holding Encumbrances of any kind are authorized and directed to execute such documents and take all other actions as may be necessary to release any Encumbrances of any kind against the Purchased Assets, as such Encumbrances may have been recorded or may otherwise exist. If any person or entity that has filed financing statements or other documents or agreements evidencing any Encumbrances in or against the Purchased Assets shall not have delivered to the Debtors prior to the Closing after request therefor, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, or releases of all such Encumbrances that the person or entity has with respect to the Purchased Assets, the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to such Purchased Assets prior to the Closing, and the Buyer, BCC or their respective successors and assigns are authorized to file such documents after Closing.

14. To the greatest extent available under applicable law, the Buyer, BCC or their respective successors and assigns shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Purchased Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer, BCC or their respective successors and assigns as of the Closing Date.

15. All of the Debtors' interests in the Purchased Assets to be acquired by the Buyer under the Purchase Agreement shall be, as of the Closing Date and upon the occurrence of the Closing, transferred to and vested in the Buyer. Upon the occurrence of the Closing, this Order shall be considered and constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Purchased Assets under the Purchase Agreement

and/or a bill of sale or assignment transferring good and marketable, indefeasible title and interest in the Purchased Assets.

16. Except as expressly provided in the Purchase Agreement, the Buyer is not assuming nor shall it or any affiliate, subsidiary, successor or assignee of Buyer be in any way liable or responsible, as a successor or otherwise, for any liabilities, debts, or obligations of the Debtors in any way whatsoever relating to or arising from the Debtors' ownership or use of the Purchased Assets prior to the consummation of the transactions contemplated by the Purchase Agreement, or any liabilities calculable by reference to the Debtors or their operations or the Purchased Assets, or relating to continuing or other conditions existing on or prior to consummation of the transactions contemplated by the Purchase Agreement, which liabilities, debts, and obligations are hereby extinguished insofar as they may give rise to liability, successor or otherwise, against Buyer or any affiliate, subsidiary, successor, or assignee of the Buyer.

17. Except as otherwise provided in the Purchase Agreement, on the Closing Date, each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release their respective interests or Claims against the Purchased Assets, if any, as may have been recorded or may otherwise exist.

18. Except as otherwise expressly provided in the Purchase Agreement, all persons or entities, presently or on or after the Closing Date, in possession of some or all of the Purchased Assets, are directed to surrender possession of the Purchased Assets to the Buyer or, as applicable, BCC on the Closing Date or at such time thereafter as the Buyer may request.

19. Assumed Contracts. Subject to the terms of the Purchase Agreement and the occurrence of the Closing Date, the assumption by the Debtors of the Assumed Contracts and the sale and assignment of such agreements to the Buyer or, as applicable BCC, as provided for or

contemplated by the Purchase Agreement hereby is authorized and approved pursuant to sections 363, 365, 1123(a)(5)(D) and 1141(c) of the Bankruptcy Code.

20. The Assumed Contracts shall be deemed valid and binding and in full force and effect and assumed by the Debtors and sold and assigned to the Buyer and BCC at the Closing, pursuant to sections 363 and 365 of the Bankruptcy Code, subject only to (a) the payment of all cures required to assume and assign the Assumed Contracts to the Buyer and BCC as provided in this Order and the Purchase Agreement; and (b) the Buyer's and BCC's right to exclude Assumed Contracts from the definition of Assumed Contracts in accordance with the terms of the Purchase Agreement. To the extent the Buyer or BCC excludes any Assumed Contracts from the definition of Assumed Contracts, the Debtors shall file a revised schedule to the Purchase Agreement with the Court and provide proper and adequate notice thereof.

21. Upon the Closing, in accordance with sections 363 and 365, the Buyer or BCC shall be fully and irrevocably vested in all right, title and interest of each Assumed Contract. The Debtors shall cooperate with, and take all actions reasonably requested by, the Buyer to effectuate the foregoing.

22. Pursuant to sections 365(b)(1)(A) and (B), pursuant to the terms and subject to the conditions of this Order and the Purchase Agreement, and within the time period provided and the terms set forth in the Purchase Agreement, the Debtors shall pay or cause to be paid to the non-debtor parties to any Assumed Contracts the requisite Cure Costs, if any, set forth in the notice served by the Debtors on each of the parties to the Assumed Contracts, except to the extent that a cure amount was amended on the record of the Sale Hearing (the "Cure Costs"), following the assumption and assignment thereof. The Cure Costs are hereby fixed at the amounts set forth in the notice served by the Debtors, or the amounts set forth on the record of

the Sale Hearing, as the case may be, and the non-debtor parties to the Assumed Contracts are forever bound by such Cure Costs.

23. All defaults or other obligations under the Assumed Contracts arising prior to the Closing (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be deemed cured by payment of the Cure Costs.

24. Any provision in any Assumed Contract that purports to declare a breach, default or payment right as a result of an assignment or a change of control in respect of the Debtors is unenforceable, and all Assumed Contracts shall remain in full force and effect, subject only to payment of the appropriate Cure Cost, if any. No sections or provisions of any Assumed Contract that purport to provide for additional payments, penalties, charges, or other financial accommodations in favor of the non-debtor third party to the Assumed Contracts shall have any force and effect with respect to the sale transaction and assignments authorized by this Order, and such provisions constitute unenforceable anti-assignment provisions under section 365(f) of the Bankruptcy Code and/or are otherwise unenforceable under section 365(e) of the Bankruptcy Code, and no assignment of any Assumed Contract pursuant to the terms of the Purchase Agreement shall in any respect constitute a default under any Assumed Contract. To the extent a non-debtor party to any Assumed Contract has failed timely to object to the assumption and assignment of its respective Assumed Contract, including an executory contract, license agreement or unexpired lease respecting a non-exclusive license of intellectual property, any such party shall be deemed to consent to the assumption and assignment thereof to the Buyer pursuant to section 365(c)(1)(B). To the extent the consent of any non-debtor third party to an Assured Contract is required to permit the assumption and assignment of any Assumed Contracts

which is or contains a non-exclusive license of intellectual property, and the non-debtor party to such Assumed Contract has timely entered an objection to the assumption and assignment thereof, such consent has been obtained or will be obtained prior to Closing. Except as otherwise set forth herein, the Buyer, BCC (to the extent applicable) and their respective successors and assigns shall enjoy all of the rights and benefits under each such Assumed Contract as of the applicable date of assumption and assignment without the necessity of obtaining each such non-debtor party's written consent to the assumption or assignment thereof.

25. The Buyer and BCC have satisfied all requirements under sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code to provide adequate assurance of future performance under the Assumed Contracts.

26. The Debtors and their estates shall be relieved of any liability for any breach of any of the Assumed Contracts occurring from and after Closing, pursuant to and in accordance with sections 365(k).

27. Additional Provisions. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement and this Order.

28. Neither the Buyer nor any of its affiliates, subsidiaries, successors or assigns has assumed and none is otherwise obligated for any of the Debtors' liabilities other than the Assumed Liabilities as set forth in the Purchase Agreement, and the Buyer has not purchased any of the Retained Assets, as set forth in Section 2.3 of the Purchase Agreement (the "Retained Assets"). Consequently, all persons, Governmental Units (as defined in sections 101(27) and 101(41) of the Bankruptcy Code) and all holders of Encumbrances based upon or arising out of

liabilities retained by the Debtors are hereby enjoined from taking any action against any of the Buyer or BCC or their respective affiliates, subsidiaries, successors or assigns or the Purchased Assets to recover any Encumbrance or on account of any liabilities of the Debtors other than Assumed Liabilities pursuant to the Purchase Agreement. All persons holding or asserting any Encumbrance in the Retained Assets are hereby enjoined from asserting or prosecuting such Encumbrance or cause of action against any of the Buyer or BCC or their respective affiliates, subsidiaries, successors or assigns or the Purchased Assets for any liability associated with the Retained Assets.

29. None of the Buyer or its affiliates, subsidiaries, successors or assigns is a "successor" to the Debtors or their estates by reason of any theory of law or equity, and the Buyer and its affiliates, subsidiaries, successors and assigns shall not assume, nor be deemed to assume, or in any way be responsible for any liability or obligation of any of the Debtors and/or their estates including, but not limited to, any bulk sales law, successor liability or similar liability except as otherwise expressly provided in the Purchase Agreement. Neither the purchase of the Purchased Assets by the Buyer, its affiliates, its subsidiaries, its successors or its assigns nor the fact that the Buyer, its affiliates, its subsidiaries, its successors or its assigns are using any of the Purchased Assets previously operated by the Debtors, will cause the Buyer or any of its affiliates, its subsidiaries, its successors or its assigns to be deemed a successor in any respect to the Debtors' businesses within the meaning of any foreign, federal, state or local revenue, pension, ERISA, tax, labor, employment, environmental, or other law, rule or regulation (including without limitation filing requirements under any such laws, rules or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine, or under any product warranty liability law or doctrine with respect

to the Debtors' liability under such law, rule or regulation or doctrine, and the Buyer, its affiliates, its subsidiaries, its successors or its assigns shall have no liability or obligation on account of any of the foregoing.

30. Buyer, its affiliates, its subsidiaries, its successors and its assigns shall have no liability or obligation under the WARN Act (29 U.S.C. §§ 210 et seq.) or the Comprehensive Environmental Response Compensation and Liability Act, or any foreign, federal, state or local labor, employment, or environmental law by virtue of the Buyer's purchase of the Purchased Assets or assumption of the Assumed Liabilities.

31. Except to the extent expressly included in the Assumed Liabilities, pursuant to sections 105, 363, 1123(a)(5)(D) and 1141(c) of the Bankruptcy Code, all persons and entities, including, but not limited to, the Debtors, all debt security holders, equity security holders, the Debtors' employees or former employees, governmental, tax and regulatory authorities, lenders, parties to or beneficiaries under any benefit plan, any claimant asserting a products liability claim, trade and other creditors asserting or holding an Encumbrance of any kind or nature whatsoever against, in or with respect to any of the Debtors or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to the Debtors, the Purchased Assets, the operation of the Debtors' businesses prior to the Closing Date or the transfer of the Purchased Assets to the Buyer, shall be forever barred, estopped, and permanently enjoined from asserting, prosecuting or otherwise pursuing such Encumbrance or other liability against the Buyer or any affiliate, subsidiary, successor or assign thereof and each of their respective current and former members, officers, directors, managed funds, investment advisors, attorneys, employees, partners, affiliates and representatives (each of the foregoing in

its individual capacity), or the Purchased Assets. For the avoidance of doubt, the foregoing shall not prevent the Debtors, their estates, successors or permitted assigns from pursuing claims, if any, against the Buyer and/or its successors and assigns in and only in accordance with the terms of the Purchase Agreement.

32. Subject to the terms of the Purchase Agreement, the Purchase Agreement and any related agreements may be waived, modified, amended, or supplemented by agreement of the Debtors, the Creditors Committee, Lenders and the Buyer, without further action or order of the Court; provided, however, that any such waiver, modification, amendment, or supplement is not material and substantially conforms to, and effectuates, the Purchase Agreement and any related agreements.

