

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 6-K**

REPORT OF FOREIGN ISSUER  
Pursuant to Rule 13a-16 or 15d-16 of  
the Securities Exchange Act of 1934

**For the month of July 2006**

**Commission File Number 000-51122**

**pSivida Limited**

(Translation of registrant's name into English)

Level 12 BGC Centre  
28 The Esplanade  
Perth WA 6000

(Address of principal executive offices)

(Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F).

Form 20-F  Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes  No

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b): 82-\_\_\_\_\_.

**SIGNATURE**

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

Date: July 31, 2006

pSivida Limited

By: /s/ Michael J. Soja

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Michael J. Soja  
Vice President, Finance and Chief Financial Officer

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**EXHIBIT INDEX**

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## EXHIBIT 99.1

### SUPPLEMENTAL DISCLOSURE OF PSIVIDA LIMITED RELATED TO AMENDMENT AGREEMENT, DATED AS OF JULY 28, 2006.

THIS SUPPLEMENTAL DISCLOSURE SHALL NOT CONSTITUTE AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY ANY SECURITIES DESCRIBED HEREIN IN ANY JURISDICTION WHERE THE OFFER OR SALE OF THESE SECURITIES IS NOT PERMITTED.

THE SECURITIES DESCRIBED HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES ABSENT REGISTRATION OR AN APPLICABLE EXEMPTION FROM REGISTRATION REQUIREMENTS.

IN ACCORDANCE WITH GENERAL INSTRUCTION B OF FORM 6-K, THE INFORMATION SET FORTH IN THIS SUPPLEMENTAL DISCLOSURE SHALL NOT BE DEEMED TO BE "FILED" FOR PURPOSES OF SECTION 18 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED (THE "EXCHANGE ACT"), OR OTHERWISE SUBJECT TO THE LIABILITIES OF THAT SECTION, NOR SHALL SUCH INFORMATION BE DEEMED INCORPORATED BY REFERENCE IN ANY FILING UNDER THE SECURITIES ACT OR THE EXCHANGE ACT, EXCEPT AS SHALL BE EXPRESSLY SET FORTH BY SPECIFIC REFERENCE IN SUCH A FILING. THE INFORMATION SET FORTH IN THIS SUPPLEMENTAL DISCLOSURE SHALL NOT BE DEEMED AN ADMISSION AS TO THE MATERIALITY OF ANY INFORMATION IN THIS SUPPLEMENTAL DISCLOSURE.

**The following is a summary of the terms of the transactions contemplated by the Amendment Agreement. This summary is not intended to be complete and is qualified in its entirety by reference to the attachments to this Supplemental Disclosure.**

#### 1. Amendment Agreement

pSivida Limited ("pSivida") and an institutional investor (the "Investor") entered into an Amendment Agreement dated as of July 28, 2006, providing for the amendment and restatement of the Subordinated Convertible Note, dated November 16, 2005, purchased by the Investor in connection with the Securities Purchase Agreement, dated as of October 5, 2005, by and between the same parties.

Under the Amendment Agreement, pSivida will issue to the Investor an Amended and Restated Note in the amount of \$12.5 million. The Amendment Agreement also provides for payment by pSivida of \$3.5 million for partial satisfaction and redemption of the original Subordinated Convertible Note, payment by pSivida of any accrued and unpaid interest on the Subordinated Convertible Note, payment by pSivida of any penalties incurred as a result of the delay in effectiveness of the registration statement filed in connection with the Securities Purchase Agreement, and the issuance of a warrant exercisable for up to 5,700,000 American Depositary Shares (ADSs) of pSivida.

**The Amendment Agreement is being filed as an attachment to this Supplemental Disclosure to provide investors with information regarding its terms. The Amendment Agreement contains representations and warranties that pSivida Limited and the Investor made to each other as of the date of the Amendment Agreement or other specific dates, and such representations and warranties should not be relied upon by any other person.**

#### 2. The Amended and Restated Note

A short summary of the terms of the amended and restated note follows:

- The note has a face value of US\$12,500,000.
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- The note may be converted by the holder into ADSs at any time prior to the third anniversary of the date of the original issuance of the note. The number of shares to be issued upon conversion of the note is to be calculated by dividing the face value of the note to be converted (and any accrued but unpaid interest on the note) by the conversion price, as adjusted, of the ADSs.
- The conversion price is US\$2.00 per ADS and may be adjusted under certain circumstances, including, among others, in the event pSivida issues securities at a lower price than the price at which the note may be converted and based on the market price of pSivida's ADSs on April 30, 2007.
- The note matures 3 years after issuance and bears interest at the rate of 8% per annum.
- Under certain circumstances, pSivida may make interest payments in the form of ADSs.
- The note contains certain events of default which allow the Investor to accelerate the maturity of the note and permit the Investor to force payment of the note in the event of a change of control of pSivida.
- pSivida has the right, in certain specified circumstances, to force the Investor to convert the note into ADSs, including if the ADSs are trading at 200% of the conversion price during a specified period.
- The Investor has the right to require pSivida to prepay up to 50% of the original principal amount (i.e., \$6,250,000) on July 31, 2007 and January 31, 2008.
- pSivida may redeem the note, at its option, in whole or in part at any time at a price equal to 108% of the outstanding principal to be redeemed. In connection with any such redemption, pSivida will issue warrants exercisable for a number of shares equal to 30% of such redemption amount divided by the then applicable conversion price.
- The note will be secured by certain of pSivida's royalty and other income streams. The security interest in such Collateral shall be released in conjunction with the sale of the collateral and pSivida's satisfaction of any redemption required by the investor following.
- The note contains various negative covenants, including limitations on the incurrence of debt and liens, and the maintenance of certain cash levels.

### **3. The Warrants:**

The following is a summary of the terms of the warrants:

- The warrants constitute options to acquire up to 5,700,000 ADSs at any time on or before the fifth anniversary of the issuance of the warrant.
- The per ADS exercise price under the warrants is US\$1.80 and may be adjusted under certain circumstances, including, among others, in the event pSivida issues securities at a lower price than the price at which the warrants may be exercised or pSivida makes a pro rata issuance to shareholders.
- There is a limit of 4.99% in respect of the Investor and its affiliates' beneficial ownership in pSivida, which may prevent it from exercising part of warrant (this limit may be increased or decreased by the Investor upon written notice to pSivida).
- If there is a fundamental transaction (such as a transaction which involves a change in control of pSivida or a transfer of substantially all of its assets), pSivida will use its best endeavors to procure that the successor entity assumes all of the obligations of pSivida under the warrants.

· Additional warrants will be issued in the event that pSivida redeems all or a portion of the note in connection with an optional redemption or a sale of collateral. Such warrants will have an exercise price based on the average market price prior to their issuance.

**4. Registration Rights:**

· The effectiveness deadline for registering shares issuable pursuant to the note and warrants will be extended to September 15, 2006 (with provisions for a further extension if necessary). If the pSivida's registration statement is not effective by that date, pSivida will pay penalties from May 15, 2006 at a rate equal to 2.5% of the original purchase price per thirty day period.

## AMENDMENT AGREEMENT

AMENDMENT AGREEMENT (the "**Agreement**"), dated as of July 28, 2006, by and among pSivida Limited, an Australian corporation, with headquarters located at Level 12, BGC Centre, 28 The Esplanade, Perth, WA 6000 Australia (the "**Company**"), and Castlerigg Master Investments Ltd. (the "**Investor**").

### WHEREAS:

A. The Company and the Investor are parties to that certain Securities Purchase Agreement, dated as of October 5, 2005 (the "**Securities Purchase Agreement**"), pursuant to which, among other things, the Investor purchased from the Company (i) subordinated convertible notes, dated November 16, 2005 (the "**Existing Notes**"), which are convertible in accordance with their terms into American Depositary Shares of the Company ("**ADSs**" and, as converted, the "**Existing Conversion Shares**") each of which represents 10 ordinary shares of the Company (the "**Ordinary Shares**") and is evidenced by an American Depositary Receipt ("**ADR**") and (ii) warrants (the "**Existing Warrants**"), which are exercisable to purchase ADSs (the "**Existing Warrant Shares**").

B. On the Closing Date (as defined in the Securities Purchase Agreement, the Company and the Investors entered into a Registration Rights Agreement, dated as of November 16, 2005 (the "**Existing Registration Rights Agreement**"), pursuant to which the Company agreed to provide certain registration rights with respect to the Registrable Securities (as defined in the Existing Registration Rights Agreement) under the Securities Act of 1933, as amended (the "**1933 Act**"), and the rules and regulations promulgated thereunder, and applicable state securities laws.

C. The Company and the Investor desire to enter into this Agreement, pursuant to which, among other things, in consideration of extending the deadline under the Existing Notes with respect to the Company's requirement to obtain the effectiveness of the Initial Registration Statement (as defined in the Registration Rights Agreement) in order for there not to be an Event of Default (a "**Registration Rights Default**"), (i) the Company shall pay to the Investor the sum of (x) any accrued and unpaid interest on the Existing Notes as of the Closing Date (as defined below) and (y) any Registration Delay Payments (as defined in the Existing Registration Rights Agreement), including any accrued and unpaid interest thereon, owed by the Company to the Investor as of the Closing Date (collectively, the "**Amendment Payment Amount**"); (ii) the Company and the Investor shall amend and restate the Existing Notes in the form attached hereto as Exhibit B (the "**Amended and Restated Notes**"), which shall be convertible into ADSs (as converted, the "**Amended and Restated Conversion Shares**"), in accordance with the terms thereof; (iii) the Company shall issue, upon the terms and conditions stated in this Agreement, Series A warrants in the form attached hereto as Exhibit C-1 (the "**Series A Warrants**") which shall be exercisable to purchase ADSs (the "**Series A Warrant Shares**"), in accordance with the terms thereof; and (iv) the Company will agree to issue to the Investor series B warrants in the form attached hereto as Exhibit C-2 (the "**Series B Warrants**", and together with the Series A Warrants, the "**New Warrants**") from time to time in accordance with the terms of the Amended and Restated Notes, which shall be exercisable to purchase ADSs (the "**Series B Warrant Shares**", and together with the Series A Warrant Shares, the "**New Warrant Shares**", and together with Amended and Restated Conversion Shares and the Existing Warrant Shares, the "**Amended and Restated Shares**"), in accordance with the terms thereof.

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D. The Amended and Restated Notes will rank pari passu with all Permitted Indebtedness and shall be senior to all other Indebtedness other than the Permitted Senior Indebtedness (as defined in the Amended and Restated Notes) and will be secured by a first priority, perfected security interest, subject to the Permitted Senior Indebtedness (as defined in the Amended and Restated Notes) in all of the Company and any of its Subsidiary's revenue from the Retisert and Vitrasert product lines (including, without limitation, and successor or replacement product line of the Company or any of its Subsidiaries or its direct or indirect, licensees or sublicensees thereof, the "**Collateral Product Lines**"), whether through licenses, assignments or otherwise with the Company or any of its Subsidiaries prior to, on or after the Closing Date (collectively, the "**Collateral**"), including, without limitation, any revenue arising under that certain license agreement, by and among pSivida, Inc. (f/k/a Control Delivery Systems, Inc.), a Delaware corporation (the "**Delaware Subsidiary**") and Bausch & Lomb Incorporated, dated December 9, 2003 (as such has been and may from time to time be amended, the "**BL License**"), as evidenced by (i) a collateral assignment agreement, in a form reasonably satisfactory to the parties (the "**Security Agreement**"), (ii) a guaranty agreement of the Delaware Subsidiary in a form reasonably satisfactory to the parties (the "**Guarantee**"), and (iii) such other security documents and ancillary documents and mutually agreed upon by the parties or required to be entered into hereunder from time to time (the "**Ancillary Agreements**"), and together with the Security Agreement and the Guarantee, collectively the "**Security Documents**").

E. On the Closing Date (as defined below), the parties hereto are amending and restating the Registration Rights Agreement in the form attached hereto as Exhibit F (the "**Amended and Restated Registration Rights Agreement**"), pursuant to which the Company has agreed to provide certain registration rights with respect to the Registrable Securities (as defined in the Amended and Restated Registration Rights Agreement) under the 1933 Act, and the rules and regulations promulgated thereunder, and applicable state securities laws.

F. On the Closing Date, subject to satisfaction (or waiver) of the conditions set forth in Sections 5 and 6 below, at the Closing, the Company shall redeem (the "**Note Redemption**") \$2.5 million in principal amount of the Existing Notes for a redemption price to be paid in cash to the Investor equal to \$3.5 million (the "**Note Redemption Price**").

G. The amendment and restatement of the Existing Notes and the issuance of the New Warrants is being made in reliance upon an exemption from registration under the 1933 Act.

H. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed to them in the Securities Purchase Agreement and, if not defined therein, the Amended and Restated Notes.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual promises hereinafter set forth, the Company and the Investor hereby agree as follows:

1. AMENDMENT AND RESTATEMENT OF NOTES AND ISSUANCE OF NEW WARRANTS, NOTE REDEMPTION.

(a) Amendment and Restatement. Subject to satisfaction (or waiver) of the conditions set forth in Sections 5 and 6 below, at the closing contemplated by this Agreement (the "**Closing**"), (i) the terms of the Existing Notes in the principal amount of \$12.5 million held by the Investor shall be amended and restated with effect from the Closing to the terms of the Amended and Restated Notes, (ii) the Company shall issue and deliver to the Investor the Series A Warrants, exercisable for 5,700,000 ADRs and (iii) the Company shall pay in cash to the Investor the Amendment Payment Amount. From time to time in accordance with the terms of the Amended and Restated Notes, the Company shall issue and deliver to the Investor the Series B Warrants exercisable for such number of ADRs as determined in accordance with the terms of the Amended and Restated Notes.

(b) Note Redemption. Subject to satisfaction (or waiver) of the conditions set forth in Sections 5 and 6 below, at the Closing, pSivida shall effect the Note Redemption.

(c) Ratifications. Except as otherwise expressly provided herein, (i) the Securities Purchase Agreement, the Existing Warrants and the Irrevocable Transfer Agent Instructions are, and shall continue to be, in full force and effect and are hereby ratified and confirmed in all respects, except that on and after the Closing Date (A) all references in the Securities Purchase Agreement to "this Agreement", "hereto", "hereof", "hereunder" or words of like import referring to the Securities Purchase Agreement shall mean the Securities Purchase Agreement as amended by this Agreement, (B) all references in the Transaction Documents to "this Agreement", "hereto", "hereof", "hereunder" or words of like import referring to the Registration Rights Agreement shall mean the Amended and Restated Registration Rights Agreement, (C) all references in the other Transaction Documents to the "Registration Rights Agreement", "thereto", "thereof", "thereunder" or words of like import referring to the Registration Rights Agreement shall mean the Registration Rights Agreement as amended by this Agreement, (D) all references in the Securities Purchase Agreement and the other Transaction Documents to "Transaction Documents" shall also include this Agreement, the Amended and Restated Notes, the New Warrants and the Security Documents, (E) all references in the Securities Purchase Agreement and the other Transaction Documents to "Notes" shall mean the Amended and Restated Notes, (F) all references in the Securities Purchase Agreement and the other Transaction Documents to "Conversion Shares" shall mean the Amended and Restated Conversion Shares, (G) all references in the Securities Purchase Agreement and the other Transaction Documents to "Warrants" shall be amended to include the New Warrants, and (H) all references in the Securities Purchase Agreement and the other Transaction Documents to "Warrant Shares" shall be amended to include New Warrant Shares, and (ii) the execution, delivery and effectiveness of this Agreement shall not operate as an amendment of any right, power or remedy of the Investor under any Transaction Document, nor constitute an amendment of any provision of any Transaction Document.

(d) Closing Date. The date and time of the Closing (the "**Closing Date**") shall be 10:00 a.m., New York Time, on August 3, 2006 after notification of satisfaction (or waiver) of the conditions to the Closing set forth in Sections 5 and 6 below (or such other time and date as is mutually agreed to by the Company and the Investor). The Closing shall occur on the Closing Date at the offices of Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022.