33. No bulk sale law or any similar law of any state or other jurisdiction shall apply in any way to the sale and the transactions contemplated by the Purchase Agreement.

34. The failure specifically to include any particular provisions of the Purchase Agreement or any related agreements in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the Debtors and the Buyer that the Purchase Agreement and any related agreements are authorized and approved in their entirety with such amendments thereto as may be made by the parties in accordance with this Order prior to Closing. To the extent any provisions of this Order conflict with the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern and control. Nothing in this Order shall alter or amend the Purchase Agreement and the obligations of the Debtors and Buyer thereunder.

35. This Order and the Purchase Agreement shall be binding upon and govern the acts of all persons and entities, including without limitation, the Debtors and the Buyer, their

respective successors and permitted assigns, including, without limitation, any chapter 11 trustee hereinafter appointed for the Debtors' estates or any trustee appointed in a chapter 7 case if these cases are converted from chapter 11, all creditors of any Debtor (whether known or unknown), filing agents, filing officers, title agents, recording agencies, secretaries of state, and all other persons and entities who may be required by operation of law, the duties of their office or contract to accept, file, register, or otherwise record or release any documents or instruments or who may be required to report or insure any title in or to the Purchased Assets. All Encumbrances against the Debtors' estates of record as of the Closing shall forthwith be removed and stricken as against the Purchased Assets, without further order of the Court or act of any party. Upon Closing, the entities listed above in this paragraph are authorized and directed to strike all such recorded Encumbrances against the Purchased Assets as provided for herein from their records, official and otherwise. Each and every federal, state, and local governmental agency, unit, or department are hereby directed to accept this Order as sole and sufficient evidence of the transfer of title of the Purchased Assets to the Buyer, and such agency, unit, or department may rely upon this Order in consummating the transactions contemplated by the Purchase Agreement.

36. Within ten (10) days after the Closing, the Debtors are hereby authorized and directed to distribute the Purchase Price, to the extent and in the manner set forth herein, Section 4.2(b) of the Purchase Agreement and the terms of any cash collateral order, and in (A)(i)(a) the various Securities Purchase Agreements dated August 14, 2008 by and between Nanogen and certain investors (the "Initial Bridge Securities Agreements"), and (b) the Securities Purchase Agreement dated August 14, 2008 by and between Nanogen and Buyer (the "Elitech Bridge Securities Agreement" and, together with the Initial Bridge Securities Agreements, the "Bridge

Securities Agreements"); (ii) those certain senior secured convertible bridge notes referred to in the Bridge Securities Agreements (the "Bridge Notes"); (iii) the Second Lien Security Agreement dated August 14, 2008 between Nanogen and the Bridge Collateral Agent; (iv) the Security Agreement dated August 14, 2008 between Epoch and Nanotronics and the Bridge Collateral Agent; as payment for amounts due and owing the holders of the Bridge Notes, and in (B)(i) the various Second Amendment and Exchange Agreements dated as of August 14, 2008 (as amended, supplemented, restated, or otherwise modified prior to the Petition Date, the "Second Exchange Agreement"), (ii) those certain amended and restated 9.75% senior secured convertible notes referred to in the Second Exchange Agreement as the Amended Exchanged Notes (the "Amended Secured Notes"), (iii) those certain 9.75% senior secured convertible notes referred to in the Second Exchange Agreement as the Additional Exchanged Notes (the "Additional Secured Notes", and, together with the Amended Secured Notes, the "New Secured Notes"), (iv) the Amended and Restated Security Agreement dated as of August 14, 2008 by and between Nanogen and the Collateral Agent; as payment for amounts due and owing the holder of the New Secured Notes. Pending distribution of the Purchase Price, the Debtors shall not commingle the Purchase Price with any of the Debtors' assets and shall establish from the Purchase Price the following accounts:

(i) the Debtors shall deposit $_____in cash from the Purchase Price, an amount sufficient to satisfy, in full, all Cure Costs of the Assumed Contracts not otherwise paid on or prior to the closing of the transactions under the Purchase Agreement, in a separate account (the "Cure Cost Account"). No funds from the Cure Cost Account shall be distributed without prior order of the Court; provided however, that in the event any Cure

Cost for an Assumed Contract is undisputed or settled, such Cure Cost may be distributed without further order of this Court.

(ii) the Debtors shall deposit $_____in cash from the Purchase Price, an amount necessary for the Debtors to fulfill their obligations, if any under the Purchase Agreement, other than the Cure Costs set forth above, in a separate account (the "Reserve").

(iii) the Debtors shall deposit $_____ in cash from the Purchase Price, an amount sufficient to cover, fulfill and satisfy any expenses or other obligations of the Debtors mandated or directed by any prior Order of this Court.

Within ten (10) days following (a) the resolution of any objections or disputes concerning the Cure Costs, and (b) the completion and satisfaction of any monetary post-Closing obligations under the Purchase Agreement, the Debtors shall remit the balances of the Cure Cost Account and the Reserve Account, if any, to the Lenders. The remittance of the net Purchase Price to the Lenders shall not affect, in any way, the ability or right of the Creditors Committee, or other person or entity with standing, to investigate and challenge the nature, extent, validity and priority of any lien(s) asserted and claimed by the Lenders (or any other party) in the Purchased Assets, nor shall it be deemed by any such committee, person or entity an acknowledgement of the nature, extent, validity and priority of any lien(s) asserted and claimed by the Lenders in such Purchased Assets.

37. Any amounts that become payable by the Debtors to Buyer pursuant to the Purchase Agreement shall (a) constitute administrative expenses of the Debtors' estate under sections 503(b) and 507(a)(1) of the Bankruptcy Code, and (b) be paid by the Debtors in the time

and manner provided by the Purchase Agreement, all without further Court order and notwithstanding any Encumbrances against the Debtors' estates.

38. The provisions of this Order are non-severable and mutually dependent.

39. Nothing in any order of this Court or contained in any plan of reorganization or liquidation confirmed in the Cases, or in any subsequent or converted cases of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code, shall conflict with or derogate from the provisions of the Purchase Agreement or the terms of this Order.

40. Notwithstanding Bankruptcy Rules 6004, 6006 and 7062, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. In the absence of any person or entity obtaining a stay pending appeal, the Debtors and the Buyer are free to close under the Purchase Agreement at any time, subject to the terms of the Purchase Agreement. If, in the absence of any person or entity obtaining a stay pending appeal, the Debtors and the Buyer close under the Purchase Agreement, the Buyer shall be deemed to be acting in "good faith" and the Buyer, its affiliates, subsidiaries, successors and assigns shall be entitled to the protections of section 363(m) of the Bankruptcy Code as to all aspects of the transactions under and pursuant to the Purchase Agreement if this Order or any authorization contained herein is reversed or modified on appeal.

41. This Court shall retain jurisdiction even after the closing of these chapter 11 Cases to:

a. interpret, implement, and enforce the terms and provisions of this Order, the Bid Procedures Order, and the Purchase Agreement, all amendments thereto and any waivers or consents thereunder and each of the agreements executed in connection therewith in all respects;

b. decide any disputes concerning this Order, the Purchase Agreement, or the rights and duties of the parties hereunder or thereunder or any issues relating to the Purchase Agreement and this Order including, but not limited to, the interpretation of the terms, conditions and provisions hereof and thereof, the status, nature and extent of the Purchased Assets and any Assumed Contracts and all issues and disputes arising in connection with the relief authorized herein, inclusive of those concerning the transfer of the assets free and clear of all Encumbrances;

c. protect the Buyer or, as applicable, BCC, or any of the Assumed Contracts or Purchased Assets, against any of the Encumbrances as provided herein including, without limitation, to enjoin the commencement or continuation of any action seeking to impose successor liability or bulk sale liability;

d. enter orders in aid or furtherance of the transactions contemplated by the Purchase Agreement or to ensure the peaceful use and enjoyment of the Assumed Contracts or the Purchased Assets by the Buyer, BCC and their successors and assigns;

e. compel delivery of all Purchased Assets to the Buyer;

f. adjudicate any and all remaining issues concerning the Debtors' right and authority to assume and assign the Assumed Contracts and the rights and obligations of the Debtors and the Buyer, BCC or any of their successors and assigns with respect to such assignment and the existence of any default under any such Assumed Contract;

g. adjudicate any and all disputes concerning alleged pre-Closing Encumbrances in and to the Purchased Assets including without limitation the extent, validity, enforceability, priority, and nature of any and all such alleged Encumbrances;

h. adjudicate any and all disputes relating to the Debtors' right, title, or interest in the Purchased Assets and the proceeds thereof; and

i. re-open the Debtors' chapter 11 Cases to determine any of the foregoing.

Dated: Wilmington, Delaware
_____ __, 2009

_____
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT F

SELLERS' DISCLOSURE SCHEDULE

DISCLOSURE SCHEDULE OF SELLERS

TO ACCOMPANY

ASSET PURCHASE AGREEMENT

DATED AS OF MAY 13, 2009

BY AND AMONG

FINANCIÈRE ELITECH SAS,

NANOGEN, INC.,

EPOCH BIOSCIENCES, INC.,

AND

NANOTRONICS, INC.

This disclosure schedule (the "**Sellers' Disclosure Schedule**") is delivered pursuant to Article V of the above referenced Asset Purchase Agreement (the "**Agreement**") and dated as of the date of the Agreement. Unless expressly stated to the contrary, the section numbers of the Sellers' Disclosure Schedule correspond to the first, or principal, section of the Agreement to which the disclosures relate.

Each exception to a representation and warranty set forth in the Sellers' Disclosure Schedule shall be deemed to qualify the specific representation and warranty that is referenced in the applicable paragraph of the Sellers' Disclosure Schedule, and no other representation or warranty; provided, however, that notwithstanding the foregoing any information disclosed in the Sellers' Disclosure Schedule under any section number shall be deemed disclosed and incorporated into any other sections, schedules or exhibits under the Agreement where such disclosure would be relevant, if it is reasonably apparent from the information disclosed that it is relevant to such other sections, schedules or exhibits under the Agreement, whether or not repeated under any section number where disclosure might be deemed relevant. Any capitalized terms used but not defined herein have the meanings ascribed to them in the Agreement, unless the context otherwise requires.

No reference to or disclosure of any items or other matter in this disclosure schedule shall be construed as an admission or indication that such items or other matter is material or that such item or other matter is required to be referred to or disclosed in the disclosure schedule. No disclosure in the Sellers' Disclosure Schedule relating to any possible breach or violation of any agreement, law or regulation shall be construed as an admission or indication that any such breach or violation exists or has actually occurred.

Section 5.3 No Conflict; Consents

5.3(a) No Conflicts.

Nanogen, Inc. ("Nanogen") and Epoch BioSciences, Inc. ("Epoch") entered into to a License and Supply Agreement with Mirina Corporation, a Delaware corporation ("Mirina"), focused on developing a therapeutic use of the MGB technology of Epoch, in August 2008. In connection with the License and Supply Agreement, Mirina issued to Nanogen 1,300,000 shares of its common stock pursuant to a Common Stock Purchase Agreement. In connection with the issuance of shares of common stock to it, Nanogen also entered into a Stock Restriction Agreement, a Stockholders Agreement and an Investors' Rights Agreement with Mirina and, in some cases, certain investors in Mirina, which among other things, prohibit Nanogen from assigning, encumbering or disposing of the Mirina Stock while it is subject to Mirina's repurchase right and sets forth Nanogen's other rights and obligations with respect to the Mirina Stock.

Pursuant to the provisions of the Foreign Investment and National Security Act of 2007 (FINSA), the transactions contemplated by this Agreement may be subject to the jurisdiction of the Committee on Foreign Investment in the United States (CFIUS). CFIUS administers a program to monitor and determine whether an acquisition of control of United States products, services or intellectual property presents a national security threat and has the power and authority to review, permit, suspend, prohibit or force the break-up of the acquisition of control by a foreign entity of assets related to United States national security or critical infrastructure.

Certain Tangible Personal Property currently is subject to a first priority lien in favor of GE Capital as security for equipment related debt pursuant to the Master Security Agreement dated June 15, 2001 (the "GE Master Security Agreement") and the transfer of such Tangible Personal Property is subject to restriction thereunder. Subject to the issuance of the Sale Order by the Bankruptcy Court, as part of the Contemplated Transactions the Tangible Personal Property subject to the lien of GE Capital will be sold to Buyer free and clear of such liens.

Consummation of the Contemplated Transactions will result in a breach or default under the Nanogen Convertible Notes and the agreements entered into by the Sellers in connection therewith (the "Convertible Notes Documents"). Certain Tangible Personal Property is subject to liens in favor of the holders of the Nanogen Convertible Notes. Subject to the issuance of the Sale Order by the Bankruptcy Court, as part of the Contemplated Transactions the Tangible Personal Property subject to the liens in favor of the holders of the Nanogen Convertible Notes will be sold to Buyer free and clear of such liens.

Filing a voluntary petition for commencing cases under the Bankruptcy Code in the Bankruptcy Court is a default under many Contracts of the Sellers, including under certain Contracts listed under Sections 5.4(b) and 5.4(f) of the Sellers' Disclosure Schedule, the Drug Royalty Agreements and the Convertible Notes Documents and is a release condition under the Three-Party Escrow Service Agreement, dated February 29, 2008, between Epoch, Thermo Fisher Scientific, Inc. and Iron Mountain Intellectual Property Management, Inc.

5.3(b) Consents.

Consents will be required in order to transfer the following contracts:

1. Mirina Common Stock Purchase Agreement by and between Mirina Corporation and Nanogen, Inc. dated as of August 5, 2008
2. Stock Restriction Agreement by and between Mirina Corporation, Nanogen, Inc. and Epoch Biosciences, Inc. dated as of August 5, 2008
3. Stockholders' Agreement by and between Mirina Corporation and Investors, Institute for Systems Biology, and Nanogen, Inc. dated as of August 5, 2008
4. Investors' Rights Agreement by and between Mirina Corporation and Investors dated as of August 5, 2008
5. Roche – IVD Products Patent License Between Roche Molecular Systems, Inc., F. Hoffman-La Roche, Ltd. And amplimedical s.p.a. dated May 25, 2005
6. Roche License to NTpro-BNP: Cross-License Agreement on NT-proBNP between SynX Pharma, Inc. and Roche Diagnostic GmbH dated July 27, 2003.
7. Livak License Agreement between Epoch Biosciences Inc. and PE Corporation (Applied Biosystems) dated May 14, 2001 ($100,000 payment due on assignment)
8. Invitrogen Patent Licenses Agreement between Amplimedical S.P.A. and Invitrogen IP Holdings, Inc. dated March 30, 2006 for UDG (used in NAD products) and TFI enzyme supply
9. License Agreement between biomerieux B.V. and Nanogen, Inc. dated March 1, 2002

Section 5.4 Intellectual Property

5.4(b) Inbound Licenses and Rights.

MDx Technology In-Licenses

1. License Agreement between Epoch Biosciences, Inc. and PE Corporation dated May 14, 2001
2. Development and License Agreement between Epoch Biosciences, Inc. and Celadon Laboratories, Inc. dated August 27, 2001
3. Roche – IVD Products Patent License Between Roche Molecular Systems, Inc., F. Hoffman-La Roche, Ltd. And amplimedical s.p.a. dated May 25, 2005
4. Cepheid Europe SA CMV OEM Supply Agreement dated July 19, 2005 with Amplimedical Spa amended April 1, 2006.
5. Applera Italia Supply Agreement with Nanogen Advanced Diagnostics Srl dated March 14, 2008; and Applied Biosystems Quality Statement and Agreement for Nanogen Advanced Diagnostics Srl dated March 14, 2008.
6. Patent License Agreement between Amplimedical SPA and Invitrogen IP Holdings, Inc. dated March 30, 2006
7. License and Supply Agreement between Nanogen, Inc. and Invitrogen Corporation dated June 9, 2008

Nucleic Acid BioMarkers – In-Licenses

1. Non-Exclusive License Agreement between Variagenics, Inc. and Nanogen, Inc. dated November 15, 2001.
2. License Agreement between biomerieux B.V. and Nanogen, Inc. dated March 1, 2002
3. Non-Exclusive Technology Rights License Agreement between Vironovative B.V. and Nanogen, Inc. dated July 20, 2005.
4. License Agreement between the University of North Carolina at Chapel Hill and Nanogen, Inc. dated April 18, 2006.
5. Non-Exclusive Patent License Agreement between Nanogen and the University of Washington dated January 31, 2007.

POC Technology In-Licenses

1. Cross-License Agreement on NT-proBNP between SynX Pharma, Inc. and Roche Diagnostic GmbH dated July 27, 2003
2. License Agreement between Ottawa Heart Instutitue Research Corporation and Synx Pharma, Inc. dated November 25, 2002
3. License Agreement between Primecare B.V. and Spectral Diagnostics, inc. dated September 3, 1993
4. License Agreement between Nanogen, Inc. and LRE GmbH dated July 2, 2008
5. Drug Royalty – License agreement for diagnostic kit for diagnosing and distinguishing chest pain in early onset thereof dated December 18, 1991.

Nanogen has not made the Q4-2008 royalty payment under the "Livak" license agreement with ABI. The amount past due is $20,733 (included in Schedule 8.7 Cure Costs).

Nanogen has not made a required royalty payment under the License Agreement between the University of North Carolina at Chapel Hill and Nanogen, Inc. dated April 18, 2006. Nanogen received a notice of default with respect to such license on April 1, 2009. Pursuant to the terms of the license agreement, the University of North Carolina may terminate the license beginning on May 1, 2009 ($7,000 included in Schedule 8.7 Cure Costs).

Nanogen has not made the required royalty payments under the Cross-License Agreement on NT-proBNP between SynX Pharma, Inc. and Roche Diagnostic GmbH dated July 27, 2003 ($43,000 included in Schedule 8.7 Cure Costs) and the License Agreement between Ottawa Heart Institute Research Corporation and Synx Pharma, Inc. dated November 25, 2002 ($12,000 included in Schedule 8.7 Cure Costs).

5.4(c) No Restrictions

The ownership of the Owned Intellectual Property is subject to the satisfaction of maintenance fees obligations of regulatory and governmental agencies.

Pursuant to the Convertible Notes Documents, the Sellers granted liens on certain of their assets.

Pursuant to the Drug Royalty Agreements, Epoch granted a lien to DRT 9, DR LP1 and DR LP2 in the Second Amended and Restated Collaboration, License and Supply Agreement, dated August 17, 2000, between Epoch and Applera Corporation, as amended (the "ABI License Agreement"), and patents and other intellectual property subject the ABI License Agreement.

The intellectual property in Nanogen Recognomics JV is not exclusively owned by Nanogen. The Joint Venture is 60% owned by Nanogen and 40% owned by Aventis.

5.4(d) Effect of Closing.

Escrowed materials may be released in the event of a change of control per the Development, License and Supply Agreement between Third Wave Technologies, Inc. and Epoch Biosciences, Inc. dated October 9, 2000.

5.4(e) Perfection of Ownership Rights

Nanogen has recorded assignments with appropriate Governmental Authorities for purchased intellectual property listed below:

	Title	App/Patent No.	Filing/Issuance Dates	Status	Source
3n1 (TROPONIN, MYOGLOBIN, CK-MB)					
23	37610-525001US Diagnostic Kit for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	US 5,290,678	Filed 5/3/91 Issued 3/1/94	Granted to 5/3/2011	Spectral Mintz Levin
24	37610-525003US Method and Device for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	US 5,604,105	Filed 4/11/95 Issued 2/18/97	Granted to 5/3/2011	Spectral Mintz Levin
25	37610-525C01US Diagnostic Kit for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	US 5,747,274	Filed 9/1/96 Issued 5/5/98	Granted to 5/3/2011	Spectral Mintz Levin
26	37610-525004US Diagnostic Kit for	US 5,710,008	Filed 10/22/96 Issued 1/20/98	Granted to 5/3/2011	Spectral Mintz Levin

	Diagnosing and Distinguishing Chest Pain in Early Onset Thereof				
27	37610-525C03US Diagnostic Kit for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	US 5,744,358	Filed 9/5/96 Issued 4/28/98	Granted to 5/3/2011	Spectral Mintz Levin
28	37610-525001 Diagnostic Kit for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	EP 96907627.2	Filed 4/11/96	Granted in Belgium, France, Germany, Italy, Spain, UK	Spectral Mintz Levin
29	37610-525F01CA Diagnostic Kit for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	Canada 2027434	Filed 10/12/90 Issued 1/5/99	Granted to 10/12/2010	Spectral Mintz Levin
	Title	**App/Patent No.**	**Filing/Issuance Dates**	**Status**	**Source**
30	37610-525001JP Diagnostic Kit for Diagnosing and Distinguishing Chest Pain in Early Onset Thereof	Japan 2628421	Filed 10/9/91 Issued 4/18/97	Granted to 10/9/2011	Spectral Mintz Levin
67	37610-524001CA Differential Immunoassay	Canada 2420327	Filed 2/24/03	Pending	Spectral Mintz Levin
	Title	**App/Patent No.**	**Filing/Issuance Dates**	**Status**	**Source**
68	37610-524D02EP Differential Immunoassay	EP 8075097.9 1947459	Filed 8/24/01	Published	Spectral Mintz Levin
69	37610-528F01US Single-Chain Polypeptides Comprising Creatine Kinase M and Creatine Kinase B	US 5,981,249	Filed 2/5/98 Issued 9/9/99	Granted to 2/5/2018	Spectral Mintz Levin