(e) Form of Payment. On the Closing Date, (i) the Company (A) shall pay to the Investor the Amendment Payment Amount and the Note Redemption Price, by wire transfer of immediately available funds in accordance with the Investor's written wire instructions provided to the Company prior to the Closing, (B) shall issue and deliver to the Investor, the Investor's Amended and Restated Notes, duly executed on behalf of the Company and registered in the name of the Investor, and (C) shall issue and deliver to the Investor, the Investor's Series A Warrants, duly executed on behalf of the Company and registered in the name of the Investor, and (ii) the Investor shall deliver to the Company the Investor's Existing Notes for cancellation.

2. AMENDMENTS TO SECURITIES PURCHASE AGREEMENT.

The Securities Purchase Agreement is hereby amended as follows:

(a) Section 2(j)(A) shall be deleted in its entirety;

(b) Section 2(j)(B) shall be deleted in its entirety; and

(c) Notwithstanding anything in Sections 4(n)(ii) and 4(n)(iii) to the contrary, the Company shall not be required to comply with either Section 4(n)(ii) or 4(n)(iii), except as to allow the Investor the rights set forth in the following sentence:

The Investor shall have the option to participate in such Subsequent Placement with the purchase price of such securities being paid by surrender of outstanding principal amount of the Amended and Restated Note plus any accrued and unpaid interest on such principal and late charges, if any, on such principal and interest.

3. REPRESENTATIONS AND WARRANTIES

(a) Investor Bring Down. The Investor hereby represents and warrants to the Company as set forth in Section 2 of the Securities Purchase Agreement (as amended hereby) as to this Agreement as if such representations and warranties were made as of the date hereof and set forth in their entirety in this Agreement. The Investor hereby represents and warrants to the Company with respect to itself only that it is not actually aware of any outstanding Events of Default. The Investor further represents and warrants to the Company that: (a) it is the sole holder of the Existing Notes; (b) that it has not transferred beneficial ownership thereof; and (c) this agreement shall constitute written consent of the Required Holders pursuant to Section 17 of the Note.

(b) Company Bring Down. The Company represents and warrants to the Investor as set forth in Section 3 of the Securities Purchase Agreement (as amended hereby) as if such representations and warranties were made as of the date hereof and set forth in their entirety in this Agreement; provided that the Schedules to the Securities Purchase Agreement are replaced in their entirety by the Schedules attached to this Agreement (the "**New Schedules**").

Such representations and warranties in the Securities Purchase Agreement to the transactions thereunder and the securities issued thereby are hereby deemed for purposes of this Agreement to be references to the transactions hereunder and the issuance of the securities hereby, and references therein to "**Closing Date**" being deemed references to the Closing Date as defined in Section 1(d) above. The Company represents and warrants to the Investor that it is not aware of any outstanding Events of Default other than the Registration Rights Default. The Company represents and warrants to the Investor that this Agreement, the terms of the Amended and Restated Notes, the terms of the Series A Warrants, the terms of the Series B Warrants, the issue of the Series A Warrants and the agreement to issue Series B Warrants contemplated by the Amended and Restated Notes and the agreement to issue shares or ADRs on exercise of the Amended and Restated Notes, Series A Warrants or Series B Warrants: (i) comply in all respects with the Corporations Act 2001 (Cwth) and the Listing Rules of the Australian Stock Exchange Limited; and, (ii) do not require any approval from the Australian Stock Exchange Limited or shareholders of the Company. The Company will not challenge, and based on the facts in existence as of the date hereof, has no basis to disagree with, the Investor's position that the holding period of the Amended and Restated Notes, the New Warrants and the Amended and Restated Conversion Shares may be tacked back to the date of issuance of the Existing Notes for purposes of Rule 144 promulgated under the 1933 Act (or a successor rule) and will not take any action which would be likely to adversely affect such tacking for the benefit of the Investor, including, without limitation, taking negative action with respect to the reliance by the Company's transfer agent on an opinion letter of the Investor's Legal Counsel.

#### 4. CERTAIN COVENANTS AND AGREEMENTS; RELEASE

(a) Disclosure of Transactions and Other Material Information. On or before 10:30 a.m., New York Time, on the first Business Day following the date of this Agreement, the Company shall issue a press release (the "**Initial Press Release**") and shall file a Form 6-K describing the terms of the transactions contemplated by this Agreement in the form required by the 1934 Act and attaching the material Transaction Documents (including, without limitation, this Agreement (other than the schedules to this Agreement), the form of each of the Amended and Restated Notes, the form of each of the New Warrants, the form of the Amended and Restated Registration Rights Agreement and the form of Security Documents, if available) as exhibits to such submission (such submission including all attachments, the "**Initial 6-K Filing**"). On or before 8:30 a.m., New York Time, on the first Business Day following the Closing Date, the Company shall issue a press release (the "**Closing Press Release**") and shall file a Form 6-K describing the terms of the transactions contemplated by this Agreement in the form required by the 1934 Act and attaching any material transaction documents not previously filed as exhibits to such filing (including, without limitation, this Agreement (other than the schedules to this Agreement), the form of each of the Amended and Restated Notes, the form of each of the New Warrants, the form of the Amended and Restated Registration Rights Agreement and the form of Security Documents, if available) as exhibits to such submission (such submission including all attachments, the "**Closing 6-K Filing**", and together with the Initial 6-K Filing, the "**6-K Filings**"). The Initial Press Release and the Closing Press Release shall also indicate that the Company is seeking to raise additional funding. From and after the submission of the Closing 6-K Filing with the SEC, no Investor shall be in possession of any material, nonpublic information received from the Company, any of its Subsidiaries or any of its respective officers, directors, employees or agents, that is not disclosed in the 6-K Filings or in

some other public filing or public disclosure. The Company shall not, and shall cause each of its Subsidiaries and its and each of their respective officers, directors, employees and agents, not to, provide the Investor with any material, nonpublic information regarding the Company or any of its Subsidiaries from and after the filing of the Closing 6-K Filing with the SEC without the express written consent of the Investor. In the event of a breach of the foregoing covenant by the Company, any of its Subsidiaries, or any of its or their respective officers, directors, employees and agents, in addition to any other remedy provided herein or in the Transaction Documents, the Investor shall have the right to require the Company to make promptly a public disclosure, in the form of a press release, public advertisement or otherwise, of such material, nonpublic information. Subject to the foregoing, neither the Company, its Subsidiaries nor the Investor shall issue any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of the Investor, to make any press release or other public disclosure with respect to such transactions (i) in substantial conformity with the 6-K Filings and contemporaneously therewith and (ii) as is required by applicable law and regulations (provided that in the case of clause (i) the Investor shall be consulted by the Company in connection with any such press release or other public disclosure prior to its release).

(b) Fees and Expenses. The Company shall reimburse the Investor for its legal fees and expenses in connection with the preparation and negotiation of this Agreement and including matters relating to the threatened Registration Rights Default by paying such amount to Schulte Roth & Zabel LLP as set forth in such firm's written invoice therefore (the "**Investor Counsel Expense**"). Except as otherwise set forth in this Agreement, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all stamp and other taxes and duties levied in connection with the issuance of the Amended and Restated Notes and New Warrants.

(c) Post-Closing Covenant. On or prior to ten (10) Business Days after the Closing Date, the Company shall have taken such actions as reasonably requested by the Investor to secure the Collateral and perfect the Collateral Agent's security interest in the Collateral, including, without limitation, by entering into the Security Documents and filing any necessary UCC financing statements. The failure to effect the foregoing shall immediately constitute an Event of Default under the Amended and Restated Notes. Within five (5) Business Days after the Closing, the Company shall have delivered or caused to be delivered to the Investor (i) true copies of UCC search results in Massachusetts and Delaware, listing all effective financing statements which name as debtor the Company or any of its U.S.-based Subsidiaries filed in the prior five (5) years to perfect an interest in any assets thereof, together with copies of such financing statements, none of which, except as otherwise agreed in writing by the Investor, shall cover any of the Collateral and, within ten (10) Business Days after the Closing, the results of searches for any tax lien and judgment lien in Middlesex County, Massachusetts and Delaware filed against such Person or its property, which results, except as otherwise agreed to in writing by the Investor shall not show any such Liens (as defined in the Security Documents); and (ii) a perfection certificate, duly completed and executed by the Company and each of its Subsidiaries, in form and substance satisfactory to the Investor.

(d) Future Collateral. So long as any Notes remain outstanding, if at any time (a "Future Collateral Event Date") (i) the Company or any of its Subsidiaries receives income, proceeds or revenue relating to any Collateral pursuant to a license, agreement or other arrangement or circumstance other than the BL License (each a "Future Agreement", and the parties to such Agreement other than the Company or any of its Subsidiaries, the "Future Consenting Parties") or (ii) any income, proceeds or revenue relating to any Collateral is owed or paid directly to the Company or any Subsidiary other than the Delaware Subsidiary, then the Company shall promptly notify the Investor in writing and within ten (10) business days after such Future Collateral Event Date, (w) if such income, proceeds or revenue is owed or paid to a Subsidiary other than the Delaware Subsidiary, such Subsidiary shall duly execute and deliver a guaranty in the form of the Guarantee, (x) if such income, proceeds or revenue is owed or paid to the Company, the Company shall duly execute and/or deliver such opinions of counsel and other documents, in form and substance reasonably acceptable to the Investor to secure and perfect a security interest in such Collateral, (y) if such income, proceeds or revenue is from a Future Agreement, the parties hereto shall amend the Security Agreement and/or enter into any other necessary security documents, including, without limitation, any assignments or charges, to include such Future Agreement, and (z) the Company shall deliver to the Investor a consent of the Future Consenting Parties, in form and substance reasonably acceptable to the Investor.

5. CONDITIONS TO COMPANY'S OBLIGATIONS HEREUNDER.

The obligations of the Company to the Investor hereunder are subject to the satisfaction of each of the following conditions, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion by providing the Investor with prior written notice thereof:

(a) The Investor shall have executed this Agreement and delivered the same to the Company.

(b) The representations and warranties of the Investor shall be true and correct in all material respects (except for those representations and warranties that are qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall remain true and correct as of such specific date).

6. CONDITIONS TO INVESTOR'S OBLIGATIONS HEREUNDER.

The obligations of the Investor hereunder are subject to the satisfaction of each of the following conditions, provided that these conditions are for the Investor's sole benefit and may be waived by the Investor at any time in its sole discretion by providing the Company with prior written notice thereof:

(a) The Company shall have executed this Agreement and delivered the same to the Investor.

(b) The Company shall have executed and delivered to the Investor the Amended and Restated Notes and the New Warrants being issued to such Investor at the Closing.

(c) The Company shall have delivered to the Investor such Investors Amendment Payment Amount and the Note Redemption Price by wire transfer of immediately available funds pursuant to the wire instructions provided by the Investor.

(d) The Company shall have delivered to the Company's transfer agent, with a copy to the Investors, a letter stating that the Irrevocable Transfer Agent Instructions dated October 5, 2005 shall also apply to the Amended and Restated Shares.

(e) Such Investor shall have received the opinion of Curtis, Mallet-Prevost, Colt & Mosle LLP, the Company's outside U.S. counsel, and Blake Dawson Waldron, the Company's outside Australian counsel, each dated as of the Closing Date, similar in all material respects to the opinions delivered pursuant to the Securities Purchase Agreement.

(f) The Company shall have delivered to the Investor a certificate, executed by the Secretary of the Company and dated as of the Closing Date, as to (i) the resolutions approving the transactions contemplated hereby as adopted by the Board in a form reasonably acceptable to the Investor, (ii) the Certificate of Incorporation and (iii) the Bylaws, each as in effect as of the Closing, similar in all material respects to the certificate executed by the Secretary of the Company delivered pursuant to the Securities Purchase Agreement.

(g) The representations and warranties of the Company shall be true and correct in all material respects (except for those representations and warranties that are qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall remain true and correct as of such specific date) and the Company shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by the Company at or prior to the Closing Date and no Default or Event of Default shall have occurred and be continuing on the date hereof either immediately before or after giving effect to this Agreement in accordance with its terms. The Investor shall have received a certificate, executed by the Chief Executive Officer of the Company, dated as of the Closing Date, to the foregoing effect and as to such other matters as may be reasonably requested by the Investor, similar in all material respects to the certificate executed by the Chief Executive Officer of the Company delivered pursuant to the Securities Purchase Agreement.

(h) The ADRs (I) shall be designated for quotation or listed on the Principal Market and (II) shall not have been suspended, as of the Closing Date, by the SEC or the Principal Market from trading on the Principal Market nor shall suspension by the SEC or the Principal Market have been threatened, as of the Closing Date, either (A) in writing by the SEC or the Principal Market or (B) by falling below the minimum listing maintenance requirements of the Principal Market.

(i) The Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the issue and sale of the Securities, including, without limitation, any approvals or notifications required by the Principal Market.

## 7. STOCKHOLDER APPROVAL

(a) Stockholder Approval. The Company represents and warrants that no Stockholder Approval (as defined below) is required by the applicable rules of the Principal Market or other applicable securities laws for the issuance of any of the Amended and Restated Shares and any stockholder approval previously obtained by the Company with respect to the issuance of the Securities pursuant to the terms of the Transaction Documents will be valid and applicable to the issuance of the Amended and Restated Shares. If at any time after the Closing Date the issuance of the Amended and Restated Shares would exceed that number of shares of Common Stock which the Company may issue without breaching the Company's obligations under the rules or regulations of the Principal Market and the Company has not obtained the approval of its stockholder as required by the applicable rules of the Principal Market, which is sufficient to cure such breach prior to the Closing Date, then the Company shall obtain the approval of its stockholders as required by the applicable rules of the Principal Market for issuances of the Amended and Restated Shares in excess of such amount. At such time, the Company shall provide each stockholder entitled to vote at a special or annual meeting of stockholders of the Company (the "**Stockholder Meeting**"), which shall be promptly called and held not later than 45 days after the earlier of (i) the Principal Market indication of and (ii) the Company becoming aware of, any limitation imposed by the Principal Market on the issuance of Amended and Restated Shares (the "**Stockholder Meeting Deadline**"), a proxy statement, substantially in the form which has been previously reviewed by the Investor and Schulte Roth & Zabel LLP, at the expense of the Company, soliciting each such stockholder's affirmative vote at the Stockholder Meeting for approval of resolutions providing for the Company's issuance of all of the Amended and Restated Shares as described in the Transaction Documents in accordance with applicable law and the rules and regulations of the Principal Market and such affirmative approval being referred to herein as the "**Stockholder Approval**"), and the Company shall use its reasonable best efforts to solicit its stockholders' approval of such resolutions and to cause the Board of Directors of the Company to recommend to the stockholders that they approve such resolutions. The Company shall be obligated to use its reasonable best efforts, to obtain the Stockholder Approval by the Stockholder Meeting Deadline. If, despite the Company's reasonable best efforts the Stockholder Approval is not obtained on or prior to the Stockholder Meeting Deadline, the Company shall cause an additional Stockholder Meeting to be held each twelve month period thereafter until such Stockholder Approval is obtained, provided that if the Board of Directors of the Company does not recommend to the stockholders that they approve such resolutions at any such Stockholder Meeting and the Stockholder Approval is not obtained, or the Amended and Restated Notes are no longer outstanding, the Company shall cause an additional Stockholder Meeting to be held each calendar quarter thereafter until such Stockholder Approval is obtained.

## 8. TERMINATION.

In the event that the Closing does not occur by August 15, 2006, due to the Company's or the Investors' failure to satisfy the conditions set forth in Sections 5 and 6 hereof

(and the nonbreaching party's failure to waive such unsatisfied conditions(s)), the nonbreaching party shall have the option to terminate this Agreement at the close of business on such date without liability of any party to any other party; provided, however, this if this Agreement is terminated by the non-breaching Investor pursuant to this Section 8, the Company shall remain obligated to reimburse the Investor for the expenses described in Section 4(c) above. Upon such termination, the terms hereof shall be null and void and the parties shall continue to comply with all terms and conditions of the Transaction Documents, as in effect prior to the execution of this Agreement.