LATERAL FLOW					
119	37610-522001EP Analytical Test Device and Method for use in Medical Diagnosis	EP99940165.6 EP 1102989	Filed 8/6/99 Issued 4/16/03	Granted-Austria, Belgium, Switzerland, Germany, France, UK, Ireland, Italy to 8/6/2019	Spectral Mintz Levin
120	37610-522001CA Analytical Test Device and Method for Use in Medical Diagnosis	CA 2,339,599	Filed 2/2/01	Pending	Spectral Mintz Levin
121	37610-522001JP Analytical Test Device and Method for Use in Medical Diagnosis	JP2000-564049	Filed 8/6/99	Pending	Spectral Mintz Levin
	Title	**App/Patent No.**	**Filing/Issuance Dates**	**Status**	**Source**
122	37610-522F01US Analytical Test Device and Method for Use in Medical Diagnosis	US 6,171,870	Filed 8/6/98 Issued 1/9/01	Granted to 8/6/2018	Spectral Mintz Levin
123	37610-522C01US Analytical Test Device and Method for Use in Medical Diagnosis	US 6,673,628	Filed 2/6/01 Issued 1/6/04	Granted to 8/6/2019	Spectral Mintz Levin
124	37610-522002US Analytical Test Device and Method for Use in Medical Diagnoses	US 6,410,341	Filed 7/14/99 Issued 6/25/02	Granted to 8/6/2018	Spectral Mintz Levin
125	37610-522003US Analytical Test Device and Method for use in Medical Diagnoses	US 6,214,629	Filed 7/14/99 Issued 4/10/01	Granted to 8/6/2018	Spectral Mintz Levin
126	37610-523001CA Diagnostic Device	CA 2,501,124	Filed 10/24/03	Pending	Spectral Mintz Levin
127	37610-523001US Diagnostic Device for Analyte Detection	US 7,256,053	Filed 10/24/02 Issued 8/14/07	Granted to 10/24/2022	Spectral Mintz Levin

128	37610-523N01US Diagnostic Device	US 10/531,912	Filed 10/24/03	Published	Spectral Mintz Levin
129	37610-526C01US Lateral Flow Filter Devices for Separation of Body Fluids From Particulate Materials	US 5,916,521	Filed 6/19/97 Issued 6/29/99	Granted to 1/4/2015	Spectral Mintz Levin
130	37610-527001EP Immunoassay with Whole Blood	EP97907232.9 EP 00888547B1	Filed 3/13/97 Issued 3/12/03	Granted-Austria, Belgium, France, Germany, Ireland, Switzerland, UK until 3/13/2017	Spectral Mintz Levin
131	37610-531F01US Immunoassay Test Kit with Funnel	US D405,539	Filed 12/18/95 Granted 2/9/99	Granted to 2/9/2013	Spectral Mintz Levin
	Title	**App/Patent No.**	**Filing/Issuance Dates**	**Status**	**Source**
BLOOD FILTER MEMBRANE					
132	37610-530001EP A Process and Device for the Separation of a Body Fluid Particulate Materials in Said Fluid and Testing Kit for Said Separation and Analysis of the Body Fluid	EP 0336483	Filed 3/23/89 Issued 6/29/94	Granted-Belgium, France, Germany, Greece, Italy, UK To 3/23/2009	Spectral Mintz Levin
132	37610-530001JP Particle Separation Method and Apparatus	JP 2729503	Filed 3/29/89 Issued 12/19/97	Granted to 3/23/2009	Spectral Mintz Levin
134	37610-530001US Process and Device for the Separation of a Body Fluid Form Particulate Materials	US 5,240,862	Filed 3/23/89 Issued 8/31/93	Granted to 8/31/2010	Spectral Mintz Levin
478	Method of Extraction of Nucleic Acids and	IT 1308663	Filed12/1/99 Issued 1/9/02	Granted	Amplimedical Spa

	Extraction Solution to be Used in Such Method				
479	Use of DMT Group and Method to Reveal or Separate Molecules Marked with DMT Group	IT 1307060	Filed 11/5/99	Published	Amplimedical Spa

5.4(e)(i) Effect of Assignments.

None.

5.4(f) Registered Intellectual Property.

See attached Section 5.4(f) of the Sellers' Disclosure Schedule.

Fees and Applications: Section 5.4(f) of Sellers' Disclosure Schedule delineates Registered Intellectual Property that has lapsed, been abandoned or has unpaid fees.

List of Maintenance Actions:
See attached Section 5.4(f) (ii) of the Sellers' Disclosure Schedule.

5.4(h) Outbound Licenses and Rights.

Collaboration and License/Supply Agreements

1. Second Amended and Restated Collaboration, License and Supply Agreement between Epoch Pharmaceuticals, Inc.(doing business as Epoch Biosciences, Inc.) and PE Corporation (the Perkin-Elmer Corporation) dated August 17, 2000. "First Side Agreement" between Epoch Biosciences, inc. and PE Corporation dated October 31, 2001. "Amendment No. 1 to Second Amended and Restated Collaboration, License and Supply Agreement " between Epoch Biosciences Inc. and Applera Corporation dated July 26, 2002. "Amendment No. 2 to Second Amended and Restated Collaboration, license and Supply Agreement" between Epoch Biosciences, Inc. and Applera Corporation dated December 31, 2005
2. Development, License and Supply Agreement between Third Wave Technologies, Inc. and Epoch Biosciences, Inc. dated October 9, 2000
3. Collaborative Research, Development and License Agreement between Epoch Biosciences, Inc. and Specialty Laboratories dated May 9, 2000
4. License Agreement between Epoch Biosciences, Inc. and TriLink Biotechnologies, Inc. dated December 18, 2000
5. License Agreement between Epoch Biosciences, Inc. and Takara Bio, Inc. dated December 10, 2002
6. Co-Exclusive License and Supply Agreement between Epoch Biosciences, Inc. and Qiagen NV dated November 4, 2002

7. Quencher License and Supply Agreement between Epoch Biosciences, Inc. and Applera Corporation, through its Applied Biosystems Group dated September 2, 2003
8. License and Supply Agreement between Epoch Biosciences, Inc. and BioControl Systems, Inc. dated September 29, 2003. Letter changes August 8, 2008. "First Amended and Restated License and Supply Agreement" between Epoch Biosciences
9. License Agreement between Epoch Biosciences, Inc. and Celera Diagnostics, LLC dated January 22, 2004. Letter Amendment dated April 30, 2004. Second Amendment to License Agreement between Epoch Biosciences, Inc. and Celera Corporation dated July 1, 2008
10. License and Supply Agreement between Third Wave Technologies, inc. and Epoch Biosciences, Inc. dated June 25, 2004
11. License and Supply Agreement between Epoch Biosciences, Inc. and Cambrex Bio Science Walkersville dated September 30, 2004. License and Supply Agreement between Epoch Biosciences, Inc. and Cambrex Bio Science Walkersville dated January 2, 2008 (amended and extended doc)
12. License & Supply Agreement between Eopch Biosciences, Inc. and Blood Cell Storage, Inc. dated May 1, 2005
13. License and Supply Agreement between Epoch Biosciences, Inc. and Cepheid, Inc. dated August 29, 2005
14. License and Supply Agreement between Epoch Biosciences, Inc. and Amplimedical Spa dated September 30, 2005 and amended to include MGB-Pleiades on December 30, 2008.
15. University of Washington Subcontract Agreement between University of Washington and Epoch Biosciences, Inc. dated August 23, 2005 (Bill and Melinda Gates Foundation
16. Distribution and License Agreement between Epoch Biosciences, Inc. and Thermo Fisher Scientific, Inc. Dated February 28, 2008
17. License and Supply Agreement between Epoch Biosciences, Inc. and Mirina Corporation dated August 5, 2008
18. License and Supply Agreement between Epoch Biosciences, Inc. and Scandinavian Gene Synthesis AB dated January 29, 2009
19. License Agreement between Epoch Biosciences, inc. and HandyLab, Inc. dated February 24, 2009
20. Royalty Interest Assignment Agreement, dated September 29, 2006, among Epoch, Drug Royalty Trust 9 ("DRT 9") and Nanogen; Security Agreement, dated September 29, 2006, between DRT 9 and Epoch; Collateral Assignment Agreement, dated September 29, 2006, by Epoch; Escrow Agreement, dated September 29, 2006, among Epoch, DRT 9, and HSBC Bank, USA, National Association ("HSBC)"; Royalty Interest Assignment Agreement, dated March 28, 2008, among Epoch, Drug Royalty LP2 ("DR LP2") and Nanogen; Security Agreement, dated March 28, 2008, between Epoch and DR LP2; Collateral Assignment Agreement, dated March 28, 2008, by Epoch; Amendment to Escrow Agreement, dated March 28, 2008, among Epoch, Drug Royalty LP1 ("DR LP1"), DR LP2, and HSBC; Supplemental Royalty Interest Assignment Agreement, dated March 28, 2008, among Epoch, DR LP1 and Nanogen; Security Agreement, dated June 20, 2008, between Epoch and DR LP1; Collateral Assignment Agreement, dated June 20, 2008, by Epoch; Amendment to

Escrow Agreement, dated June 20, 2008, among Epoch, DR LP1, DR LP2, and HSBC (collectively, the "Drug Royalty Agreements").

21. License and Supply Agreement between Epoch Biosciences, Inc. and Applied Biosystems, LLC and Life Technology Corporation dated May 8, 2009.
22. Second Amended and Restated License Agreement between Nanogen, Inc. and Genzyme Corporation dated May 23, 2007
23. Development and License Agreement between 2750 Diagnostics, Inc. (now HX Diagnostics, Inc.) and Nanogen, Inc. dated June 30, 2006
24. Assay Development and License Agreement between HX Diagnostics, Inc. and Nanogen, Inc. dated July 23, 2008. Amendment to Assay Development and License Agreement between HX Diagnostics, Inc. and Nanogen, Inc. dated September 21, 2008. Second Amendment to Assay Development and License Agreement between HX Diagnostics, Inc. and Nanogen, inc. dated April 1, 2009 ;
25. Phoenix BioPharm License dated October 1, 2005 and extended October 15, 2008; non-exclusive license for certain antibodies in a stroke therapeutic
26. License Agreement between International Point of Care, Inc. and Nanogen, Inc. dated October 15, 2008. Offset Agreement between Nanogen, Inc. and International Point of Care, Inc. dated March 19, 2009.
27. Development Agreement between Princeton Biomeditech Corporation and Nanogen, Inc. dated January 13, 2006

Supply/OEM/Distribution Agreements

1. Original Equipment Manufacturer Agreement between Epoch Biosciences, Inc. and Glen Research Corporation dated January 21, 2002
2. Original Equipment Manufacturer and Supply Agreement between Epoch Biosciences, Inc. and Fluorescent Genomics dated February 1, 2002
3. Supply Agreement between Epoch Biosciences, Inc. and Eurogentec S.A. dated December 6, 2001. First Amendment to Supply Agreement between Epoch Biosciences, Inc. and Eurogentec S.A. dated January 21, 2002
4. Collaboration and Supply Agreement between Epoch Biosciences, Inc. and Associated Regional and University Pathologists, Inc. (ARUP) dated April 16, 2004.
5. Supply and Services License Agreement between Epoch Biosciences, Inc. and DeCode genetics dated April 15, 2005
6. Distributorship Agreement between Nanogen, Inc. and Fisher Healthcare dated August 4, 2006
7. Exclusive Distribution Agreement between Nanogen, Inc. and A. Menarini Diagnostics S.r.l. dated September 16, 2008
8. Regional Distribution Management Proposal Terms and conditions between Alliance Global FZ-LLC (AGBL) and Nanogen, Inc. dated May 29, 2007.
9. Supply Agreement between Seradyn, Inc. and Nanogen, Inc. dated May 30, 2008
10. Manufacturing and Distribution Agreement between Princeton Biomeditech Corporation and Nanogen, Inc. dated October 27, 2005

11. Distribution Agreement between Nanogen, Inc. and CV Inti Jaya Lestari dated December 16, 2008
12. Exclusive Supply and Distribution Agreement Renewal from January 1, 2009 to December 21, 2009 between Nanogen, Inc. and Astra Zeneca GmbH dated January 6, 2009.
13. Distribution Agreement between Nanogen, Inc. and BioCare SystemsSA dated March 26, 2009.
14. Distribution Agreement between Nanogen, Inc. and Fuad Al-Fadhli Trading Est dated March 30, 2009
15. Cardinal Health – Best Value Distribution Agreement between Cardinal Health and Spectral Diagnostics, Inc. dated January 1, 2003, assumed by Nanogen, Inc,; amended March 1, 2007 between Cardinal Health and Nanogen, Inc.
16. Agreement for Reagents and Supplies between ARUP Laboratories, Inc. and Nanogen, Inc. dated May, 12, 2009.

End User Licenses for MGB Products

1. End-User License Agreement for MGB™ Products between Epoch Biosciences, Inc.. and Prometheus Laboratories, Inc.. dated September 15, 2005
2. End-User License Agreement for MGB™ Products between Epoch Biosciences, Inc.. and Laboratory Corporation of America Holdings (LabCorp) dated August 22, 2006
3. End-User License Agreement for MGB™ Products between Genzyme. and Nanogen, Inc. dated March 30, 2007
4. End-User License Agreement for MGB™ Products between ViraCor LLC and Nanogen, Inc. dated May 17, 2007
5. End-User License Agreement for MGB™ Products between the University of Washington and Nanogen, Inc. dated July 1, 2007
6. End-User License Agreement for MGB™ Products between AviaraDx. and Nanogen, Inc. dated October 1, 2007
7. Capital Health. Agreement dated October 1, 2007
8. End-User License Agreement for MGB™ Products between Rosetta Genomics, Inc. and Nanogen, Inc. dated November 15, 2007
9. End-User License Agreement for MGB™ Products between CardioDx, Inc. and Epoch Biosciences, Inc. dated November 21, 2008
10. End-User License Agreement for MGB™ Products between Quest Diagnostics, Inc. and Epoch Biosciences, Inc. dated January 23, 2009

Nanogen and Epoch have also entered into the following agreement:

See #20 above, under Collaboration and License/Supply Agreement Drug Royalty – Royalty Interest Assignment Agreement – 9/29/06; Royalty Interest Assignment Agreement – 3/31/08; Security Agreement – 3/31/08 and 6/20/08.

Nanogen has also entered into the following agreement:

Pharmagistics – Distribution and warehousing agreement of product developed under the PBM product development agreement dated 1/13/06; May 30, 2007

5.4(j) No Violation of Seller's Rights.

Nanogen has delivered notices of, and had discussions with respect to, potential infringement to each of Biosite/Inverness and Roche.

5.4(l) Confidentiality.

See Annex 5.4(l) for form of proprietary information inventions and dispute resolution agreement.

5.4(q) Delta Point Intellectual Property, etc.

Delta Point is a party to an Agreement Relating to Patent Rights and Know-How, dated August 30, 1994, between Delta Point and X Flow B.V (the "X Flow License Agreement"). Pursuant to the X Flow License Agreement, Delta Point has an exclusive license, including the right to grant sublicenses to Affiliates, of the Patent Rights and Know-How to make, have made, use and sell Licensed Products for applications in the medical, biological and environmental fields, including both human and veterinary uses, in any country or the Territory. All capitalized terms in the prior sentence other than X Flow License Agreement (which is defined in the Sellers' Disclosure Schedule) shall have the meaning given them in the X Flow License Agreement.

Section 5.5 Changes

On March 9, 2009, Nanogen received a letter of default under the Master Security Agreement dated June 15, 2001, with GE Capital for failing to make a payment when due on March 1, 2009. Certain tangible fixed assets at Epoch and Nanogen secure the debt owed to GE Capital. The total amount of debt owed to GE Capital as of March 31, 2009 was approximately $225,000.

On March 23, 2009, the trading of Nanogen's common stock was suspended on Nasdaq due to non-payment of certain outstanding invoices.
Between March 24 and March 27, 2009, Nanogen received notices of default from holders of its convertible debt. Upon an event of default, holders are entitled to exercise their rights under the security documents, including foreclosure of the collateral. The terms of the notes and security documents can be found in Nanogen's 8-K filings made with the SEC on August 15, 2008 and August 27, 2007.

On March 30, 2009, Epoch received a letter of default relating to its facility lease in Bothell, Washington. The total delinquency on this date was $247,708.31. This amount increased to approximately $327,000 on April 1, 2009 when the April rent payment and related common area maintenance and late fees came due.
On March 31, 2009, Nanogen was required to file its Form 10-K for the year ended December 31, 2008. Nanogen missed this deadline as a result of suspending the 2008 audit work in an effort to conserve cash.

On April 4, 2009, Nanogen received an event of default redemption notice from Financiere Elitech related to its Senior Secured Convertible Bridge Notes.

In February 2009, in the ordinary course of business, Nanogen accrued bonus payments to employees and executives based on achievement of certain goals set for 2008. None of the bonuses have been paid, but an accrual for $1,596,310 has been recorded.

Nanogen has not paid April or May rent due under its facility lease in San Diego. On May 9, 2009 Nanogen received a notice of default demanding payment of $261,478.

In April 2009, Nanogen received written FDA comments on the NTpro-BNP 510k submission.

In April 2009, Nanogen halted the clinical trial (FLU 05) of the FluID product due to the reduced incidence of influenza at clinical sites. The trial did not reach its target accrual goal.

In May 2009 there is a budgeted salary increase for NAD employees.

Section 5.6 Tax Matters

Nanogen and Epoch have filed extensions for the filing 2008 US federal and state income tax returns.

Nanogen and Epoch failed to mail the 2008 1099's for independent contractors by the January 31, 2009 deadline. The 1099's have subsequently been mailed.

Nanogen, Inc. has received a Delaware Estimated Franchise Tax invoice in the amount of $57,857.10. Payment is due on June 1, 2009.

Nanogen is a party to a joint venture agreement with Aventis. The agreement relates to Nanogen Recognomics, GmbH, which has been inactive since 2004 but contains joint intellectual property. Nanogen owns 60% and Aventis owns 40% of this entity.

In August 2008, Nanogen and Howard Birndorf entered into a Salary Suspension Agreement pursuant to which Nanogen agrees to indemnify Mr. Birndorf for any taxes and penalties incurred as a result of the suspension of his salary.

Section 5.7 Assets Generally

Pursuant to the Convertible Notes Documents, the Sellers and NAD granted liens on certain of their assets.

Some NAD assets are located at customer sites as part of the full service supplying contracts.

Section 5.9 Permits

FDA 510(k) clearances on the following products:

Product	510(k) #
Cardiac Status CK-MB	K022409
Cardiac Status TnI	K014105
Cardiac Status TnI/Myo	K020950
CS CK-MB/TnI/Myo	K030057
NT-proBNP (whole blood)	K051596
Cardiac Status Controls (CKMB/Myoglobin/Troponin I)	K981474
Cardiac Status Controls (CKMB/Myoglobin)	K972408
Cardiac Status Controls (Troponin I)	K972687
CardioQuant Troponin I Test	K014105

Section 5.10 Contracts

5.10(a) Nanogen and Epoch are late in making rent and related common area maintenance payments for the facility lease in Bothell.

On March 30, 2009, Epoch received a letter of default relating to its facility lease in Bothell, Washington. The total delinquency on this date was $247,708.31. This amount increased to approximately $327,000 on April 1, 2009 when the April rent payment and related common area maintenance and late fees came due.

Between March 24 and March 27, 2009, Nanogen received notices of default from holders of its convertible debt. Upon an event of default, holders are entitled to exercise their rights under the security documents, such rights include foreclosure of the collateral. The terms of the notes and security documents can be found in Nanogen's 8-K filings made with the SEC on August 15, 2008 and August 27, 2007.

Section 5.10(a)(i) Negotiation of Material Assumed Contracts

Epoch is in negotiations with Handylab regarding an amendment to the payment terms of the 2/24/09 License and Product Supply agreements.

Nanogen is in negotiations with Aventis regarding the possible purchase of certain intellectual property in Nanogen Recognomics JV, which is currently owned 60% by Nanogen and 40% by Aventis.

5.10(a)(iv) Oxford Immunotec has given Nanogen a 60 day notice of termination of the distribution agreement between Oxford Immunotec and NAD by letter dated April 21, 2009.

5.10(b) Nanogen and Epoch have outstanding research and development contracts with the CDC and NIH related to influenza programs, including:

1. CDC-Development of in vitro diagnostic products for pandemic and seasonal influenza viruses at Point-of-Care (POC) dated 12/01/06, contract # 200-2007-19345

2. CDC-Laboratory Influenza Test dated 5/16/08, contract # 200-2008-25466

5.10(c)

Non-competition Agreements

The Settlement Agreement dated April 22, 2005 between Biosite, Inc., SynX Pharma and Nanogen may limit marketing claims related to ACS (Advanced Coronary Syndrome).

Employment Agreements

Employee	Contract	Date
Walt Mahoney	Employment Agreement	December 2008
Merl Hoekstra	Employment Agreement	December 2008
Fabrizio Gatti	Employment Agreement	December 2007
Silvio Grigolo	Employment Agreement	April 2006
Maria Rosaria Alfi	Employment Agreement	June 2008
Howard Birndorf	Employment Agreement	December 2008
David Ludvigson	Employment Agreement	December 2008
Nicholas Venuto	Employment Agreement	December 2008
William Respess	Employment Agreement	December 2008
Graham Lidgard	Employment Agreement	December 2008
Robert Proulx	Employment Agreement	December 2008
Leslie Tobias	Employment Agreement	December 2008
Lianne Kiviharju	Employment Agreement	December 2008
Dave Boudreau	Employment Agreement	December 2008

Consulting Contracts

Consultant	Contract	Date
William Ashcraft/Ensign Software	Consulting Agreement	Expires 8/19/09
Sidney Conner/Top Flight Software	Consulting Agreement	Expires 8/19/09
George Jackowski	Consulting Agreement	November 2004
Robert Reid	Consulting Agreement	February 2006
J. Marlin & Associates	Consulting Agreement	December 2006
Barbara Alford-Cassell	Consulting Agreement	May 2008
Apt Consulting, Tom Guadagnola	Consulting Agreement	Expires 7/30/09

Real Property and Personal Property Leases. There are leases for copiers in San Diego, a copier at Epoch, and automobiles in Italy at NAD. Additionally, Nanogen has facility leases in Toronto and San Diego which have been excluded from the list of Assumed Contracts. Nanogen is delinquent on rent under both of these leases. The leases have been made available to the Buyer.