9. MISCELLANEOUS.

(a) Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party; provided that a facsimile signature shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original, not a facsimile signature.

(b) Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

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

(d) Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(e) No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

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

(g) No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

(h) Entire Agreement; Effect on Prior Agreements; Amendments. Except for the Transaction Documents (to the extent any such Transaction Document is not amended by this Agreement), this Agreement supersedes all other prior oral or written agreements between the Investor, the Company, their affiliates and Persons acting on their behalf with respect to the matters discussed herein, and this Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor the Investor makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be amended other than by an instrument in writing signed by the Company and the Investor. No provision hereof may be waived other than by an instrument in writing signed by the party against whom enforcement is sought. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration also is offered to all of the parties to the Transaction Documents, holders of Amended and Restated Notes or holders of the New Warrants, as the case may be. The Company has not, directly or indirectly, made any agreements with any of the Investors relating to the terms or conditions of the transactions contemplated by the Transaction Documents except as set forth in the Transaction Documents.

(i) Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one Business Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:



If to the Company:

pSivida Limited  
Level 12, BGC Centre  
28 The Esplanade, Perth  
WA 6000 Australia  
Telephone: 61 8 9226 5099  
Facsimile: 61 8 9226 5499  
Attention: Gavin Rezos, Managing Director

with a copy (for informational purposes only) to:

Curtis, Mallet-Prevost, Colt & Mosle LLP  
101 Park Avenue  
New York, N.Y.  
U.S.A.  
Telephone: 212-696-6000  
Facsimile: 212-697-1559  
Attention: Lawrence Goodman, Esq.

If to the Investor, to its address and facsimile number set forth in the Securities Purchase Agreement, with copies to the Investor's representatives as set forth on the Securities Purchase Agreement or on the signature page to this Agreement,

with a copy (for informational purposes only) to:

Schulte Roth & Zabel LLP  
919 Third Avenue  
New York, New York 10022  
U.S.A.  
Telephone: (212) 756-2000  
Facsimile: (212) 593-5955  
Attention: Eleazer N. Kleen, Esq.

or to such other address and/or facsimile number and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (i), (ii) or (iii) above, respectively.

The Company hereby irrevocably appoints National Corporate Research, Ltd., of 225 West 34<sup>th</sup> Street, Suite 910, New York, N.Y. 10112, U.S.A. ("NCR") as its agent for the receipt of service of process in the United States. The Company agrees that any document may be effectively served on it in connection with any action, suit or proceeding in the United States by service on its agents. The Investor consents and agrees that the Company may, in its reasonable discretion, irrevocably appoint a substitute agent for the receipt of service of process located within the United States, and that upon such appointment, the appointment of NCR may be revoked.

Any document shall be deemed to have been duly served if marked for the attention of the agent at its address as set forth in Section 9(i) or such other address in the United States as may be notified to the party wishing to serve the document and (a) left at the specified address if its receipt is acknowledged in writing; or (b) sent to the specified address by post, registered mail return receipt requested. In the case of (a), the document will be deemed to have been duly served when it is left and signed for. In the case of (b), the document shall be deemed to have been duly served when received and acknowledged.

If the Company's agent at any time ceases for any reason to act as such, the Company shall appoint a replacement agent having an address for service in the United States and shall notify the Investor of the name and address of the replacement agent. Failing such appointment and notification, the holders of Amended and Restated Notes representing not less than a majority of the aggregate principal amount of the then outstanding Amended and Restated Notes shall be entitled by notice to the Company to appoint a replacement agent to act on the Company's behalf. The provisions of this Section 9(i) applying to service on an agent apply equally to service on a replacement agent.

(j) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns in accordance with the terms of the Securities Purchase Agreement.

(k) Survival. Unless this Agreement is terminated under Section 8, the representations and warranties of the Company and the Investor contained herein and the agreements and covenants set forth herein shall survive the Closing.

(l) Remedies. The Investor and each holder of the Securities shall have all rights and remedies set forth in the Transaction Documents and all rights and remedies which such holders have been granted at any time under any other agreement or contract and all of the rights which such holders have under any law. Any Person having any rights under any provision of this Agreement shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law. Furthermore, the Company recognizes that in the event that it fails to perform, observe, or discharge any or all of its obligations under this Agreement, any remedy at law may prove to be inadequate relief to the Investor. The Company therefore agrees that the Investor shall be entitled to seek temporary and permanent injunctive relief in any such case without the necessity of proving actual damages and without posting a bond or other security.

**[Signature Page Follows]**

**IN WITNESS WHEREOF**, the Investor and the Company have caused their respective signature page to this Agreement to be duly executed as of the date first written above.

**COMPANY:**

**PSIVIDA LIMITED**

By: /s/ Michael J. Soja  
Name: Michael J. Soja  
Title: Vice President and CFO

[Signature Page to Amendment Agreement]

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**IN WITNESS WHEREOF**, the Investor and the Company have caused their respective signature page to this Agreement to be duly executed as of the date first written above.

**INVESTOR:**

**CASTLEPIGG MASTER  
INVESTMENTS LTD.**

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

[Signature Page to Amendment Agreement]

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[FORM OF AMENDED AND RESTATED CONVERTIBLE NOTE]

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR (B) AN OPINION OF COUNSEL, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) IF SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT, SUCH DOCUMENTS, OPINIONS AND CERTIFICATES AS THE COMPANY MAY REASONABLY REQUIRE. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS NOTE, INCLUDING SECTIONS 3(c)(iii) AND 19(a) HEREOF. THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNTS SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 3(c)(iii) OF THIS NOTE.

pSIVIDA LIMITED

AMENDED AND RESTATED CONVERTIBLE NOTE

Issuance Date: November 16, 2005

Principal: U.S. \$12,500,000

**FOR VALUE RECEIVED**, pSivida Limited, an Australian corporation (the "**Company**"), hereby promises to pay to the order of CASTLERIGG MASTER INVESTMENTS LTD. or registered assigns ("**Holder**") the amount set out above as the Principal (as reduced pursuant to the terms hereof pursuant to redemption, conversion or otherwise, the "**Principal**") when due, whether upon the Maturity Date (as defined below), acceleration, redemption or otherwise (in each case in accordance with the terms hereof) and to pay interest ("**Interest**") on any outstanding Principal at the Interest Rate, from the date set out above as the Issuance Date (the "**Issuance Date**") until the same becomes due and payable, whether upon an Interest Date (as defined below), the Maturity Date, acceleration, conversion, redemption or otherwise (in each case in accordance with the terms hereof). This Subordinated Convertible Note (including all Convertible Notes issued in exchange, transfer or replacement hereof, this "**Note**") amends, supplements, modifies and completely restates and supersedes the Subordinated Convertible Note, dated as of November 16, 2005 (the "**Existing Note**"), issued by the Company to the order of the Holder in the principal amount of \$15,000,000, but shall not, except as specifically amended hereby or as set forth in the Amendment Agreement (as defined below), constitute a release, satisfaction or novation of any of the obligations under the Existing Note or any other Transaction Document (as defined in the Securities Purchase Agreement, defined below). This Note is one of an issue of Subordinated Convertible Notes issued pursuant to the Amendment Agreement (the "**Amendment Agreement**") dated as of July [ ], 2006 (collectively, the "**Notes**" and such other Convertible Notes, the "**Other Notes**" and the holders of the Other Notes, the "**Other Holders**"). Certain capitalized terms used herein are defined in Section 29.

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(1) **MATURITY.** On the Maturity Date, the Holder shall surrender this Note to the Company and the Company shall pay to the Holder an amount in cash representing all outstanding Principal, accrued and unpaid Interest and accrued and unpaid Late Charges, if any. The "**Maturity Date**" shall be the date which is three (3) years after the Issuance Date, as may be extended at the option of the Holder (i) in the event that, and for so long as, an Event of Default (as defined in Section 4(a)) pursuant to clause (i), (ii) or (iii) of Section 4(a) shall have occurred and be continuing or any event shall have occurred and be continuing which with the passage of time and the failure to cure would result in an Event of Default pursuant to clause (i), (ii) or (iii) of Section 4(a) and (ii) through the date that is ten (10) Business Days after the consummation of a Change of Control in the event that a Change of Control is publicly announced or a Change of Control Notice (as defined in Section 5) is delivered prior to the Maturity Date.

(2) **INTEREST; INTEREST RATE.** Interest on this Note shall commence accruing on the Issuance Date and shall be computed on the basis of a 365-day year and actual days elapsed and shall be payable in arrears for each Calendar Quarter on the first (1st) day of the succeeding Calendar Quarter during the period beginning on the Issuance Date and ending on, and including, the Maturity Date (each, an "**Interest Date**") with the first Interest Date being January 1, 2006. Interest shall be payable on each Interest Date, to the record holder of this Note on the applicable Interest Date, in ADRs ("**Interest Shares**"), or, at the option of the Company, in cash ("**Cash Interest**"), or a combination thereof. On or prior to the fifth (5<sup>th</sup>) Trading Day prior to each Interest Date (each, an "**Interest Notice Due Date**"), the Company shall deliver written notice (each, an "**Interest Election Notice**") to the Holder confirming that the Equity Conditions have been satisfied as of such Interest Notice Due Date and specifying the amount of Interest that shall be paid as Cash Interest and the amount of Interest that shall be paid in Interest Shares. Notwithstanding the foregoing, unless otherwise waived or consented to in writing by the Holder, the Company will not be permitted to issue on any Interest Date a number of Interest Shares (and must pay any excess in Cash Interest) which exceeds the Maximum Interest Share Amount. Interest to be paid on an Interest Date in Interest Shares shall be paid in a number of fully paid and nonassessable (rounded to the nearest whole share in accordance with Section 3(a)) ADRs equal to the quotient of (a) the amount of Interest payable on such Interest Date less any Cash Interest paid and (b) the Interest Conversion Price in effect on the applicable Interest Date. If any Interest Shares are to be paid on an Interest Date, then the Company shall (X) provided that the Company's transfer agent (the "**Transfer Agent**") is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, credit such aggregate number of Interest Shares to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal Agent Commission system, or (Y) if the foregoing shall not apply, issue and deliver on the applicable Interest Date, to the address set forth in the register maintained by the Company for such purpose pursuant to the Securities Purchase Agreement or to such address as specified by the Holder in writing to the Company at least two (2) Business Days prior to the applicable Interest Date, a certificate, registered in the name of the Holder or its designee, for the number of Interest Shares to which the Holder shall be entitled. In addition, upon payment of any Interest Shares, the Company shall deposit the corresponding number of Ordinary Shares representing the number of American Depositary Shares ("**ADSs**") underlying the ADRs and pay by wire transfer to the Depository's account the ADS issuance fee of \$0.04 per ADS to be issued, together with all applicable taxes and expenses otherwise payable under the terms of the Deposit Agreement for the deposit of Ordinary Shares and issuance of ADSs (including, without limitation, confirmation that any Australian stock transfer taxes in respect of such deposit (if any) have been paid by the Company), and the Company shall otherwise comply with and cause any other necessary party to comply with all the terms of the Deposit Agreement. Notwithstanding the foregoing, the Company shall not be entitled to pay Interest in Interest Shares and shall be required to pay such Interest in cash as Cash Interest on the applicable Interest Date if, unless consented to in writing by the Holder, during the period commencing on the applicable Interest Notice Due Date through the applicable Interest Date the Equity Conditions have not been satisfied. Prior to the payment of Interest on an Interest Date, Interest on this Note shall accrue at the Interest Rate and be payable by way of inclusion of the Interest in the Conversion Amount in accordance with Section 3(b)(i). Upon the occurrence and during the continuance of an Event of Default, the Interest Rate shall be increased to ten percent (10%). In the event that such Event of Default is subsequently cured, the adjustment referred to in the preceding sentence shall cease to be effective as of the date of such cure; provided that the Interest as calculated and unpaid at such increased rate during the continuance of such Event of Default shall continue to apply to the extent relating to the days after the occurrence of such Event of Default through and including the date of cure of such Event of Default. The Company's obligation to pay any taxes in respect of the issuance and delivery of Interest Shares, or to pay to the Holder any additional amounts associated with such taxes, shall be determined under Section 4(o) of the Securities Purchase Agreement.

(3) CONVERSION OF NOTES. This Note shall be convertible into the Company's ADRs, on the terms and conditions set forth in this

Section 3.

(a) Conversion Right. Subject to the provisions of Section 3(d), at any time or times on or after the Issuance Date, the Holder shall be entitled to convert any portion of the outstanding and unpaid Conversion Amount (as defined below) into fully paid and nonassessable ADRs in accordance with Section 3(c), at the Conversion Rate (as defined below). The Company shall not issue any fraction of an ADR upon any conversion. If any conversion would result in the issuance of a fraction of an ADR, the Company shall round such fraction of an ADR up to the nearest whole share. The Company's obligation to pay any taxes in respect of the issuance and delivery of ADRs or Ordinary Shares, or to pay to the Holder any additional amounts associated with such taxes, shall be determined under Section 4(o) of the Securities Purchase Agreement.

In the event that the Company's Board of Directors should determine that the Company shall transform itself (whether by re-incorporation in the United States or otherwise) from a foreign private issuer (as defined under the Securities Act of 1933, as amended), all references to ADRs or ADSs shall be deemed references to whatever shares are then issued by the re-domiciled Company and all other provisions of this Agreement shall be equitably adjusted by the parties hereto to the extent necessary or appropriate to reflect such new country of incorporation.

(b) Conversion Rate. The number of ADRs issuable upon conversion of any Conversion Amount pursuant to Section 3(a) shall be determined by dividing (x) such Conversion Amount by (y) the Conversion Price (the "**Conversion Rate**").

(i) "**Conversion Amount**" means the sum of (A) the portion of the Principal to be converted, redeemed or otherwise with respect to which this (or any other) determination is being made, (B) accrued and unpaid Interest with respect to such Principal and (C) accrued and unpaid Late Charges with respect to such Principal and Interest.

(ii) "**Conversion Price**" means, as of any Conversion Date (as defined below) or other date of determination, \$2.00 per ADR (which is equivalent to \$0.20 per Ordinary Share), subject to adjustment as provided herein.

(c) Mechanics of Conversion.

(i) Optional Conversion. To convert any Conversion Amount into ADRs on any date (a "**Conversion Date**"), the Holder shall (A) transmit by facsimile (or otherwise deliver), for receipt on or prior to 11:59 p.m., New York Time, on such date, a copy of an executed notice of conversion in the form attached hereto as Exhibit I (the "**Conversion Notice**") to the Company and (B) if required by Section 3(c)(iii), surrender this Note to a common carrier for delivery to the Company as soon as practicable on or following such date (or an indemnification undertaking with respect to this Note in the case of its loss, theft or destruction). On or before the second (2<sup>nd</sup>) Business Day following the date of receipt of a Conversion Notice, the Company shall transmit by facsimile a confirmation of receipt of such Conversion Notice to the Holder and the Transfer Agent. On or before the fifth (5<sup>th</sup>) Business Day following the date of receipt of a Conversion Notice (the "**Share Delivery Date**"), the Company shall (X) provided that the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, credit such aggregate number of ADRs to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal Agent Commission system or (Y) if the foregoing shall not apply, issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of ADRs to which the Holder shall be entitled. If this Note is physically surrendered for conversion as required by Section 3(c)(iii) and the outstanding Principal of this Note is greater than the Principal portion of the Conversion Amount being converted, then the Company shall as soon as practicable and in no event later than three (3) Business Days after receipt of this Note and at its own expense, issue and deliver to the holder a new Note (in accordance with Section 19(d)) representing the outstanding Principal not converted. The Person or Persons entitled to receive the ADRs issuable upon a conversion of this Note shall be treated for all purposes as the record holder or holders of such ADRs on the Conversion Date. Upon conversion of this Note, the Company shall deposit the corresponding number of Ordinary Shares representing the number of ADSs underlying the ADRs and pay by wire transfer to the Depository's account the ADS issuance fee of \$0.04 per ADS to be issued, together with all applicable taxes and expenses otherwise payable under the terms of the Deposit Agreement for the deposit of Ordinary Shares and issuance of ADSs (including, without limitation, confirmation that any Australian stock transfer taxes in respect of such deposit (if any) have been paid by the Company), and the Company shall otherwise comply with and cause any other necessary party to comply with all the terms of the Deposit Agreement.