Loans; Extensions of Credit. GE line of credit used for the purchase of various equipment used by Nanogen and Epoch. This line of credit is no longer available for additional borrowing. The line of credit has a principal balance of approximately $225,000 outstanding, and is currently in default. The line of credit is secured by specific fixed assets that were financed by GE.

Contracts with Affiliates. Nanogen has an Employee Stock Option Plan for the benefit of the participating employees. Certain of the stock options granted contain change of control acceleration provisions; however, none of the options are "in the money."

Distribution agreements.

1. Distributorship Agreement between Nanogen, Inc. and Fisher Healthcare dated August 4, 2006.
2. Exclusive Distribution Agreement between Nanogen, Inc. and A. Menarini Diagnostics S.r.l. dated September 16, 2008.
3. Regional Distribution Management Proposal Terms and conditions between Alliance Global FZ-LLC (AGBL) and Nanogen, Inc. dated May 29, 2007.
4. Distribution Agreement between Nanogen, Inc. and CV Inti Jaya Lestari dated December 16, 2008.
5. Exclusive Supply and Distribution Agreement Renewal from January 1, 2009 to December 21, 2009 between Nanogen, Inc. and Astra Zeneca GmbH dated January 6, 2009.
6. Distribution Agreement between Nanogen, Inc. and BioCare SystemsSA dated March 26, 2009.
7. Distribution Agreement between Nanogen, Inc. and Fuad Al-Fadhli Trading Est dated March 30, 2009.
8. Cardinal Health – Best Value Distribution Agreement between Cardinal Health and Spectral Diagnostics, Inc. dated January 1, 2003, assumed by Nanogen, Inc,; amended March 1, 2007 between Cardinal Health and Nanogen, Inc.
9. Manufacturing and Distribution Agreement between Princeton Biomeditech Corporation and Nanogen, Inc. dated October 27, 2005.

Oxford Immunotec gave Nanogen notice of termination of the distribution agreement between Oxford Immunotec and NAD by letter dated April 21, 2009.

Contract payments > $50,000

Party	Payments to/ from
Nexus Properties	Payments to
Alliance Global	Payments to
Applied Biosystems	Payments to & from
ThermoFisher	Payments from
Handylab	Payments from
Quest	Payments from
Scandinavian Gene Synthesis	Payments from
Third Wave Technologies	Payments from

Celera	Payments from
Davpart	Payments to

Section 5.12 Legal Proceedings

5.12(a) Pending or threatened legal proceedings. We have received a letter claiming damages from Montwell, a Turkish distributor of our micro array product that has been discontinued. The claim is unresolved. Copies of correspondence regarding this matter have been made available.

The potential for legal action exists for additional severance for a terminated employee at NAD related to the closure of the micro array business. There is an accrual in the financial records for this potential suit.

A complaint dated May 1, 2009 was filed by Aneeshah Kador in the Superior Court of California, County of San Diego. The complaint alleges wrongful termination and seeks compensatory and punitive damages in the amount of $25,000.

A complaint dated May 4, 2009 was filed against Nanogen by San Diego Crating and Packaging in Small Claims Court, County of San Diego for collection of unpaid invoices of approximately $5,000.

A complaint dated April 15, 2009 was filed against Nanogen by Payrolling.Com Corp. in the Superior Court of California, County of San Diego, for the collection of unpaid vendor invoices of approximately $23,000 plus interest, costs and fees.

A complaint dated April 20, 2009 was filed against Nanogen by Alden Design Associates in Small Claims Court, Count of San Diego, for collection of unpaid vendor invoices of approximately $2,900.

5.12(b)

The potential for legal action exists for additional severance for a terminated employee at NAD related to the closure of the micro array business. There is an accrual in the financial records for this potential suit.

A complaint dated May 1, 2009 was filed by Aneeshah Kador in the Superior Court of California, County of San Diego. The complaint alleges wrongful termination and seeks compensatory and punitive damages in the amount of $25,000.

5.12(c)

None.

Section 5.13 Brokers' Fees

Nanogen has engaged Cowen to provide financial advisory services, and they will be entitled to compensation with respect to the Contemplated Transaction.

Section 5.14 Customers and Suppliers

Applied Biosystems has informed Epoch that anticipated purchases in 2009 will decrease from 2008 by more than $50,000.

Section 5.15 Warranty Claims

Nanogen includes in its package insert its standard limited product warranty. NAD includes in its price list its form of Condizioni Generali Di Vendita. Epoch includes in its invoices standard conditions of sale.

Section 5.18 Prepayments, Prebilled Invoices and Deposits

Company	Type	Description
University of Washington	Liability	Gates grant advances payments for research. Current unearned advance is approximately $174,000.
HandyLab	Liability	$166,667 design and manufacturing training received in advance. Training not yet complete, but will be substantially completed prior to closing of Contemplated Transactions.
Handylab	Liability	$333,333 prepayment on product. Some shipments have been made, but additional shipments expected to be substantially completed prior to closing of Contemplated Transactions.
Princeton Biomeditech	Asset	$264,120 prepayment for POC readers
Kilroy Realty	Asset	$142,402 facility lease deposit held with landlord
Nexus Properties	Asset	$580,666 facility lease deposit held with landlord

Section 5.19 Insurance

NAD experienced an electrical fire in its facility in Buttigliera in August, 2008, and is awaiting payment of a claim by the FONDIARIA-SAI insurance company of €15,000.

Section 5.20 Employees and Subcontractors

5.20(a) Employees and Independent Contractors

List of employees and contractors. Compensation and benefits by employee has been provided to Buyer.

EPOCH EMPLOYEES

FIRST NAME	LAST NAME	HIRE DATE	POSITION
Alexander	Adams	12/1/1986	Res Scientist I
Abdiazis	Adan	7/23/2007	Sr. Mfg Associate I
Irina	Afonina	9/6/1994	Assoc. Dir, Development
Boris	Alabyev	3/31/2008	Sr. Res. Assoc. II
Irina	Ankoudinova	6/25/2007	Sr. Res. Assoc. I
Michael	Antinore	7/6/2004	Market Development Mgr
Yevgeniy	Belousov	3/5/1996	Staff Scientist
Alice	Fatzinger	9/1/2005	Office Administrator
Mark	Gleave	11/1/2005	Sr. Staff Scientist
Vladimir	Gorn	5/21/1993	Assoc. Dir, ASR Oligos Mfg
Corbett	Gross	4/18/2005	Mfg. Assoc. II
Merl	Hoekstra	3/5/2001	VP, Business Development
MaryBeth	Kim	4/28/2008	Sr. Res. Assoc. I
Azura	Lauren	3/13/2006	Administrative Assistant
Boyang	Li	5/9/2003	Sr. Mfg Associate II
Eugeny	Lukhtanov	10/2/1992	Director, Research
Walter	Mahoney	1/7/2002	VP, R&D, Bothell
Kathryn	Maurice	10/20/2000	Order Process Specialist
Mark	Metcalf	8/11/2008	Sr. Mfg Associate I
Alan	Mills	4/1/1997	Res Scientist I
David	Rollins	5/12/2008	Sr. Mfg Associate I
Silvia Maria	Sanders	4/1/1998	Sr. Res. Assoc. I
Noah	Scarr	4/22/2004	Res Scientist I
Dianne	Spence	11/17/2008	Production & QC Site Mgr
Nikki	Star	1/14/2008	Manufacturing Tech. III
Steven	Swartzell	11/17/2003	Technical Marketing Mgr
Nicolaas	Vermeulen	4/1/1999	Technology Manager
Alexei	Vorobiev	10/9/2000	Sr. Staff Scientist
James Ansel	Wald	4/18/1996	Sr. Res. Assoc. I
Rahel	Waro	3/10/2008	Sr. Res. Assoc. I
Eric	Yau	3/20/2000	Assoc. Dir. Rare Reagents

NANOGEN, INC. MDx EMPLOYEES

FIRST NAME	LAST NAME	HIRE DATE	POSITION
Robert	Baulesh	1/24/2005	Key Accounts Manager -PCR

EPOCH CONSULTANTS

NAME	COMPANY	START DATE	ROLE
Anthony Kippen	Megode Systems	3/27/05	IT Consultant

NANOGEN, INC. EMPLOYEES - POC & ADMIN

Halleh	Ahadian	11/03/1997	Assoc Dir, Tech Service
Shelley	Arnold	10/01/2008	Manager, Process & QC
Alexander	Belenky	05/24/2007	Principal Scientist
Paul	Benson	02/07/2006	Sr. Dir, POC Sales
Howard	Birndorf	01/01/1994	Chairman & CEO
Barry	Bluestein	07/02/2007	Sr. Dir., Cardiac Product
David	Booker	02/07/2005	Sr. Dir., Instrument & Project Mgt
David	Boudreau	04/15/2004	VP, Operations
Jane	Bue	08/29/2007	Clinical Res Assoc II
Rita	Cannava	11/03/2008	Executive Assistant I
Daniel	Ciesla	09/25/2006	Payroll Administrator
Donna Mae	Cruz	09/02/2008	Production Chemist II
Dianne	Dalton	06/01/2007	Account Representative
Nancy	Day	04/18/2005	Sr. Mgr, Human Resources
Carol	Donahue	09/04/2001	Sr. Software Engineer
Richard	Egan	02/07/2005	Exec Dir, Immunoassay Dev
Cynthia	Erb	02/22/2005	Customer Service Supervisor
Philip	Estes	12/03/2007	Assoc Dir, Clinical
Mirela	Firoiu	02/23/2007	Sr. Res. Assoc. I
Gregory	Galarpe	01/03/2006	Tech. Training Spec. I
Kelly	Gann	06/17/2002	Mgr, Marketing Communication Programs
Chau	Gaziano	02/07/2006	Key Accounts Developer
Maria	Green	12/13/2000	Sr. Quality Control Assoc. I
Marjan	Haghnia	11/03/2003	Sr. Research Scientist
Gregory	Hamilton	06/09/2008	Reagent Manufacturing Mgr
Nancy	Haney	01/07/2002	Executive Assistant II
Dalibor	Hodko	07/23/2001	Dir, Advanced Tech
Amy	Houle	08/06/2008	Sr. Res. Assoc. II
Ying	Huang	03/15/1999	Sr. Staff Scientist
Wenli	Huang	06/05/2000	Sr. Res. Assoc. I
Brian	Illig	09/15/2008	Facilities Specialist
Damian	Jackowski	01/01/2009	Management Information Specialist
Roberta	Jackson	05/08/2008	Lab Manager
Manuel	Jimenez	10/01/1999	Sr. Res. Assoc. II
Daniel	Johnson	10/13/2005	Sr. Systems Admin
Todd	Karpman	05/21/2007	Controller
Jube	Kinser	08/08/2005	Master Scheduler Planner I
Leanne	Kiviharju	08/21/2007	VP, Clinical, QA, RA
Thomas	Krejci	11/01/2005	Network Administrator
Adriana	Leon	09/08/1997	Mfg Technician III, Reagt
Graham	Lidgard	01/14/2003	Sr. V.P., R&D, CTO
James	Light II	06/07/2004	Dir., Product Development
Stephanie	Livon	11/13/2000	Mgr, Quality Assurance
Sandra	Love-Baxter	01/19/2009	Sr. Mgr, Planning & Matls
David	Ludvigson	05/01/2003	President & COO
Randall	Madsen	03/12/2007	Mgr, ImmunoAssay Prod Dev
Edna	Magahis	03/30/2004	QC Technician III
Elizabeth	Mather	05/22/1995	Dir., Applied Research
Edward	McMullen	04/07/2008	Assoc Dir, Regulatory Aff
Liane	Mende-Mueller	11/11/2002	Mgr, Critical Reagents
M.	Miller	11/24/2008	Mfg Documentation Specialist III
Vivian	Minh	05/09/2005	Sr. Staff Accountant I