(ii) Company's Failure to Timely Convert. If the Company shall fail to issue a certificate to the Holder or credit the Holder's balance account with DTC for the number of ADRs to which the Holder is entitled upon conversion of any Conversion Amount on or prior to the date which is five (5) Business Days after the Conversion Date (a "**Conversion Failure**"), then (A) the Company shall pay damages in cash to the Holder for each date of such Conversion Failure in an amount equal to an interest rate equal to 10% per annum applied to the product of (I) the sum of the number of ADRs not issued to the Holder on or prior to the Share Delivery Date and to which the Holder is entitled, and (II) the Closing Sale Price of the ADRs on the Share Delivery Date and (B) the Holder, upon written notice to the Company, may void its Conversion Notice with respect to, and retain or have returned, as the case may be, any portion of this Note that has not been converted pursuant to such Conversion Notice; provided that the voiding of a Conversion Notice shall not affect the Company's obligations to make any payments which have accrued prior to the date of such notice pursuant to this Section 3(c)(ii) or otherwise. In addition to the foregoing, if within three (3) Trading Days after the Company's receipt of the facsimile copy of a Conversion Notice the Company shall fail to issue and deliver a certificate to the Holder or credit the Holder's balance account with DTC for the number of ADRs to which the Holder is entitled upon such holder's conversion of any Conversion Amount, and if on or after such Trading Day the Holder purchases (in an open market transaction or otherwise) ADRs to deliver in satisfaction of a sale by the Holder of ADRs issuable upon such conversion that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Business Days after the Holder's request and in the Holder's discretion, either (i) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions, if any) for the ADRs so purchased (the "**Buy-In Price**"), at which point the Company's obligation to deliver such certificate (and to issue such ADRs) shall be deemed to have been satisfied and shall terminate, or (ii) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such ADRs and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of ADRs, times (B) the Closing Bid Price on the Conversion Date.

(iii) Book-Entry. Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Company unless (A) the full Conversion Amount represented by this Note is being converted or (B) the Holder has provided the Company with prior written notice (which notice may be included in a Conversion Notice) requesting reissuance of this Note upon physical surrender of this Note. The Holder and the Company shall maintain records showing the Principal, Interest and Late Charges converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of this Note upon conversion.

(iv) Pro Rata Conversion; Disputes. In the event that the Company receives a Conversion Notice from more than one holder of Notes for the same Conversion Date and the Company can convert some, but not all, of such portions of the Notes submitted for conversion, the Company, subject to Section 3(d), shall convert from each holder of Notes electing to have Notes converted on such date a pro rata amount of such holder's portion of its Notes submitted for conversion based on the principal amount of Notes submitted for conversion on such date by such holder relative to the aggregate principal amount of all Notes submitted for conversion on such date. In the event of a dispute as to the number of ADRs issuable to the Holder in connection with a conversion of this Note, the Company shall issue to the Holder the number of ADRs not in dispute and resolve such dispute in accordance with Section 24.

(d) Limitations on Conversions

(i) Beneficial Ownership. The Company shall not effect any conversion of this Note, and the Holder of this Note shall not have the right to convert any portion of this Note pursuant to Section 3(a), to the extent that after giving effect to such conversion, the Holder (together with the Holder's affiliates) would beneficially own (directly or indirectly) in excess of 4.99% (the "**Maximum Percentage**") of the number of Ordinary Shares outstanding immediately after giving effect to such conversion. For purposes of the foregoing sentence, the number of Ordinary Shares beneficially owned (directly or indirectly) by the Holder and its affiliates shall include the number of Ordinary Shares represented by the ADRs issuable upon conversion of this Note with respect to which the determination of such sentence is being made, but shall exclude the number of Ordinary Shares represented by the ADRs or otherwise which would be issuable upon (A) conversion of the remaining, nonconverted portion of this Note beneficially owned by the Holder or any of its affiliates and (B) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company beneficially owned by the Holder or any of its affiliates (including, without limitation, any Other Notes or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this Section 3(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. For purposes of this Section 3(d), in determining the number of outstanding Ordinary Shares, the Holder may rely on the number of outstanding Ordinary Shares as reflected in (x) the Company's most recent Form 20-F, Form 6-K or other public filing with the Securities and Exchange Commission, as the case may be (y) a more recent public announcement by the Company or (z) any other notice by the Company or the Transfer Agent setting forth the number of Ordinary Shares outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall within two (2) Business Days confirm orally and in writing to the Holder the number of Ordinary Shares then outstanding. In any case, the number of outstanding Ordinary Shares shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder and its affiliates since the date as of which such number of outstanding Ordinary Shares was reported. By written notice to the Company, the Holder may increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% specified in such notice; provided that (i) any such increase will not be effective until the sixty-first (61<sup>st</sup>) day after such notice is delivered to the Company, and (ii) any such increase or decrease will apply only to the Holder and not to any other holder of Notes.

(ii) Principal Market Regulation. The Company shall not be obligated to issue any ADRs upon conversion of this Note, and the Holder of this Note shall not have the right to receive upon conversion of this Note any ADRs, if the issuance of such ADRs would exceed the aggregate number of ADRs which the Company may issue upon conversion or exercise, as applicable, of the Notes and Warrants or otherwise without breaching the Company's obligations under the rules or regulations of the Principal Market (or such other Eligible Market on which the ADRs or Ordinary Shares are listed) and the ASX (the "**Exchange Cap**"), except that such limitation shall not apply in the event that the Company obtains the approval of its shareholders as required by the applicable rules of the Principal Market and the ASX listing rules for issuances in excess of such amount. Until such approval is obtained, no purchaser of the Notes pursuant to the Securities Purchase Agreement (the "**Purchasers**") shall be issued in the aggregate, upon conversion or exercise, as applicable, of Notes or Warrants, or otherwise any ADRs in an amount greater than the product of the Exchange Cap multiplied by a fraction, the numerator of which is the principal amount of Notes issued to the applicable Purchaser pursuant to the Securities Purchase Agreement on the Closing Date and the denominator of which is the aggregate principal amount of all Notes issued to the Purchasers pursuant to the Securities Purchase Agreement on the Closing Date (with respect to each Purchaser, the "**Exchange Cap Allocation**"). In the event that any Purchaser shall sell or otherwise transfer any of such Purchaser's Notes, the transferee shall be allocated a pro rata portion of such Purchaser's Exchange Cap Allocation, and the restrictions of the prior sentence shall apply to such transferee with respect to the portion of the Exchange Cap Allocation allocated to such transferee. In the event that any holder of Notes shall convert all of such holder's Notes into a number of ADRs which, in the aggregate, is less than such holder's Exchange Cap Allocation, then the difference between such holder's Exchange Cap Allocation and the number of ADRs actually issued to such holder shall be allocated to the respective Exchange Cap Allocations of the remaining holders of Notes on a pro rata basis in proportion to the aggregate principal amount of the Notes then held by each such holder.

(4) RIGHTS UPON EVENT OF DEFAULT.

(a) Event of Default. Each of the following events shall constitute an "**Event of Default**":

(i) the failure of the applicable Registration Statement required to be filed pursuant to the Registration Rights Agreement to be declared effective by the SEC on or prior to the date that is sixty (60) days after the applicable Effectiveness Deadline (as defined in the Registration Rights Agreement), or, while the applicable Registration Statement is required to be maintained effective pursuant to the terms of the Registration Rights Agreement, the effectiveness of the applicable Registration Statement lapses for any reason (including, without limitation, the issuance of a stop order) or is unavailable to any holder of the Notes for sale of all of such holder's Registrable Securities (as defined in the Registration Rights Agreement) in accordance with the terms of the Registration Rights Agreement, and such lapse or unavailability continues for a period of ten (10) consecutive days or for more than an aggregate of thirty (30) days in any 365-day period (other than days during an Allowable Grace Period (as defined in the Registration Rights Agreement));

(ii) the suspension from trading or failure of the ADRs to be listed on an Eligible Market for a period of five (5) consecutive days or for more than an aggregate of ten (10) days in any 365-day period;

(iii) the Company's (A) failure to cure a Conversion Failure by delivery of the required number of ADRs within twelve (12) Business Days after the applicable Conversion Date or (B) notice, written or oral, to any holder of the Notes, including by way of public announcement or through any of its agents, at any time, of its intention not to comply with a request for conversion of any Notes into ADRs that is tendered in accordance with the provisions of the Notes;

(iv) the Company's failure to pay to the Holder any amount of Principal when and as due or any Interest, Late Charges or other amounts within three Business Days of the date when and as due under this Note (including, without limitation, the Company's failure to pay any redemption payments) or any other Transaction Document (as defined in the Securities Purchase Agreement) or any other agreement, document, certificate or other instrument delivered in connection with the transactions contemplated hereby and thereby to which the Holder is a party;

(v) any Indebtedness, the aggregate of which obligation(s) exceed(s) US\$250,000.00 (or the equivalent in one or more other currencies) individually or in the aggregate is declared to be or otherwise becomes due and payable prior to its specified maturity (other than as a result of a mandatory prepayment not attributable to an event of default) or with respect to which the Company or any of its Subsidiaries fails to make any payment at the maturity date as and when due;

(vi) the Company or any of its Material Subsidiaries (as such term is defined under Regulation S-K under the Securities and Exchange Act of 1933, as amended), pursuant to or within the meaning of Title 11, U.S. Code, or any similar Federal, foreign or state law for the relief of debtors (collectively, "**Bankruptcy Law**"), (A) commences a voluntary case, (B) consents to the entry of an order for relief against it in an involuntary case, (C) consents to the appointment of a receiver, trustee, assignee, liquidator or similar official (a "**Custodian**"), (D) makes a general assignment for the benefit of its creditors or (E) admits in writing that it is generally unable to pay its debts as they become due;

(vii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company or any of its Material Subsidiaries in an involuntary case, (B) appoints a Custodian of the Company or any of its Material Subsidiaries or (C) orders the liquidation of the Company or any of its Material Subsidiaries;

(viii) a final judgment or judgments for the payment of money aggregating in excess of \$2,500,000 are rendered against the Company or any of its Subsidiaries and which judgments are not, within sixty (60) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within sixty (60) days after the expiration of such stay; provided, however, that any such judgment shall not give rise to an Event of Default under this subsection (viii) if and for so long as (A) the amount of such judgment is covered by a valid and binding policy of insurance between the defendant and the insurer covering full payment thereof and (B) such insurer has been notified, and has not disputed the claim made for payment, of the amount of such judgment;

(ix) the Company breaches any material representation, warranty, covenant or other term or condition of any Transaction Document in any material respect, except, in the case of a breach of a covenant which is curable, only if such breach continues for a period of at least ten (10) consecutive Business Days after notice from any Holder or the Company becomes or reasonably should be expected to have become aware of such breach;

(x) any material breach or failure in any respect to comply with either of Sections 8 or 15 of this Note; or

(xi) any Event of Default (as defined in the Other Notes) occurs with respect to any Other Notes.

(b) Redemption Right. Promptly after the occurrence of an Event of Default with respect to this Note or any Other Note, the Company shall deliver written notice thereof via facsimile and overnight courier (an "**Event of Default Notice**") to the Holder. At any time after the earlier of the Holder's receipt of an Event of Default Notice and the Holder becoming aware of an Event of Default and until 30 days after such Event of Default has been cured, the Holder may require the Company to redeem all or any portion of this Note by delivering written notice thereof (the "**Event of Default Redemption Notice**") to the Company, which Event of Default Redemption Notice shall indicate the portion of this Note the Holder is electing to redeem. Each portion of this Note subject to redemption by the Company pursuant to this Section 4(b) shall be redeemed by the Company at a price equal to the greater of (i) the product of (x) the Conversion Amount to be redeemed and (y) the Redemption Premium and (ii) the product of (A) the Conversion Rate with respect to such Conversion Amount in effect at such time as the Holder delivers an Event of Default Redemption Notice and (B) the Closing Sale Price of the ADRs on the date immediately preceding such Event of Default (the "**Event of Default Redemption Price**"). Redemptions required by this Section 4(b) shall be made in accordance with the provisions of Section 13.

(5) RIGHTS UPON FUNDAMENTAL TRANSACTION AND CHANGE OF CONTROL.

(a) Assumption. The Company shall not enter into or be party to a Fundamental Transaction unless, and shall use its best endeavors to procure that, (i) the Successor Entity (if other than the Company) assumes in writing all of the obligations of the Company under this Note and the other Transaction Documents in accordance with the provisions of this Section 5(a) pursuant to written agreements in form and substance reasonably satisfactory to the Required Holders and approved by the Required Holders prior to such Fundamental Transaction, including agreements to deliver to each holder of Notes in exchange for such Notes a security of such Successor Entity evidenced by a written instrument substantially similar in form and substance to the Notes, including, without limitation, having a principal amount and interest rate equal to the principal amounts and the interest rates of the Notes held by such holder and having similar ranking to the Notes, and reasonably satisfactory to the Required Holders and (ii) the Successor Entity is a publicly traded corporation whose common shares (or whose American Depositary Shares) are quoted on or listed for trading on an Eligible Market. Upon the occurrence of any Fundamental Transaction, such Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note referring to the "Company" shall refer instead to such Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of the Fundamental Transaction, such Successor Entity shall deliver to the Holder confirmation that there shall be issued upon conversion or redemption of this Note at any time after the consummation of the Fundamental Transaction, in lieu of the ADRs (or other securities, cash, assets or other property) purchasable upon the conversion or redemption of the Notes prior to such Fundamental Transaction, such publicly traded common shares (or their equivalent) of the Successor Entity (including its Parent Entity), as adjusted in accordance with the provisions of this Note. The provisions of this Section shall apply similarly and equally to successive Fundamental Transactions and shall be applied without regard to any limitations on the conversion or redemption of this Note.

(b) Redemption Right. No sooner than thirty (30) days nor later than ten (10) days prior to the consummation of a Change of Control, the Company shall deliver written notice thereof via facsimile and overnight courier to the Holder (a "**Change of Control Notice**"); provided that in no case shall the Company deliver or be required to deliver such Change of Control Notice prior to the public announcement of such Change of Control. At any time during the period beginning after the Holder's receipt of a Change of Control Notice and ending on the date of the consummation of such Change of Control (or, in the event a Change of Control Notice is not delivered at least ten (10) days prior to a Change of Control, at any time on or after the date which is ten (10) days prior to a Change of Control and ending ten (10) days after the consummation of such Change of Control), the Holder may require the Company to redeem all or any portion of this Note by delivering written notice thereof ("**Change of Control Redemption Notice**") to the Company, which Change of Control Redemption Notice shall indicate the Conversion Amount the Holder is electing to redeem. The portion of this Note subject to redemption pursuant to this Section 5 shall be redeemed by the Company at a price equal to the greater of (i) the product of (x) the Conversion Amount being redeemed and (y) the quotient determined by dividing (A) the Closing Sale Price of the ADRs immediately following the public announcement of such proposed Change of Control by (B) the Conversion Price and (ii) the product of Change of Control Premium and the Conversion Amount being redeemed (the "**Change of Control Redemption Price**"). Redemptions required by this Section 5 shall be made in accordance with the provisions of Section 13 and shall have priority to payments to shareholders in connection with a Change of Control.

(6) RIGHTS UPON ISSUANCE OF PURCHASE RIGHTS AND OTHER CORPORATE EVENTS.

(a) Purchase Rights. If at any time the Company, directly or indirectly, grants, issues or sells any Options, Convertible Securities or rights to purchase shares, warrants, securities or other property pro rata to the record holders of any class of Ordinary Shares (the "**Purchase Rights**"), then the Holder will be entitled to acquire, to the extent permitted by applicable Law, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of Ordinary Shares underlying the ADRs acquirable upon complete conversion of this Note (without taking into account any limitations or restrictions on the convertibility of this Note) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Ordinary Shares are to be determined for the grant, issue or sale of such Purchase Rights.

(b) Other Corporate Events. In addition to and not in substitution for any other rights hereunder, prior to the consummation of any Fundamental Transaction pursuant to which holders of ADRs or Ordinary Shares are entitled to receive securities or other assets with respect to or in exchange for ADRs or Ordinary Shares (a "**Corporate Event**"), the Company shall make appropriate provision, to the extent not prohibited by applicable law, to insure that the Holder will thereafter have the right to receive upon a conversion of this Note, (i) in addition to the ADRs receivable upon such conversion, such securities or other assets to which the Holder would have been entitled with respect to such ADRs had such ADRs been held by the Holder upon the consummation of such Corporate Event (without taking into account any limitations or restrictions on the convertibility of this Note) or (ii) in lieu of the ADRs otherwise receivable upon such conversion, such securities or other assets received by the holders of ADRs or Ordinary Shares in connection with the consummation of such Corporate Event in such amounts as the Holder would have been entitled to receive had this Note initially been issued with conversion rights for the form of such consideration (as opposed to ADRs) at a conversion rate for such consideration commensurate with the Conversion Rate. Provision made pursuant to the preceding sentence shall be in a form and substance satisfactory to the Required Holders. The provisions of this Section shall apply similarly and equally to successive Corporate Events and shall be applied without regard to any limitations on the conversion or redemption of this Note.

(7) RIGHTS UPON ISSUANCE OF OTHER SECURITIES.

(a) Adjustment of Conversion Price upon Issuance of Ordinary Shares. If and whenever on or after the Subscription Date, the Company issues or sells, or in accordance with this Section 7(a) is deemed to have issued or sold, any Ordinary Shares (including those underlying any ADRs and the issuance or sale of Ordinary Shares owned or held by or for the account of the Company, but excluding Ordinary Shares deemed to have been issued or sold by the Company in connection with any Excluded Security) for a consideration per Ordinary Share (the "**New Issuance Price**") less than a price (the "**Applicable Price**") equal to (i) one-tenth (1/10th) of the Conversion Price (in the case of ADRs) or (ii) the Conversion Price (in the case that the Conversion Price is determined by reference to the Ordinary Shares) in effect immediately prior to such issue or sale (the foregoing a "**Dilutive Issuance**"), then immediately after such Dilutive Issuance, the Conversion Price then in effect shall be reduced to an amount equal to the New Issuance Price. Appropriate and equitable adjustment to the terms and provisions of this Note shall be made in the event of any change to the ratio of ADRs to Ordinary Shares represented thereby. For purposes of determining the adjusted Conversion Price under this Section 7(a), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one Ordinary Share is issuable upon the exercise of any such Option or upon conversion or exchange or exercise of any Convertible Securities issuable upon exercise of such Option is less than the Applicable Price, then such Ordinary Share shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 7(a)(i), the "lowest price per share for which one Ordinary Share is issuable upon the exercise of any such Option or upon conversion or exchange or exercise of any Convertible Securities issuable upon exercise of such Option" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one Ordinary Share upon granting or sale of the Option, upon exercise of the Option and upon conversion or exchange or exercise of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Conversion Price shall be made upon the actual issuance of such Ordinary Shares or of such Convertible Securities upon the exercise of such Options or upon the actual issuance of such Ordinary Shares upon conversion or exchange or exercise of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one Ordinary Share is issuable upon such conversion or exchange or exercise thereof is less than the Applicable Price, then such Ordinary Share shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 7(a)(ii), the "price per share for which one Ordinary Share is issuable upon such conversion or exchange or exercise" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one Ordinary Share upon the issuance or sale of the Convertible Security and upon the conversion or exchange or exercise of such Convertible Security. No further adjustment of the Conversion Price shall be made upon the actual issuance of such Ordinary Shares upon conversion or exchange or exercise of such Convertible Securities, and if any such issue or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of the Conversion Price had been or are to be made pursuant to other provisions of this Section 7(a), no further adjustment of the Conversion Price shall be made by reason of such issue or sale.

(iii) Change in Option Price or Rate of Conversion. If the purchase price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exchange or exercise of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exchangeable or exercisable for Ordinary Shares changes at any time, the Conversion Price in effect at the time of such change shall be adjusted to the Conversion Price which would have been in effect at such time had such Options or Convertible Securities provided for such changed purchase price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 7(a)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Subscription Date are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Ordinary Shares deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change. No adjustment shall be made if such adjustment would result in an increase of the Conversion Price then in effect.



(iv) Calculation of Consideration Received. In case any Option is issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction in which no specific consideration is allocated to such Options by the parties thereto, the Options will be deemed to have been issued for a consideration of \$.01. If any Ordinary Shares, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the gross amount paid by the purchaser therefor. If any Ordinary Shares, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Company will be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Company will be the Closing Sale Price of such securities on the date of receipt. If any Ordinary Shares, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such Ordinary Shares, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash or securities will be determined in good faith by the Board of Directors of the Company.

(v) Record Date. If the Company takes a record of the holders of Ordinary Shares for the purpose of entitling them (A) to receive a dividend or other distribution payable in Ordinary Shares, Options or in Convertible Securities or (B) to subscribe for or purchase Ordinary Shares, Options or Convertible Securities, then such record date will be deemed to be the date of the issue or sale of the Ordinary Shares deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(b) Adjustment of Conversion Price upon Pro Rata Bonus Issue of Ordinary Shares. If the Company makes a pro rata bonus issue of Ordinary Shares to its shareholders prior to conversion of the Note, and the Note is not converted prior to the record date for the issue, the Note will, when converted, entitle the holder to the number of ADRs that would ordinarily be received under Section 3, plus the number of bonus Ordinary Shares which would have been issued to the Holder if the Note had been converted prior to the record date.

(c) Adjustment of Conversion Price upon Subdivision or Combination of Ordinary Shares. If the Company at any time on or after the Subscription Date subdivides (by any share split, share dividend, recapitalization or otherwise) one or more classes of its outstanding ADRs (or Ordinary Shares underlying such ADRs) into a greater number of ADRs (or Ordinary Shares), the Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. If the Company at any time on or after the Subscription Date combines (by combination, reverse share split or otherwise) one or more classes of its outstanding ADRs (or Ordinary Shares) into a smaller number of ADRs (or Ordinary Shares), the Conversion Price in effect immediately prior to such combination will be proportionately increased. Any adjustment under this Section 7(d) shall be subject to (and will be correspondingly reorganised in a manner which is permissible under, or necessary to comply with) the ASX Listing Rules or the rules of any Eligible Market in force at the relevant time and shall become effective at the close of business on the date the subdivision or combination becomes effective.

(d) Capital reorganizations. If there is a reorganisation of the capital of the Company, the number of ADRs applicable to the Note and/or the Conversion Price of the Note will be correspondingly reorganised in a manner, which is permissible under, or necessary to comply, with the ASX Listing Rules or the rules of any other Eligible Market in force at the relevant time. Subject to the above, if there is a reorganisation of the capital of the Company, the number of ADRs applicable to the Note or the Conversion Price or both will be reorganised so that the Holder of the Note will not receive a benefit that holders of Ordinary Shares do not receive. The Company shall give notice to the Holder of the Note of any adjustments to the number of ADRs which are to be issued on conversion of the Note or to the Conversion Price. Before a Note is converted, all adjustment calculations are to be carried out including all fractions (in relation to each of the number of ADRs applicable to the Note and the Conversion Price), but on conversion the number of ADRs issued is rounded down to the next lower whole number and the Conversion Price rounded up to the next higher cent.

(e) Other Events. If any event occurs of the type contemplated by the provisions of this Section 7 but not expressly provided for by such provisions (including, without limitation, the granting of share appreciation rights, phantom share rights or other rights with equity features), then the Company's Board of Directors will make an appropriate adjustment in the Conversion Price so as to protect the rights of the Holder under this Note; provided that no such adjustment will increase the Conversion Price as otherwise determined pursuant to this Section 7.

(f) Adjustment. If on April 30, 2007, the Subsequent Conversion Price is less than the then applicable Conversion Price, then the Conversion Price shall be reset to the Subsequent Conversion Price.

(8) HOLDER'S RIGHT OF OPTIONAL REDEMPTION. On each Holder Optional Redemption Date, the Holder shall have the right, in its sole discretion, to require that the Company redeem (each a "**Holder Optional Redemption**") up to \$6,250,000 in Principal amount of the Note plus accrued and unpaid Interest with respect to such Principal and accrued and unpaid Late Charges with respect to such principal and Interest (the "**Optional Redemption Amount**") by delivering written notice thereof (a "**Holder Optional Redemption Notice**" and, collectively with the Event of Default Redemption Notice and the Change of Control Redemption Notice, the "**Redemption Notices**" and each a "**Redemption Notice**") to the Company no later than ten (10) Business Days after the applicable Holder Optional Redemption Date. The Holder Optional Redemption Notice shall indicate the amount of the applicable Optional Redemption Amount the Holder is electing to have redeemed on such Optional Redemption Exercise Date (the "**Holder Optional Redemption Amount**") and the date of such redemption (the "**Optional Redemption Exercise Date**"); provided, however, that (a) such Holder Optional Redemption Amount indicated shall not exceed the Optional Redemption Amount and (b) such Optional Redemption Exercise Date shall not be less than ten (10) Business Days after the date of delivery of such Holder Optional Redemption Notice. The portion of this Note subject to redemption pursuant to this Section 8 shall be redeemed by the Company in cash on the applicable Holder Optional Redemption Date at a price equal to the Holder Optional Redemption Amount being redeemed (the "**Holder Optional Redemption Price**" and, collectively with the Event of Default Redemption Price and the Change of Control Redemption Price, the "**Redemption Prices**" and, each a "**Redemption Price**").

(9) COMPANY'S RIGHT OF MANDATORY CONVERSION.

(a) Mandatory Conversion. If at any time from and after the sixtieth (60<sup>th</sup>) day after the Effective Date (as defined in the Registration Statement) (the "**Mandatory Conversion Eligibility Date**"), (i) the Weighted Average Price of the ADRs exceed for each of any twenty (20) out of twenty-five (25) consecutive Trading Days following the Mandatory Conversion Eligibility Date (the "**Mandatory Conversion Measuring Period**"), 200% of the applicable Conversion Price (subject to appropriate adjustments for share splits, share dividends, share combinations and other similar transactions after the Subscription Date) and (ii) the Equity Conditions shall have been satisfied (or waived in writing by the Holder), during the period commencing on the Mandatory Conversion Notice Date through the applicable Mandatory Conversion Date (each, as defined below), the Company shall have the right to require the Holder to convert all, or any portion, of the Conversion Amount then remaining under this Note as designated in the Mandatory Conversion Notice into fully paid, validly issued and nonassessable ADRs in accordance with Section 3(c) hereof at the Conversion Rate as of the Mandatory Conversion Date (a "**Mandatory Conversion**"). The Company may exercise its right to require conversion under this Section 9(a) by delivering within not more than three (3) Business Days following the end of any such Mandatory Conversion Measuring Period a written notice thereof by facsimile and overnight courier to all, but not less than all, of the holders of Notes and the Transfer Agent (the "**Mandatory Conversion Notice**" and the date all of the holders received such notice is referred to as the "**Mandatory Conversion Notice Date**"). The Mandatory Conversion Notice shall be irrevocable. The Mandatory Conversion Notice shall state (i) the Business Day selected for the Mandatory Conversion in accordance with this Section 9(a), which Business Day shall be at least twenty (20) Business Days but not more than sixty (60) Business Days following the Mandatory Conversion Notice Date (the "**Mandatory Conversion Date**"), (ii) the aggregate Conversion Amount of the Notes subject to mandatory conversion from all of the holders of the Notes pursuant to this Section 9 (and analogous provisions under the Other Notes) and (iii) the number of ADRs to be issued to such Holder on the Mandatory Conversion Date.

(b) Pro Rata Conversion Requirement. If the Company elects to cause a conversion of any Conversion Amount of this Note pursuant to Section 9(a), then it must simultaneously take the same action in the same proportion with respect to the Other Notes. All Conversion Amounts converted by the Holder after the Mandatory Conversion Notice Date shall reduce the Conversion Amount of this Note required to be converted on the Mandatory Conversion Date. If the Company has elected a Mandatory Conversion, the mechanics of conversion set forth in Section 3(c) shall apply, to the extent applicable, as if the Company and the Transfer Agent had received from the Holder on the Mandatory Conversion Date a Conversion Notice with respect to the Conversion Amount being converted pursuant to the Mandatory Conversion.

(10) COMPANY'S RIGHT OF OPTIONAL REDEMPTION.

(a) Company Optional Redemption. At any time after the Issuance Date, the Company shall have the right to redeem all or any portion of the Conversion Amount then remaining under this Note (a "**Company Optional Redemption**"). The portion of this Note subject to redemption pursuant to this Section 10 shall be redeemed by the Company in cash at a price equal to 108% of the Conversion Amount being redeemed (the "**Company Optional Redemption Price**"). The Company may exercise its redemption right under this Section 10 by delivering a written notice thereof by confirmed facsimile and overnight courier to all, but not less than all, of the holders of Notes and the Transfer Agent (the "**Company Optional Redemption Notice**" and the date such notice is delivered to all the holders is referred to as the "**Company Optional Redemption Notice Date**"). The Company Optional Redemption Notice shall be irrevocable. The Company Optional Redemption Notice shall state (A) the date on which the Company Optional Redemption shall occur (the "**Company Optional Redemption Date**") which date shall be not less than thirty (30) days nor more than sixty (60) days after the Company Optional Redemption Notice Date, (B) the aggregate Principal amount (the "**Company Optional Redemption Amount**") of the Notes which the Company has elected to be subject to Optional Redemption from all of the holders of the Notes pursuant to this Section 10 (and analogous provisions under the Other Notes) on the Company Optional Redemption Date, (C) that in connection with the Company Optional Redemption the Company shall issue to the Holder Series B Warrants and (D) the number of ADSs for which such Series B Warrants shall become exercisable shall be equal to the quotient of (1) 30% of the Conversion Amount being redeemed and (2) the then applicable Conversion Price. The Company will make a public announcement containing the information set forth in the Company Optional Redemption Notice on or before the Company Optional Redemption Notice Date. The Company may not effect more than one (1) Company Optional Redemption during any consecutive thirty (30) Trading Day period. Notwithstanding anything to the contrary in this Section 10, until the Company Optional Redemption Price is paid, in full, the Company Optional Redemption Amount may be converted, in whole or in part, by the holders of Notes into ADSs pursuant to Section 3. All Conversion Amounts converted by the Holder after the Company Optional Redemption Notice Date shall reduce the Conversion Amount of this Note required to be redeemed on the Company Optional Redemption Date. Redemptions made pursuant to this Section 10 shall be made in accordance with Section 13.

(b) Pro Rata Redemption Requirement. If the Company elects to cause a Company Optional Redemption pursuant to Section 10(a), then it must simultaneously take the same action with respect to the Other Notes. If the Company elects to cause a Company Optional Redemption pursuant to Section 10(a) (or similar provisions under the Other Notes) with respect to less than all of the principal amount of the Notes then outstanding, then the Company shall require redemption of a Principal amount from the Holder and each holder of the Other Notes equal to the product of (i) the aggregate principal amount of Notes which the Company has elected to cause to be redeemed pursuant to Section 8(a), multiplied by (ii) the fraction, the numerator of which is the sum of the initial principal amount of Notes purchased by such holder and the denominator of which is the initial principal amounts of Notes purchased by all holders holding outstanding Notes (such fraction with respect to each holder is referred to as its "**Redemption Allocation Percentage**", and such amount with respect to each holder is referred to as its "**Pro Rata Redemption Amount**"); provided that in the event that the initial holder of any Notes has sold or otherwise transferred any of such holder's Notes, the transferee shall be allocated a pro rata portion of such holder's Redemption Allocation Percentage and Pro Rata Redemption Amount.