Marie	Moua	10/09/2006	QC Technician I
Suzanne	Munson	11/03/2008	Receptionist/ HR Assistant
Kenny	Nguyen	09/01/1999	Sr. Res. Assoc. II
Tibor	Novak	04/23/2007	Assoc. Dir., Financial Reporting
Valentina	Ofordire	07/14/2008	Sr. Staff Accountant I
Tamika	Owens	04/03/2006	A/P Administrator III
Morgan	Palla	03/30/2006	HR Representative II
Sheetal	Patel	01/08/2007	Sr. Res. Assoc. I
Tricia	Patterson	04/26/2004	Technical Marketing Specialist III
Dana	Perry	02/18/2008	Accounting Manager
Jason	Poole	08/25/2008	Sr. Development Scientist
Robert	Proulx	04/18/2005	VP, Marketing & Sales
Cecille	Ramirez	10/01/2008	Sr. Res. Assoc. II
Debbrah	Reeves	07/13/2004	Legal Assistant III
William	Respess	04/05/2004	Sr. VP, Gen. Counsel & Secretary
Laurie	Roberts	04/18/2007	Sr. Marketing Mgr, POC Product
Robert	Saiz	06/02/2008	Staff Scientist
Kimberly	San Pedro	04/08/2008	Quality Assurance Specialist II
David	Schwartz	07/06/1998	Assoc. Dir., IT
Jay	Shaw	11/03/2003	Sr. Dir., Product Development
Claudia	Shojai	08/04/2008	Buyer/Planner III
Daniel	Smolko	02/10/1997	Sr. Staff Scientist
Cristina	Sullivan	09/26/2005	Tech & Customer Service Mgr
Paul	Swanson	10/24/1994	Principal Engineer
Leslie	Tobias	10/25/1999	VP, Human Resources
Sonia	Tomina	12/09/2005	Marketing Associate
Patricia	Tooker	03/17/2008	Sr. Res. Assoc. II
Rachelle	Travin	09/13/2004	Marketing Communications Specialist
Ana	Velarde	08/30/2002	Lab Aide
Nicholas	Venuto	06/16/2003	VP, CFO
Reynaldo	Villar	09/01/2003	Sr. Res. Assoc. I
Stan	Vukajlovich	04/09/2007	Mgr, ImmunoAssay Product Development
Dan	Weaver	02/26/2007	Sr. Res. Assoc. II
William	Weisburg	10/20/2003	Exec. Dir., Infectious Disease Diagnostics
Mee Wa	Wong	10/23/2006	Marketing Mgr, RT-PCR
Steven	Wutzke	11/24/2008	Sr. Staff Accountant II
Jennivene	You	01/05/2009	Production Chemist II

INACTIVE – LOA

Tingqiu	Luo	07/18/2005	Research Scientist
Carole	Ross	12/12/2005	Assoc Dir, QA

NANOGEN INC. CONSULTANTS

Robert Mifflin	Acme Sensors		Research support on our grant with the Medical College of Wisconsin
Tom Guadagnola	APT Consultants		Research support on our grant with the Medical College of Wisconsin
Jim Crampton	Crampton & Associates		ERP Consultant
Madhushree Ghosh	Same		Research support on our Flu (LIT) contact with the CDC

Jesse Marlin	J. Marlin & Associates		Research support on our Flu (POC) contact with the CDC
Robert Reid	Same		Sales Rep for the POC product line

NANOGEN POINT OF CARE EMPLOYEES			
Iwona	Brusikiewicz	9/17/01	Sr. Research Assoc. II
Peter	Kupchak	2/25/02	Director Clinical Operations
Barbara	Rankel	2/10/04	Data Manager

5.20(b) Certain Nanogen Advanced Diagnostic Srl employees based in Italy are members of a labor union.

5.20(c) The Contemplated Transactions may give rise to obligations under the Worker Adjustment and Retraining Notification Act with respect to Nanogen's San Diego facility and its employees located there.

Section 5.21 Employee Benefits

5.21(a)

Nanogen, Inc. Plans

PROGRAM	PROVIDER
Medical	Anthem Blue Cross
Prescription Drug Plan	Anthem Blue Cross
Dental	Aetna
Vision	Vision Service Plan
Chiropractic/Acupuncture	American Specialty Health (outside WA)
Life/AD&D	Anthem Blue Cross
COBRA	Creative Benefits
Executive Health	Exec-u-care
Short Term Disability	Unum
Long Term Disability	Unum
Business Travel Accident	Cigna
Flex Medical	Creative Benefits
Flex Childcare	Creative Benefits
Auto	Runzheimer
Employee Assistance Program	Horizon Health
Voluntary Life	Reliance Standard
401K	American Funds
Gym	L.A. Fitness
Worker's Compensation	Traveler's Casualty Insurance; WA state
Family/Medical Leave	State and Federal Programs
Stock Option & Evergreen Program	Nanogen
Employee Stock Purchase Plan	Nanogen
Educational Assistance Program	Nanogen
Paid Time Off	Nanogen
Holidays	Nanogen
Bereavement	Nanogen

Jury Duty	Nanogen
Bonus & Commission Programs	Nanogen
Employee Referral Program	Nanogen
Nano-Award Program	Nanogen
Performance Evaluations/Increases	Nanogen

Nanogen Point Of Care Summary of Benefits
Contract #: 057389
Provider: Sun Life Financial
Policy Dates: November 15, 2007 – November 14, 2008
Benefits: Extended Health Care (including Prescription Drugs and Vision)
Emergency Travel Assistance
Dental Care
Short Term Disability
Long Term Disability
Life Coverage
Accidental Death and Dismemberment

Nanogen has an Employee Stock Purchase Plan that allows employees twice a year to purchase up to 1,666 shares of our common stock at a discount to the market price.

All equity awards granted by Nanogen prior to December 12, 2006 provide for accelerated vesting of all of the shares subject to the award upon a change in control of Nanogen. Certain equity awards granted by Nanogen on or after December 12, 2006 provide for accelerated vesting of all or part of the shares subject to the award upon a change in control of Nanogen, or upon the holder's termination of employment under designated circumstances following a change in control. In addition, Nanogen has entered into employment agreements with certain employees that provide for accelerated vesting of all or part of the employee's outstanding equity awards and for the payment of certain severance benefits upon a change in control of Nanogen, or upon the holder's termination of employment under designated circumstances following a change in control.

The accelerated vesting of the outstanding equity awards, and the payment of severance benefits may result in the payment of an excess parachute payment within the meaning of Section 280G of the Code. All equity awards granted under our 1997 Stock Incentive Plan (the "Plan") prior to December 12, 2006, and certain equity awards granted after such date, contain a special Section 280G tax gross-up provision.

5.21(d) Nanogen Advanced Diagnostics Srl employee benefit plans in Italy are regulated by the National Labour Contract and can't be reduced or cancelled per the existing law in force.

Section 5.22 Environmental Matters.

None.

Section 5.23 Certain Business Relationships with Affiliates

Entity	Relationship	Transaction
ThermoFisher	5%+ stockholder of Nanogen	Distribution and License Agreement, February 2008 & Distribution Agreement, August 2006. Distribution relates to molecular diagnostics business.
Hx Diagnostics	Nanogen holds minority interest in stock	Development and License Agreement, June 2006 and related interim funding letters. Assay Development and License Agreement dated July 23, 2008; Common Stock Purchase Agreement between HX Diagnostics, Inc. and Nanogen, Inc.; dated October 2006; Warrants to Purchase Common Stock dated October 2006 and July 2008; Amendment Number One to the July 2008 Common Stock Purchase Warrant dated January 2009. This relationship relates to POC business.
Oy Jurilab Ltd	Nanogen holds minority interest in stock	Type 2 Diabetes Collaboration Agreement, May 2006. This relationship relates to molecular diagnostics business.

Section 5.25 Deposit

The bank in which the deposit relating to the Nexus Real Property Lease is held is Bank of the West.

Annex 5.4(l)

Proprietary Information
Inventions and Dispute Resolution Agreement

Nanogen, Inc.
10398 Pacific Center Court
San Diego, CA 92121

The following confirms an agreement between me and Nanogen, Inc., a Delaware corporation (the "Company," which term includes the Company's subsidiaries, successors and assigns), which is a material part of the consideration for my employment by the Company:

1. "Proprietary Information" is information that was developed by, became known by, or was assigned or otherwise conveyed to the Company, and which has commercial value in the Company's business. I understand that my employment creates a relationship of confidence and trust between me and the Company with respect to Proprietary Information of the Company or its customers which may be learned by me during the period of my employment. I agree not to directly or indirectly use or disclose any of the Proprietary Information at any time except in connection with the services I provide to the Company. By way of illustration, but not limitation, Proprietary Information includes trade secrets, ideas, processes, cell-lines, gels, information, compilations, formulas, data and know-how, software programs, improvements, inventions, techniques, discoveries, designs, marketing plans, strategies, forecasts, computer programs, patent disclosures, patent applications, trademarks, works of authorship, copyrightable material, customer lists, financial data, sensitive information the Company receives from its customers or business partners or affiliates, names of suppliers, technical information related to the Company's existing and future products, personnel information, and other confidential business information.

2. In consideration of my employment by the Company and the compensation received by me from the Company from time to time, I hereby agree as follows:

(a) All Proprietary Information shall be the sole property of the Company and its assigns, and the Company and its assigns shall be the sole owner of all patents, trademarks, copyrights and other rights in connection therewith. I hereby assign to the Company any rights I may have or acquire in such Proprietary Information. At all times, both during my employment by the Company and after its termination, I will keep in confidence and trust all Proprietary Information, and I will not use, disclose, sell, lecture upon or publish any Proprietary Information or anything relating to it without the written consent of the Company, except as may be necessary in the ordinary course of performing my duties to the Company.

(b) All documents, records, apparatus, equipment and other physical property, whether or not pertaining to Proprietary Information, furnished to me by the Company or produced by myself or others in connection with my employment shall be and remain the sole property of the Company and shall be returned to it immediately as and when requested by the Company. Even if the Company does not so request, I shall return and deliver all such property upon termination of my employment by me or by the Company for any reason and I will not take with me any such property or any reproduction of such property upon such termination.