(11) NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its Constitution, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any Ordinary Shares underlying the Conversion Shares receivable upon the conversion of this Note above the Conversion Price then in effect and (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Conversion Shares upon the conversion of this Note.

(12) SUBORDINATION TO PERMITTED SENIOR INDEBTEDNESS; SECURITY.

(a) Subordination. Subject to the final sentence of Section (12)(g) hereof, the indebtedness represented by this Note and the payment of any Principal, Interest, Late Charges, redemption amount, liquidated damages, fees, expenses or any other amounts in respect of this Note (collectively, the "Subordinated Indebtedness") is hereby expressly made subordinate and junior and subject in right of payment, only to the extent expressly set forth in Section (12)(b) hereof, to the prior payment in full of all Permitted Senior Indebtedness of the Company hereinafter incurred.

(b) Payment upon Dissolution, Etc. In the event of any bankruptcy, insolvency, reorganization, receivership, composition, assignment for benefit of creditors or other similar proceeding initiated by or against the Company or any dissolution or winding up or total or partial liquidation or reorganization in bankruptcy of the Company (each, a "Proceeding"), all principal, interest and other obligations due upon any Permitted Senior Indebtedness shall first be paid in full or fully cash collateralized before the Holder shall be entitled to receive or, if received, to retain any payment or distribution on account of this Note and, during the continuance of any such Proceeding, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the Holder would be entitled with respect to any Subordinated Indebtedness but for the provisions of this Section 12 shall be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, or by the Holder who shall have received such payment or distribution, directly to the holders of the Permitted Senior Indebtedness (pro rata to each such holder on the basis of the respective amounts of such Permitted Senior Indebtedness held by such holder) or their representatives to the extent necessary to pay all such Permitted Senior Indebtedness in full after giving effect to any concurrent payment or distribution to or for the holders of such Permitted Senior Indebtedness, before any payment or distribution is made to the Holder or any holders of the Notes; provided, however, that notwithstanding anything to the contrary, in any event the Holder shall be entitled to receive and retain any and all Junior Securities (as defined below), and shall be ranked first with respect to the proceeds of the Collateral.

(c) Certain Rights. Nothing contained in this Section 12 or elsewhere in this Note or any other Transaction Document, is intended to or shall impair, as among the Company, its creditors including the holders of Permitted Senior Indebtedness and the Holder, the right, which is absolute and unconditional, of the Holder to convert this Note in accordance herewith.

(d) Rights of Holder Unimpaired. The provisions of this Section 12 are and are intended solely for the purposes of defining the relative rights of the Holder and the holders of Permitted Senior Indebtedness and nothing in this Section 12 shall impair, as between the Company and the Holder, the obligation of the Company, which is unconditional and absolute, to pay to the Holder the Principal hereof (and premium, if any), accrued Interest hereon and all other Subordinated Indebtedness payable hereunder, all in accordance with the terms of this Note.

(e) Junior Securities. As used herein, "Junior Securities" means debt or equity securities of the Company as reorganized or readjusted, or debt or equity securities of the Company or any other Person provided for by a plan of reorganization or readjustment authorized by an order or decree of a court of competent jurisdiction in a Proceeding under any applicable law, so long as in the case of debt securities, such Junior Securities are subordinated in right of payment to all Permitted Senior Indebtedness and to whatever is issued to the holders of the Permitted Senior Indebtedness on account of the Permitted Senior Indebtedness, to the same extent as, or to a greater extent than, the Subordinated Indebtedness is so subordinated as provided for herein.

(f) Intercreditor Arrangements. In the event that a holder of Permitted Senior Indebtedness shall require the holders of the Notes to enter into any intercreditor or subordination agreement or any similar arrangements, the Company shall reimburse the Holder for any reasonable expenses incurred in connection with the negotiation, execution and delivery of any such agreement (and any related documents), including without limitation, reasonable legal fees and expenses.

(g) Lien Subordination. Any Lien of Holder, whether now or hereafter existing in connection with the amounts due under this Note, on any assets or property of Company or any proceeds or revenues therefrom which Holder may have at any time as security for any amounts due and obligations under this Note shall be subordinate to all Liens hereafter granted to a holder of Permitted Senior Indebtedness by Company or by law, notwithstanding the date, order or method of attachment or perfection of any such Lien or the provisions of any applicable law. The foregoing sentence shall not apply with respect to the Holder's security interest set forth in the Security Documents.

(13) REDEMPTIONS.

(a) Mechanics. The Company shall deliver the applicable Event of Default Redemption Price to the Holder within ten (10) Business Days after the Company's receipt of the Holder's Event of Default Redemption Notice. If the Holder has submitted a Change of Control Redemption Notice in accordance with Section 5(b), the Company shall deliver the applicable Change of Control Redemption Price to the Holder on the later of (i) concurrently with the consummation of such Change of Control or (ii) within ten (10) Business Days after the Company's receipt of such notice. The Company shall deliver (A) the Holder Optional Redemption Price to the Holder on the Holder Optional Redemption Date, (B) the Company Optional Redemption Price to the Holder on the Company Optional Redemption Date and (C) the Asset Sale Redemption Price to the Holder on the Asset Sale Redemption Date. In the event of a redemption of less than all of the Conversion Amount of this Note, the Company shall promptly cause to be issued and delivered to the Holder a new Note (in accordance with Section 19(d)) representing the outstanding Principal which has not been redeemed. In the event that the Company does not pay the applicable Redemption Price to the Holder within the time period required, at any time thereafter and until the Company pays such unpaid Redemption Price in full, the Holder shall have the option, in lieu of redemption, to require the Company to promptly return to the Holder all or any portion of this Note representing the Conversion Amount that was submitted for redemption and for which the applicable Redemption Price (together with any Late Charges thereon) has not been paid. Upon the Company's receipt of such notice, (x) the Redemption Notice shall be null and void with respect to such Conversion Amount, (y) the Company shall immediately return this Note, or issue a new Note (in accordance with Section 19(d)) to the Holder representing such Conversion Amount and (z) the Conversion Price of this Note or such new Notes shall be adjusted to the lesser of (A) the Conversion Price as in effect on the date on which the Redemption Notice is voided and (B) the lowest Closing Bid Price of the ADRs during the period beginning on and including the date on which the Redemption Notice is delivered to the Company and ending on and including the date on which the Redemption Notice is voided. The Holder's delivery of a notice voiding a Redemption Notice and exercise of its rights following such notice shall not affect the Company's obligations to make any payments of Late Charges which have accrued prior to the date of such notice with respect to the Conversion Amount subject to such notice.

(b) Redemption by Other Holders. Upon the Company's receipt of notice from any of the holders of the Other Notes for redemption or repayment as a result of an event or occurrence substantially similar to the events or occurrences described in Sections 4(b), Section 5(b) or Section 8 (each, an "**Other Redemption Notice**"), the Company shall immediately forward to the Holder by facsimile a copy of such notice. If the Company receives a Redemption Notice and one or more Other Redemption Notices, during the seven (7) Business Day period beginning on and including the date which is three (3) Business Days prior to the Company's receipt of the Holder's Redemption Notice and ending on and including the date which is three (3) Business Days after the Company's receipt of the Holder's Redemption Notice and the Company is unable to redeem all principal, interest and other amounts designated in such Redemption Notice and such Other Redemption Notices received during such seven (7) Business Day period, then the Company shall redeem a pro rata amount from each holder of the Notes (including the Holder) based on the principal amount of the Notes submitted for redemption pursuant to such Redemption Notice and such Other Redemption Notices received by the Company during such seven (7) Business Day period.

(14) VOTING RIGHTS. The Holder shall have no voting rights as the holder of this Note, except as required by law, the *Corporations Act* 2001 (Cth) and as expressly provided in this Note, or any other Transaction Documents.

(15) COVENANTS.

(a) Rank. All payments due under this Note (a) shall rank *pari passu* with all Other Notes and all Permitted Indebtedness (other than Permitted Senior Indebtedness and Permitted Indebtedness described in clause (B) of the definition thereof) and (b) shall be senior to all other Indebtedness of the Company and its Subsidiaries other than Permitted Senior Indebtedness.

(b) Incurrence of Indebtedness. So long as this Note is outstanding, the Company shall not, and the Company shall not permit any of its Subsidiaries to, directly or indirectly, incur or guarantee, assume or suffer to exist any Indebtedness, other than (i) the Indebtedness evidenced by this Note and the Other Notes and (ii) Permitted Indebtedness.

(c) Existence of Liens. So long as this Note is outstanding, the Company shall not, and the Company shall not permit any of its Subsidiaries to, directly or indirectly, allow or suffer to exist any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by the Company or any of its Subsidiaries (collectively, "**Liens**") other than Permitted Liens.

(d) Restricted Payments. The Company shall not, and the Company shall not permit any of its Subsidiaries to, directly or indirectly, redeem, defease, repurchase, repay or make any payments in respect of, by the payment of cash or cash equivalents (in whole or in part, whether by way of open market purchases, tender offers, private transactions or otherwise), all or any portion of any Permitted Indebtedness whether by way of payment in respect of principal of (or premium, if any) or interest on such Indebtedness if at the time such payment is due or is otherwise made or, after giving effect to such payment, an event constituting, or that with the passage of time and without being cured would constitute, an Event of Default has occurred and is continuing.

(e) Net Cash Balance. So long as this Note is outstanding, the Company shall at all times maintain a Net Cash Balance in excess of 30% of the aggregate remaining unamortized or un-converted Principal amount of Notes then outstanding (the "**Net Cash Balance Test**"); provided, however, that upon the occurrence of the later of (i) the consummation of one or more Subsequent Placements (as defined in the Securities Purchase Agreement) in any nine-month period for which the Company receives aggregate gross proceeds equal to or greater than \$16,000,000 or (ii) the effectiveness of the Initial Registration Statement (as defined in the Registration Rights Agreement), the Company shall no longer be required to satisfy the Net Cash Balance Test. Promptly after any date on which the Net Cash Balance Test is not satisfied (a "**Failure Date**"), and to the extent such failure constitutes non-public material information the Company shall publicly disclose (on a Current Report on Form 6-K or otherwise) such material non-public information and provide to the Holder a certification as to the amount of the Net Cash Balance as of the Failure Date.



(f) Asset Sales. Promptly after the occurrence of an Asset Sale, the Company shall deliver written notice thereof via facsimile and overnight courier (an "**Asset Sale Notice**") to the Holder. Within sixty (60) Trading Days of such notice, the Holder may require the Company to redeem (an "**Asset Sale Redemption**"), with the Available Cash Proceeds of such Asset Sale, all or any portion of the Conversion Amount of this Note by delivering written notice thereof (the "**Asset Sale Redemption Notice**") to the Company, which Asset Sale Redemption Notice shall indicate the portion of this Note the Holder is electing to redeem; provided that if the aggregate principal amount of this Note and Other Notes to be redeemed with the cash proceeds of an Asset Sale exceed the amount of Available Cash Proceeds from such Asset Sale, the Company shall redeem this Note and Other Notes on a pro rata basis with such proceeds. In connection with the consummation of such Asset Sale Redemption, the Company shall issue to the Holder Series B Warrants, which warrants shall be exercisable for a number of ADSs equal to the quotient of (1) 30% of the Conversion Amount being redeemed and (2) the then applicable Conversion Price. Each portion of this Note subject to redemption by the Company pursuant to this Section 15(f) shall be redeemed by the Company at a price equal to 110% of the Conversion Amount being redeemed (the "**Asset Sale Redemption Price**"). The Company shall effect such Asset Sale Redemption including issuing such warrant on a date ("**Asset Sale Redemption Date**") not later than two (2) business days after receipt of such Asset Sale Redemption Notice. Upon the consummation of the Asset Sale, the Holder shall take any action required pursuant to the terms of the Security Documents to release any security interest on such Collateral subject to such Asset Sale. The Company and the Holder shall reasonably cooperate to coordinate the release of the Holder's security interest and any Asset Sale Redemption to facilitate an Asset Sale. Redemptions required by this Section 15(f) shall be made in accordance with the provisions of Section 13.

(16) PARTICIPATION. The Holder, as the holder of this Note, shall be entitled to receive such dividends paid (other than cash dividends) and distributions made to the holders of ADRs or Ordinary Shares to the same extent as if the Holder had converted this Note into ADRs (without regard to any limitations on conversion herein or elsewhere) and had held such ADRs on the record date for such dividends and distributions. Payments under the preceding sentence shall be made concurrently with the dividend or distribution to the holders of ADRs or Ordinary Shares.

(17) VOTE TO ISSUE, OR CHANGE THE TERMS OF, NOTES. The affirmative vote at a meeting duly called for such purpose or the written consent without a meeting of the Required Holders shall be required for any change or amendment to this Note or the Other Notes.

(18) TRANSFER. This Note and any ADRs issued upon conversion of this Note may be offered, sold, assigned or transferred by the Holder without the consent of the Company, subject only to the provisions of Section 2(f) of the Securities Purchase Agreement.

(19) REISSUANCE OF THIS NOTE.

(a) Transfer. If this Note is to be transferred, the Holder shall surrender this Note to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 19(d)), registered as the Holder may request, representing the outstanding Principal being transferred by the Holder and, if less than the entire outstanding Principal is being transferred, a new Note (in accordance with Section 19(d)) to the Holder representing the outstanding Principal not being transferred. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of Section 3(c)(iii) following conversion or redemption of any portion of this Note, the outstanding Principal represented by this Note may be less than the Principal stated on the face of this Note.

(b) Lost, Stolen or Mutilated Note. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 19(d)) representing the outstanding Principal.

(c) Note Exchangeable for Different Denominations. This Note is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Note or Notes (in accordance with Section 19(d) and in principal amounts of at least \$100,000) representing in the aggregate the outstanding Principal of this Note, and each such new Note will represent such portion of such outstanding Principal as is designated by the Holder at the time of such surrender.

(d) Issuance of New Notes. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding (or in the case of a new Note being issued pursuant to Section 19(a) or Section 19(c), the Principal designated by the Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the Principal remaining outstanding under this Note immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest and Late Charges on the Principal and Interest of this Note, from the Issuance Date.

(20) REMEDIES, CHARACTERIZATIONS, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required.

(21) PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, attorneys' fees and disbursements.

(22) CONSTRUCTION; HEADINGS. This Note shall be deemed to be jointly drafted by the Company and all the Purchasers and shall not be construed against any person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note.

(23) FAILURE OR INDULGENCE NOT WAIVER. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

(24) DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price or the arithmetic calculation of the Conversion Rate or the Redemption Price, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two (2) Business Days of receipt, or deemed receipt, of the Conversion Notice or Redemption Notice or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within two (2) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Business Days submit via facsimile (a) the disputed determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Conversion Rate or the Redemption Price to the Company's independent, outside accountant. The Company, at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than seven (7) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

(25) NOTICES; CURRENCY; PAYMENTS.

(a) Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon any adjustment of the Conversion Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least twenty (20) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the ADRs or Ordinary Shares, (B) with respect to any pro rata subscription offer to holders of ADRs or Ordinary Shares or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Currency. Unless otherwise indicated, all dollar amounts referred to in this Note are in United States Dollars.

(c) Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, such payment shall be made in lawful money of the United States of America by a check drawn on the account of the Company and sent via overnight courier service to such Person at such address as previously provided to the Company in writing (which address, in the case of each of the Purchasers, shall initially be as set forth on the Schedule of Buyers attached to the Securities Purchase Agreement); provided that the Holder may elect to receive a payment of cash via wire transfer of immediately available funds by providing the Company with prior written notice setting out such request and the Holder's wire transfer instructions. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day and, in the case of any Interest Date which is not the date on which this Note is paid in full, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of Interest due on such date. Any amount of Principal or other amounts due under the Transaction Documents, other than Interest, which is not paid when due shall result in a late charge being incurred and payable by the Company in an amount equal to interest on such amount at the rate of ten percent (10%) per annum from the date such amount was due until the same is paid in full ("**Late Charge**").