(c) I recognize that the Company has received and in the future will receive information from third parties which is private or Proprietary Information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree that during the term of my employment and thereafter I owe the Company and such third parties a duty to hold all such private or Proprietary Information received from third parties in the strictest confidence and not to disclose it, except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party. I further agree not to use such private or Proprietary Information for the benefit of anyone other than for the Company or such third party consistent with the Company's agreement with such third party.

(d) My obligations shall continue until such time as the Proprietary Information is publicly known, without fault on my part.

(e) I will promptly disclose to the Company, or any persons designated by it, all improvements, inventions, formulas, ideas, processes, programs, techniques, discoveries, developments, designs, trade secrets, know-how and data, whether or not patentable, or registerable under copyright or similar statutes, and all designs, trademarks and copyrightable works, made or conceived or reduced to practice or learned by me, either alone or jointly with others, during the term of my employment (all said improvements, inventions, formulas, ideas, processes, techniques, know-how and data shall be hereinafter collectively called "Inventions"). Inventions shall include, but not be limited to all designs, trademarks and copyrightable works I may solely or jointly make or conceive or reduce to practice or learn during the period of my employment which (i) are within the scope of the services to be provided by me to the Company, and are related to or useful in the business of the Company or to the Company's actual or demonstrably anticipated research, design, development, experimental, production, financing, manufacturing, licensing, distribution or marketing activity carried on by the Company, or (ii) result from tasks assigned to me by the Company, or (iii) are funded by the Company, or (iv) result from use of premises owned, leased or contracted for by the Company.

(f) During the term of my employment and for one (1) year thereafter, I will not directly or indirectly engage, encourage or participate in the solicitation of any employee or consultant of the Company to leave the Company for any reason or to devote less than all of any such employee's or consultant's efforts to the affairs of the Company, provided that the foregoing shall not affect any responsibility I may have as an employee of the Company with respect to the bonafide hiring and firing of Company personnel.

(g) By signing this Agreement, I acknowledge and agree that the names, addresses and product specifications of the Company's customers constitute Proprietary Information and that the sale or unauthorized use or disclosure of this or any other Proprietary Information that I obtained during the course of my employment would constitute unfair competition with the Company. I promise not to engage in any unfair competition with the Company either during the term of this my employment or at any time thereafter.

(h) I will not during the course of my employment, or for one (1) year thereafter, other than on the behalf of the Company, either directly or indirectly solicit or take away, or attempt to call on, any of the Company's customers with whom I became acquainted during the course of employment with the Company.

(i) I agree that all Inventions which I make, conceive, reduce to practice or develop (in whole or in part, either alone or jointly with others) during my employment shall be the

sole property of the Company to the maximum extent permitted by Section 2870 of the California Labor Code, a copy of which is attached hereto. See Exhibit A. I understand that I bear the full burden of proving to the Company that the Invention qualifies fully under Section 2870. By signing this Agreement, I acknowledge receipt of this Agreement and a copy of Section 2870. The Company shall be the sole owner of all patents, trademarks, copyrights and other intellectual property or other rights in connection therewith. I hereby assign to the Company any rights I may have or acquire in such Inventions. I agree to perform, during and after my employment, all acts deemed necessary or desirable by the Company to permit and assist it, at the Company's expense, in obtaining and enforcing patents, trademarks, copyrights or other rights on such Inventions and improvements in any and all countries. Such acts may include, but are not limited to, execution of documents and assistance or cooperation in legal proceedings. The Company shall compensate me at an agreed upon rate for time actually spent by me at the Company's request providing necessary assistance and cooperation. The Company shall also have the right to keep any and all inventions as trade secrets. I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents, as my agents and attorney-in-fact to act for and in my behalf and instead of me, to execute and file any applications or related filings and to do all other lawfully permitted acts to further the prosecution and issuance of patents, trademarks copyrights or other rights thereon with the same legal force and effect as if executed by me.

(j) As a matter of record I attach hereto a complete list of all inventions, discoveries, developments, trade secrets or improvements which have been made or conceived or first reduced to practice by me alone or jointly with others prior to my employment with the Company ("Prior Invention") that I desire to remove from the operation of this Agreement, and I covenant that such list is complete. See Exhibit B. If no such list is attached to this Agreement, I represent that I have no such Prior Inventions at the time of signing this Agreement. I acknowledge and agree that the Company is free to compete or develop Inventions within the areas and types described on such list. If in the course of my employment with the Company, I incorporate into a company product, process or machine, a Prior Invention, which is owned exclusively by me or in which I have an exclusive interest, the Company is granted a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(k) I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence Proprietary Information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict herewith.

(l) I represent that execution of this Agreement, my employment with the Company and my performance of my proposed duties to the Company in the development of its business will not violate any obligations I may have to any former employer. I have not brought and will not bring to the Company or use or disclose in the performance of my responsibilities at the Company any equipment, supplies, facilities, or trade secrets of any current or former employer or organization to which I provided services which are not generally available to the public, unless I have obtained written authorization for their possession and use.

(m) This Agreement does not require assignment of an invention which an employee cannot be obligated to assign under Section 2870 of the California Labor Code (hereinafter called "Section 2870"). However, I will disclose any Inventions as required by Section 2(c) hereof regardless of whether I believe the Invention is protected by Section 2870, in order to permit the Company to engage in a review process to determine such issues as may arise. Such disclosure shall be received in confidence by the Company.

3. During the course of my employment, I will not engage in any business activity that competes with the Company. Moreover, I shall inform the Company before accepting any employment or consulting relationship with another person or entity, in any field related to the Company's line of business. I shall inform the Company before accepting any outside employment or consulting relationship, which will take a substantial amount of my time.

4. I acknowledge that any breach or threatened breach by me of the provisions of Sections 1, 2 and 3 of this Agreement will result in immediate and irreparable harm to the Company, for which there will be no adequate remedy at law, and that the Company will be entitled to preliminary injunctive relief to restrain me from violating the terms of these sections, or to compel me to cease and desist all unauthorized use and disclosure of the Proprietary Information, without posting bond or other security. The Company shall be entitled to recover from me any costs or expenses incurred in obtaining relief against breach of this Agreement by me, including, but not limited to, legal fees and costs. Nothing in this section shall be construed as the prohibiting Company from pursuing any other remedies available to it for such breach or threatened breach, including recovery of damages from me.

5. In the event that I leave the employ of the Company, I hereby consent to the Company's notification to my new employer of my rights and obligations under this agreement.

6. Any controversy between me and the Company ("the parties") arising out of or related to my employment relationship or the termination of that relationship, including the construction or application of any terms, covenants or conditions of this Agreement, whether sounding in contract, statute, tort or otherwise, shall be resolved by binding arbitration, except where the law specifically forbids the use of arbitration as a final and binding remedy.

(a) The party claiming to be aggrieved shall furnish to the other party a written statement of the grievance identifying any witnesses or documents that support the grievance and the relief requested or proposed.

(b) If the other party does not agree to furnish the relief requested or proposed, or otherwise does not satisfy the demand of the party claiming to be aggrieved, the parties shall submit the dispute to non-binding mediation before a mediator to be jointly selected by the parties. The Company will pay the cost of the mediation.

(c) If the mediation does not produce a resolution of the dispute, the parties agree that the dispute shall be resolved by final and binding arbitration. The parties shall attempt to agree to the identity of an arbitrator, and, if they are unable to do so, they will obtain a list of arbitrators from the Federal Mediation and Conciliation Service and select an arbitrator by striking names from that list.

(d) The arbitrator shall have the authority to determine whether the conduct complained of in section 6(a) violates the rights of the complaining party and, if so, to grant any relief authorized by law; provided, however, that nothing herein shall limit the right of the Company to obtain preliminary injunctive relief for violation of Sections 1, 2 and 3 of this Proprietary Information, Inventions and Dispute Resolution Agreement as provided in Section 4 of this Agreement, in order to preserve the status quo or prevent irreparable harm before the matter can be heard in arbitration. The arbitrator shall not have the authority to modify, change or refuse to enforce the terms of the employment agreement between the parties or this Proprietary

Information, Inventions and Dispute Resolution Agreement. In addition, the arbitrator shall not have the authority to require the Company to change any lawful policy or benefit plan. The hearing shall be transcribed. The Company shall bear the costs of the arbitration if the employee prevails. If the Company prevails, the employee will pay half the cost of the arbitration or $500, which ever is less. Each party shall be responsible for paying its own attorneys' fee.

Arbitration shall be the exclusive final remedy for any dispute between the parties including, but not limited to disputes involving claims for discrimination or harassment under Title VII, the Age Discrimination in Employment Act, the Americans with Disabilities Act or California's fair Employment and Housing Act, wrongful termination, breach of contract, breach of public policies, emotional distress or any other dispute. The parties agree that no dispute shall be submitted to arbitration where the party claiming to be aggrieved has not complied with the preliminary steps provided for in paragraphs 6 (a) and (b) above.

(e) The parties agree that the arbitration award shall be enforceable in any court having jurisdiction to enforce this Agreement, so long as the arbitrator's findings are supported by substantial evidence on the whole and the arbitrator has not made errors of law.

(f) The Company reserves the right to modify, change or cancel this provision upon 30 days written notice. However such cancellation shall not affect matters which have already been submitted to arbitration.

7. If one or more of the provisions in this Agreement are deemed unenforceable by law, then the remaining provisions will continue in full force and effect.

8. This Agreement, together with my employment agreement, supersedes and cancels any and all previous understandings, representations and agreements of whatever nature between Company and me with respect to the matters covered herein. These Agreements constitute the full, complete and exclusive agreements between me and the Company with respect to the subject matters herein. These Agreements shall not be modified unless in writing, signed by me and the President of the Company.

9. This agreement shall survive the termination of my employment.

10. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

11. I certify and acknowledge that I have carefully read all of the provisions of this Agreement and that I understand and will fully and faithfully comply with such provisions.

12. This Agreement shall be effective as of the first day of my employment by the Company; and shall be binding upon me, my heirs, executors, assigns, and administrators and shall inure to the benefit of the Company, its successors and assigns.

Dated:_____

_____
Signature

_____
Print Name

ACCEPTED AND AGREED TO:
Nanogen, Inc.

By_____
William L. Respess
Sr.V.P., General Counsel & Secretary

Exhibit A

§2870. Application of provision providing that employee shall assign or offer to assign rights in invention to employer.

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

Exhibit B

Nanogen, Inc.
10398 Pacific Center Court
San Diego, CA 92121

1. The following is a complete list of all inventions or improvements relevant to the subject matter of my employment by Nanogen, Inc. (the "Company") that have been made or conceived or first reduced to practice by me alone or jointly with others prior to my employment by the Company that I desire to remove from the operation of the Company's Proprietary Information, Inventions and Dispute Resolution Agreement:

_____ No inventions or improvements.

_____ See below: Any and all inventions regarding.

_____ Additional sheets attached.

2. I propose to bring to my employment the following materials and documents of a former employer:

_____ No materials or documents.

_____ See below:

Dated: _____

_____
Signature

_____
Print Name