(26) CANCELLATION. After all Principal, accrued Interest and other amounts at any time owed on this Note have been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

(27) WAIVER OF NOTICE. To the extent permitted by law, the Company hereby waives demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note and the Securities Purchase Agreement.

(28) **GOVERNING LAW.** This Note shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Note shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

(29) **CERTAIN DEFINITIONS.** For purposes of this Note, the following terms shall have the following meanings:

(a) "**ADRs**" means the American Depositary Receipts of the Company evidencing the American Depositary Shares of the Company which each represent ten (10) Ordinary Shares or any successor securities. Appropriate and equitable adjustment to the terms and provisions of this Notes shall be made in the event of any change to the ratio of ADRs to Ordinary Shares.

(b) "**Applicable Asset Sale Amount**" means the net cash proceeds from the Asset Sale causing the calculation.

(c) "**Approved Stock Plan**" means any employee benefit plan which has been approved by the Board of Directors of the Company, pursuant to which the Company's securities may be issued to any employee, officer, director or consultant for services provided to the Company.

(d) "**Asset Sale**" means the sale, lease, conveyance or other disposition of any assets or rights that constitute Collateral.

(e) "**ASX**" means the Australian Stock Exchange.

(f) "**Available Amount**" means \$7,500,000 less the aggregate principal amount of this Note previously redeemed pursuant to Section

15(f).

(g) "**Available Cash Proceeds**" of any Asset Sale means:

(i) If both the Applicable Asset Sale Amount and the Cumulative Asset Sale Amount are less than \$7,500,000, 100% of the gross proceeds of such Asset Sale;

(ii) if the Applicable Asset Sale Amount is less than \$7,500,000 but the Cumulative Asset Sale Amount is greater than \$7,500,000, the lesser of (I) 100% of the net cash proceeds of such Asset Sale and (II) the sum of (x) the Available Amount and (y) the Excess Asset Sale Amount; or

(iii) if the Applicable Asset Sale Amount is greater than \$7,500,000, the lesser of (I) \$7,500,000 and (II) the sum of (x) the Available Amount and (y) the Excess Asset Sale Amount;

provided, however, that if such Available Cash Proceeds of an Asset Sale is not a positive number, no cash proceeds of such Asset Sale shall be Available Cash Proceeds.

(h) "**Bloomberg**" means Bloomberg Financial Markets.

(i) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York, State of New York, U.S.A. or Perth, Australia are authorized or required by law to remain closed.

(j) "**Calendar Quarter**" means each of: the period beginning on and including January 1 and ending on and including March 31; the period beginning on and including April 1 and ending on and including June 30; the period beginning on and including July 1 and ending on and including September 30; and the period beginning on and including October 1 and ending on and including December 31.

(k) "**Cash Equivalents**" means (i) securities issued, or directly and fully guaranteed or insured, by the government of the United States, Australia or the United Kingdom or any agency or instrumentality thereof having maturities of not more than one year from the date of the acquisition by a Person, (ii) demand deposits and time deposits and certificates of deposit, having maturities of not more than one year from the date of acquisition, of any domestic commercial bank which has, or the holding company of which has, a commercial paper rating meeting the requirements specified in clause (iv) below, (iii) repurchase obligations with a term of not more than 270 days for underlying securities of the types described in clauses (i) and (ii) entered into with any financial institution meeting the qualifications specified in clause (ii) above, and (iv) commercial paper rated at least A-2 or the equivalent thereof by Standard & Poor's Ratings Group or P-2 or the equivalent thereof by Moody's Investors Service, Inc. and in either case maturing within one year after the date of acquisition.

(l) "**Change of Control**" means any Fundamental Transaction other than (i) any consolidation, merger, combination, or any reorganization, recapitalization or reclassification of the Ordinary Shares pursuant to, which holders of the Company's voting power immediately prior to such consolidation, merger, combination, reorganization, recapitalization or reclassification continue after such consolidation, merger, combination, reorganization, recapitalization or reclassification to hold publicly traded securities and, directly or indirectly, the voting power of the surviving entity or entities necessary to elect a majority of the members of the board of directors (or their equivalent if other than a corporation) of such entity or entities, or (ii) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Company.

(m) "**Change of Control Premium**" means (i) until the 12-month anniversary of the Issuance Date, 120%, (ii) from and after the 12-month anniversary of the Issuance Date until the 24-month anniversary of the Issuance Date, 115%, (iii) from and after the 24-month anniversary of the Issuance Date until the 30-month anniversary of the Issuance Date, 110%, and (iv) after the 30-month anniversary of the Issuance Date, 105%.

(n) "**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by Pink Sheets LLC (formerly the National Quotation Bureau, Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 24. All such determinations to be appropriately adjusted for any share dividend, share split, share combination or other similar transaction during the applicable calculation period.

(o) "**Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement, which date is the date the Company initially issued Notes pursuant to the terms of the Securities Purchase Agreement.

(p) "**Collateral**" has the meaning ascribed to such term in the Security Documents.

(q) "**Consolidated Total Indebtedness**" means, with respect to any Person at any date, all Indebtedness of such Person determined on a consolidated basis in accordance with GAAP, including, in any event, with respect to the Company and its Subsidiaries, the outstanding principal amount of the Notes.

(r) "**Consolidated Total Indebtedness to Market Capitalization Ratio**" means the ratio of Consolidated Total Indebtedness to Market Capitalization.

(s) "**Convertible Securities**" means any shares or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for Ordinary Shares.

(t) "**Cumulative Asset Sale Amount**" means the aggregate net cash proceeds received by the Company from all Asset Sales after the Issuance Date (including the Asset Sale that is causing the applicable calculation).

(u) "**Deposit Agreement**" means that certain Deposit Agreement, dated as of January 24, 2005, by and among the Company, the Depository and the holders and beneficial owners from time to time of ADSs evidenced by ADRs issued pursuant to such agreement.

(v) "**Depository**" means Citibank, N.A. acting in such capacity under the Deposit Agreement.

(w) "**Eligible Market**" means the Principal Market, The New York Stock Exchange, Inc., the American Stock Exchange, or The Nasdaq SmallCap Market.

(x) "**Equity Conditions**" means: (i) on each day during the period beginning on the date which is the later of (x) the earlier of (A) the Effectiveness Deadline and (B) the Effective Date and (y) one (1) month prior to the applicable date of determination and ending on and including the applicable date of determination (the "**Equity Conditions Measuring Period**"), either (x) the Registration Statement filed pursuant to the Registration Rights Agreement shall be effective and available for the resale of all remaining Registrable Securities in accordance with the terms of the Registration Rights Agreement and there shall not have been any Grace Periods (as defined in the Registration Rights Agreement) or (y) all ADRs issuable upon conversion of the Notes and exercise of the Warrants shall be eligible for sale without restriction and without the need for registration under any applicable federal or state securities laws; (ii) on each day during the Equity Conditions Measuring Period, the ADRs are designated for quotation on the Principal Market or an Eligible Market and shall not have been suspended from trading on such exchange or market (other than suspensions of not more than two (2) days and occurring prior to the applicable date of determination due to business announcements by the Company) nor shall delisting or suspension by such exchange or market been threatened or pending either (A) in writing by such exchange or market or (B) by falling below the minimum listing maintenance requirements of such exchange or market; (iii) during the Equity Conditions Measuring Period the Company shall have delivered Conversion Shares upon conversion of the Notes and ADRs upon exercise of the Warrants to the holders on a timely basis as set forth herein hereof (and analogous provisions under the Other Notes) and the Warrants; (iv) any applicable ADRs to be issued in connection with the event requiring determination may be issued in full without violating Section 3(d) hereof and the rules or regulations of the Principal Market or any applicable Eligible Market; (v) during the Equity Conditions Measuring Period, the Company shall not have failed to timely make any payments within five (5) Business Days of when such payment is due pursuant to any Transaction Document; (vi) during the Equity Conditions Measuring Period, there shall not have occurred either (A) the public announcement of a pending, proposed or intended Fundamental Transaction which has not been abandoned, terminated or consummated or (B) an Event of Default or an event that with the passage of time or giving of notice would constitute an Event of Default; (vii) the Company shall have no knowledge of any fact that would cause (x) the Registration Statements required pursuant to the Registration Rights Agreement not to be effective and available for the resale of all remaining Registrable Securities in accordance with the terms of the Registration Rights Agreement or (y) any ADRs issuable upon conversion of the Notes and ADRs issuable upon exercise of the Warrants not to be eligible for sale without restriction pursuant to Rule 144(k) and any applicable state securities laws; and (viii) during the Equity Conditions Measuring Period, the Company otherwise shall have been in material compliance with and shall not have materially breached or be in material breach of any material provision, covenant, representation or warranty of any Transaction Document.



(y) "**Excess Asset Sale Amount**" means solely in the event that the Cumulative Asset Sale Amount is in excess of \$15,000,000, 50% of such net cash proceeds in excess of \$15,000,000.

(z) "**Excluded Securities**" means any Ordinary Shares issued or issuable: (i) in connection with any Approved Stock Plan; (ii) upon conversion of the Notes or the exercise of the Warrants; (iii) pursuant to a bona fide firm commitment underwritten public offering with a nationally recognized underwriter which generates gross proceeds to the Company in excess of \$25,000,000 (other than an "at-the-market offering" as defined in Rule 415(a)(4) under the 1933 Act and "equity lines"); (iv) in connection with the payment of any Interest Shares on the Notes; (v) in connection with any acquisition by the Company, whether through an acquisition of shares or a merger of any business, assets or technologies the primary purpose of which is not to raise equity capital; (vi) upon conversion of any Options or Convertible Securities which are outstanding on the day immediately preceding the Subscription Date, provided that the terms of such Options or Convertible Securities are not amended, modified or changed on or after the Subscription Date; (vii) in replacement of outstanding Ordinary Shares as a result of the re-incorporation of the Company into the United States; (viii) in connection with any rights offering to all holders of Ordinary Shares generally; and (ix) in connection with a Strategic Financing.

(aa) "**Fundamental Transaction**" means that the Company shall, directly or indirectly, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Person, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company to another Person, or (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than the 50% of the outstanding Ordinary Shares (not including any Ordinary Shares held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (iv) consummate a share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than the 50% of the outstanding Ordinary Shares (not including any Ordinary Shares held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such share purchase agreement or other business combination), or (v) reorganize, recapitalize or reclassify its Ordinary Shares.

(bb) "**GAAP**" means United States generally accepted accounting principles, consistently applied.

(cc) "**Holder Optional Redemption Date**" means each of July 31, 2007 and January 31, 2008.

(dd) "**Holder Pro Rata Amount**" means a fraction (i) the numerator of which is the Principal amount of this Note on the Closing Date and (ii) the denominator of which is the aggregate principal amount of the Notes issued to the initial purchasers pursuant to the Securities Purchase Agreement on the Closing Date of all then outstanding Notes.

(ee) "**Interest Conversion Price**" means, with respect to any Interest Date, that price which shall be computed as 85% of the arithmetic average of the Weighted Average Price of the ADRs on each of the ten (10) consecutive Trading Days ending on the Trading Day immediately preceding the applicable Interest Date (each, an "**Interest Measuring Period**"). All such determinations to be appropriately adjusted for any share split, share dividend, share combination or other similar transaction during such period.

(ff) "**Interest Rate**" means eight percent (8.0%) per annum.

(gg) "**Market Capitalization**" of the Company means the amount determined by multiplying the total number of Ordinary Shares issued and outstanding (as reflected in the Company's latest Form 20-F or other publicly filed report) times the arithmetic average of the Weighted Average Price of the Ordinary Shares for the ten (10) consecutive Trading Days preceding the date of measurement.

(hh) "**Maximum Interest Share Amount**" means the Holder Pro Rata Amount of the quotient determined by dividing (A) the product of (x) 15% and (y) the sum of the Trading Dollar Volume of the ADRs for the twenty (20) Trading Days ending on the Trading Day immediately preceding the applicable Interest Date by (B) the applicable Interest Conversion Price.

(ii) "**Net Cash Balance**" means, at any date, the difference between (i) aggregate amount of all cash and Cash Equivalents and Short and Long Term Investments reflected on the Company's balance sheet as at such date, *minus* (ii) the unpaid principal balance of the Permitted Indebtedness (not including amounts owed under the Notes and any accounts payable) on such date.

(jj) "**Optional Redemption Date**" means any of a Company Redemption Date, an Asset Sale Redemption Date and a Holder Redemption Date.

(kk) "**Options**" means any rights, warrants or options to subscribe for or purchase Ordinary Shares or Convertible Securities.

(ll) "**Ordinary Shares**" means (i) the Company's ordinary shares, no par value per share, and (ii) any share capital into which such Ordinary Shares shall have been changed or any share capital resulting from a reclassification of such Ordinary Shares.

(mm) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common shares or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(nn) **"Permitted Indebtedness"** means (A) Permitted Senior Indebtedness, (B) Indebtedness incurred by the Company that is made expressly subordinate in right of payment to the Indebtedness evidenced by this Note, as reflected in a written agreement acceptable to the Holder and approved by the Holder in writing, and which Indebtedness does not provide at any time for (1) the payment, prepayment, repayment, repurchase or defeasance, directly or indirectly, of any principal or premium, if any, thereon until ninety-one (91) days after the Maturity Date or later and (2) total interest and fees at a rate in excess of eight percent (8%) per annum, (C) Indebtedness secured by Permitted Liens, (D) Indebtedness to trade creditors incurred in the ordinary course of business, and (E) Indebtedness of any entity acquired by or merged with the Company not for capital raising purposes and existing at the date of such acquisition or merger, (F) Indebtedness not covered by (A) through (E) above which is incurred by the Company in an amount not to exceed an aggregate of \$10 million dollars, provided that such Indebtedness is not in any way convertible into, exchangeable for or in any way payable in equity securities of the Company and, provided further that such Indebtedness shall only be incurred to the extent that the Consolidated Total Indebtedness to Market Capitalization Ratio does not exceed .15 at the time of incurrence of such Indebtedness, (G) extensions, refinancings and renewals of any items of Permitted Indebtedness, provided that the principal amount is not increased or the terms modified to impose more burdensome terms upon the Company or its Subsidiary, as the case may be and (H) Indebtedness evidenced by this Note and the Other Notes.

(oo) **"Permitted Liens"** means (i) any Lien for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, (ii) any statutory Lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent, (iii) any Lien created by operation of law, such as materialmen's liens, mechanics' liens and other similar liens, arising in the ordinary course of business with respect to a liability that is not yet due or delinquent or that are being contested in good faith by appropriate proceedings, (iv) Liens (A) upon or in any equipment acquired or held by the Company or any of its Subsidiaries to secure the purchase price of such equipment or indebtedness incurred solely for the purpose of financing the acquisition or lease of such equipment, or (B) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment, (v) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (i) and (iv) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced does not increase, (vi) leases or subleases and licenses and sublicenses granted to others in the ordinary course of the Company's business, not interfering in any material respect with the business of the Company and its Subsidiaries taken as a whole, (vii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of custom duties in connection with the importation of goods, (viii) Liens on any assets of any entity acquired by or merged with the Company not for capital raising purposes and existing at the date of such acquisition or merger, (ix) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 4(a)(viii) and (x) Liens securing the obligations under this Note and the Other Notes.

(pp) **"Permitted Senior Indebtedness"** means the principal of (and premium, if any), interest on, and all fees and other amounts (including, without limitation, any reasonable out-of-pocket costs, enforcement expenses (including reasonable out-of-pocket legal fees and disbursements), collateral protection expenses and other reimbursement or indemnity obligations relating thereto) payable by Company and/or its Subsidiaries under or in connection with any credit facility to be entered into by the Company and/or its Subsidiaries with one or more financial institutions together with any amendments, restatements, renewals, refundings, refinancings or other extensions thereof; provided, however, that the aggregate outstanding amount of such Permitted Senior Indebtedness (taking into account the maximum amounts which may be advanced under the loan documents evidencing such Permitted Senior Indebtedness) does not as of the date on which any such Permitted Senior Indebtedness is incurred exceed \$10,000,000, with respect to the unpaid principal balance of loans thereunder and, provided further that such Permitted Senior Indebtedness shall only be incurred to the extent that the Consolidated Total Indebtedness to Market Capitalization Ratio does not exceed .15 at the time of incurrence of such Permitted Senior Indebtedness.

(qq) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(rr) "**Principal Market**" means the Nasdaq National Market.

(ss) "**Redemption Notices**" means, collectively, the Event of Default Redemption Notice, the Change of Control Redemption Notice, the Holder Optional Redemption Notice, the Company Optional Redemption Notice and the Asset Sale Redemption Notice, each of the foregoing, individually, a Redemption Notice.

(tt) "**Redemption Premium**" means (i) in the case of the Events of Default described in Section 4(a)(i) - (v) and (viii) - (xi), 110% or (ii) in the case of the Events of Default described in Section 4(a)(vi) - (vii), 100%.

(uu) "**Redemption Prices**" means, collectively, the Event of Default Redemption Price, Change of Control Redemption Price, the Holder Optional Redemption Price, the Company Optional Redemption Price and the Asset Sale Redemption Price, each of the foregoing, individually, a Redemption Price.

(vv) "**Registration Rights Agreement**" means that certain registration rights agreement dated as of July \_\_, 2006 by and among the Company and the Holder relating to, among other things, the registration of the resale of the ADSs issuable upon conversion of the Notes, payment of interest under the Notes, and exercise of the Warrants and the Series B Warrants, as the same may be amended, restated, supplemented or otherwise modified.

(ww) "**Required Holders**" means the holders of Notes representing at least a majority of the aggregate principal amount of the Notes then outstanding.

(xx) "**SEC**" means the United States Securities and Exchange Commission.

(yy) "**Securities Purchase Agreement**" means that certain securities purchase agreement dated as of the Subscription Date by and among the Company and the initial holders of the Notes pursuant to which the Company issued the Notes, as amended by the Amendment Agreement, dated July \_\_, 2006, between the Holder and the Company, as the same may be further amended, restated, supplemented or otherwise modified.

(zz) "**Security Documents**" has the meaning ascribed to such term in the Securities Purchase Agreement.

(aaa) "**Series B Warrants**" has the meaning ascribed to such term in the Securities Purchase Agreement, and shall include all warrants issued in exchange therefor or replacement thereof.

(bbb) "**Strategic Financing**" means the issuance, directly or indirectly, of Ordinary Shares or warrants to purchase Ordinary Shares at a purchase price or an exercise price, as the case may be, that is not less than the market price of the Ordinary Shares on the date of issuance of such Ordinary Shares or warrant, in connection with any strategic investor, vendor, lease or similar arrangement (the primary purpose of which is not to raise equity capital), provided that the aggregate number of shares of Ordinary Shares which the Company may issue pursuant to this definition shall not exceed ten percent (10%) of the outstanding Ordinary Shares at the time of issuance (subject to adjustment for stock splits, stock dividends, stock combination and similar transactions)

(ccc) "**Subscription Date**" means October 5, 2005.

(ddd) "**Subsequent Conversion Price**" means 108% of the arithmetic average of the Weighted Average Price of the ADRs for the ten (10) consecutive Trading Days ending on the Trading Day immediately preceding April 30, 2007. All such determinations to be appropriately adjusted for any share split, share dividend, share combination or other similar transaction during such period.

(eee) "**Successor Entity**" means the Person, which may be the Company, formed by, resulting from or surviving any Fundamental Transaction or the Person with which such Fundamental Transaction shall have been made, provided that if such Person is not a publicly traded entity whose common shares or equivalent equity security is quoted or listed for trading on an Eligible Market, Successor Entity shall mean such Person's Parent Entity.

(fff) "**Trading Day**" means any day on which the ADRs are traded on the Principal Market, or, if the Principal Market is not the principal trading market for the ADRs, then on the principal securities exchange or securities market on which the ADRs are then traded; provided that "Trading Day" shall not include any day on which the ADRs are scheduled to trade on such exchange or market for less than 4.5 hours or any day that the ADRs are suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

(ggg) "**Trading Dollar Volume**" means, for any day on which the ADRs are traded on the Principal Market, the product of (i) the daily average trading volume of the ADRs on such day multiplied by (ii) the Weighted Average Price for the ADRs on such day.

(hhh) "**Warrants**" has the meaning ascribed to such term in the Securities Purchase Agreement, and shall include all warrants issued in exchange therefor or replacement thereof.

(iii) **"Weighted Average Price"** means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market during the period beginning at 9:30:01 a.m., New York Time (or such other time as the Principal Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as the Principal Market publicly announces is the official close of trading) as reported by Bloomberg through its "Volume at Price" functions, or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York Time (or such other time as such market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as such market publicly announces is the official close of trading) as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the "pink sheets" by Pink Sheets LLC (formerly the National Quotation Bureau, Inc.). If the Weighted Average Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Weighted Average Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 24. All such determinations to be appropriately adjusted for any share dividend, share split, share combination or other similar transaction during the applicable calculation period.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed as of the Issuance Date set out above.

**pSIVIDA LIMITED**

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

Name:

Title:

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**EXHIBIT I**

**PSIVIDA LIMITED  
CONVERSION NOTICE**

Reference is made to the Convertible Note (the "**Note**") issued to the undersigned by pSivida Limited (the "**Company**"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Conversion Amount (as defined in the Note) of the Note indicated below into ADRs (the "**ADRs**") of the Company, as of the date specified below.

Date of Conversion: \_\_\_\_\_

Aggregate Conversion Amount to be converted: \_\_\_\_\_

Please confirm the following information:

Conversion Price: \_\_\_\_\_

Number of ADRs to be issued: \_\_\_\_\_

Please issue the ADRs into which the Note is being converted in the following name and to the following address:

Issue to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Authorization: \_\_\_\_\_

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

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

Dated: \_\_\_\_\_

Account Number: \_\_\_\_\_  
(if electronic book entry transfer)

Transaction Code Number: \_\_\_\_\_  
(if electronic book entry transfer)

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**ACKNOWLEDGMENT**

The Company hereby acknowledges this Conversion Notice and hereby directs **[Insert Name of Transfer Agent]** to issue the above indicated number of ADRs in accordance with the Transfer Agent Instructions dated October \_\_, 2005 from the Company and acknowledged and agreed to by **[Insert Name of Transfer Agent]**.

**PSIVIDA LIMITED**

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

Name:

Title:

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[FORM OF SERIES A WARRANT]

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISEABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR (B) AN OPINION OF COUNSEL, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) IF SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT, SUCH DOCUMENTS, OPINIONS AND CERTIFICATES AS THE COMPANY MAY REASONABLY REQUIRE. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

**PSIVIDA LIMITED**

**SERIES A WARRANT TO PURCHASE ADRS**

Warrant No.: \_\_\_\_\_

Number of ADRs: \_\_\_\_\_

Date of Issuance: August \_\_, 2006 ("**Issuance Date**")

PSIVIDA LIMITED, an Australian corporation (the "**Company**"), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CASTLERIGG MASTER INVESTMENTS LTD., the registered holder hereof or its permitted assigns (the "**Holder**"), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon surrender of this Warrant to Purchase ADRs (as defined below) (including any Warrants to Purchase ADRs issued in exchange, transfer or replacement hereof, the "**Warrant**"), at any time or times on or after the date hereof, but not after 11:59 p.m., New York Time, on the Expiration Date (as defined below), representing up to Five Million, Seven Hundred Thousand (5,700,000) fully paid nonassessable ADRs (as defined below) (the "**Warrant Shares**"). Except as otherwise defined herein, capitalized terms in this Warrant shall have the meanings set forth in Section 15. This Warrant is one of the Warrants to purchase Warrant Shares (the "**SPA Warrants**") issued pursuant to Section 1 of that certain Amendment Agreement, dated as of July 28, 2006 (the "**Subscription Date**"), by and among the Company and the investors (the "**Buyers**") referred to therein (the "**Amendment Agreement**").

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(a) Mechanics of Exercise. Subject to the terms and conditions hereof (including, without limitation, the limitations set forth in Section 1(f)), this Warrant may be exercised by the Holder on any day on or after the date hereof, in whole or in part, by (i) delivery of a written notice, in the form attached hereto as Exhibit A (the "**Exercise Notice**"), of the Holder's election to exercise this Warrant and (ii) payment to the Company of an amount equal to the applicable Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the "**Aggregate Exercise Price**") in cash or wire transfer of immediately available funds. The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. On or before the second (2nd) Business Day following the date on which the Company has received each of the Exercise Notice and the Aggregate Exercise Price the "**Exercise Delivery Documents**"), the Company shall transmit by facsimile an acknowledgment of confirmation of receipt of the Exercise Delivery Documents to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the fifth (5th) Business Day following the date on which the Company has received all of the Exercise Delivery Documents (the "**Share Delivery Date**"), the Company shall (X) provided that the Transfer Agent is participating in The Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, upon the request of the Holder, credit such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal Agent Commission system, or (Y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to the address as specified in the Exercise Notice, a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise. Upon delivery of the Exercise Delivery Documents, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Ordinary Shares represented by the ADRs with respect to which this Warrant has been exercised, irrespective of the date of delivery of the certificates evidencing the ADRs. If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than three Business Days after any exercise and at its own expense, issue a new Warrant (in accordance with Section 7(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional Warrant Shares are to be issued upon the exercise of this Warrant, but, at the option of the Company, (i) the number of Warrant Shares to be issued shall be rounded up to the nearest whole number or (ii) in lieu of any fractional Warrant Shares to which the Holder would otherwise be entitled, the Company shall make a cash payment to the Holder equal to the Closing Sale Price on the date of exercise multiplied by such fraction. Upon exercise of this Warrant, the Company shall deposit the corresponding number of Ordinary Shares representing the American Depositary Shares ("**ADSs**") underlying the ADRs and pay by wire transfer to the Depository's account the ADS issuance fee of \$0.04 per ADS to be issued, together with all applicable taxes and expenses otherwise payable under the terms of the Deposit Agreement for the deposit of Ordinary Shares and issuance of ADSs (including, without limitation, confirmation that any Australian stock transfer taxes in respect of such deposit (if any) have been paid by the Company), and the Company shall otherwise comply with and cause any other necessary party to comply with all the terms of the Deposit Agreement. The Company shall pay any and all taxes (excluding any taxes on the income of the Holder) which may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant. Appropriate and equitable adjustment to the terms and provisions of this Warrant shall be made in the event of any change to the ratio of Warrant Shares to Ordinary Shares represented thereby.

In the event that the Company's Board of Directors should determine that the Company shall transform itself (whether by re-incorporation in the United States or otherwise) from a foreign private issuer (as defined under the Securities Act of 1933, as amended) all references to ADRs or ADSs shall be deemed references to whatever shares are then issued by the re-domiciled Company and all other provisions of this Agreement shall be equitably adjusted by the parties hereto to the extent necessary or appropriate to reflect such new country of incorporation.

(b) Exercise Price. For purposes of this Warrant, "**Exercise Price**" means \$1.80 per ADR (which is equivalent to \$0.18 per Ordinary Share), subject to adjustment as provided herein.

(c) Company's Failure to Timely Deliver Securities. If the Company shall fail to issue to the Holder, the number of Warrant Shares to which the Holder is entitled upon the Holder's exercise of this Warrant and register such Warrant Shares on the Company's share register or to credit the Holder's balance account with DTC for such number of Warrant Shares to which the Holder is entitled upon the Holder's exercise of this Warrant on or prior to the date which is three (3) Business Days after receipt of the Exercise Delivery Documents (an "**Exercise Failure**"), then the Company shall pay damages in cash to the Holder for each date of such Exercise Failure in an amount equal to an interest rate equal to 10% per annum applied to the product of (X) the sum of the number of Warrant Shares not issued to the Holder on or prior to the Share Delivery Date and to which the Holder is entitled and (Y) the Closing Sale Price of the Warrant Shares on the Share Delivery Date. In addition to the foregoing, if within three (3) Trading Days after the Company's receipt of the facsimile copy of a Exercise Notice the Company shall fail to issue and deliver to the Holder and register such Warrant Shares on the Company's share register or credit the Holder's balance account with DTC for the number of Warrant Shares to which the Holder is entitled upon such holder's exercise hereunder, and if on or after such Trading Day the Holder purchases (in an open market transaction or otherwise) ADRs to deliver in satisfaction of a sale by the Holder of ADRs issuable upon such exercise that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Business Days after the Holder's request and in the Holder's discretion, either (i) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions, if any) for the ADRs so purchased (the "**Buy-In Price**"), at which point the Company's obligation to deliver and issue such ADRs shall be deemed to have been satisfied and shall terminate, or (ii) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such ADRs and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of ADRs, times (B) the Closing Bid Price on the date of exercise.

(d) **Registration Rights.** Notwithstanding anything contained herein to the contrary, if a Registration Statement (as defined in the Registration Rights Agreement) covering the Warrant Shares that are the subject of the Exercise Notice (the "**Unavailable Warrant Shares**") is not available for resale of such Unavailable Warrant Shares then the Holder may elect to exercise this Warrant for Warrant Shares in the form of ADRs or in the form of the Ordinary Shares underlying the ADRs and in either case the Company must, contemporaneous with the issue of the Warrant Shares that are the subject of the Exercise Notice, lodge with the ASX Limited a notice complying with section 708A(5)(E) of the Corporations Act 2001 and the ASX Listing Rules ("**Cleansing Notice**") and notify the Holder that it has so lodged a Cleansing Notice, and upon the lodgement by the Company of the Cleansing Notice, the Holder is free to dispose of any Ordinary Shares or any interest in Ordinary Shares it holds on the Australian Stock Exchange Limited in the ordinary course of trading or otherwise in Australia to any person and the restrictions on sale in that certain Securities Purchase Agreement, dated as of October 5, 2005, by and among the Company and the buyers listed on the Schedule of Buyers attached thereto (the "**Securities Purchase Agreement**"), including without limitation in section 2(j)(C) of the Securities Purchase Agreement, does not apply to any such disposal. Notwithstanding the foregoing, from after the second anniversary of the Issuance Date, in the event that the aggregate number of Ordinary Shares that trades on the ASX is less than either (i) an average of 50,000 Common Shares on each Trading Day during any two month period or (ii) a weighted average trading price of at least US\$50,000 on average during each Trading Day during any two month period, then at the request of the Holder the Company as of the date of such request once again (each of (i) and (ii)), a "**Registration Event**") shall be subject to the terms of the Registration Rights Agreement as to the Warrant Shares; provided, that the Holder makes such request within thirty (30) days of a Registration Event.

(e) **Disputes.** In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 12.

(f) **Limitations on Exercises.**

(i) **Beneficial Ownership.** The Company shall not effect the exercise of this Warrant, and the Holder shall not have the right to exercise this Warrant, to the extent that after giving effect to such exercise, the Holder (together with affiliates) would beneficially own (directly or indirectly through Warrant Shares or otherwise) in excess of 4.99% (the "**Maximum Percentage**") of the Ordinary Shares outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the number of Ordinary Shares beneficially owned (directly or indirectly through Warrant Shares or otherwise) by the Holder and its affiliates shall include the number of Ordinary Shares underlying the Warrant Shares issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude the number of Ordinary Shares underlying Warrant Shares which would be issuable upon (i) exercise of the remaining, unexercised portion of this Warrant beneficially owned by the Holder and its affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by such Person and its affiliates (including, without limitation, any convertible notes or convertible preferred stock or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this section, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. For purposes of this Warrant, in determining the number of outstanding Ordinary Shares, the Holder may rely on the number of outstanding Ordinary Shares as reflected in (1) the Company's most recent Form 20-F, Form 6-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other notice by the Company or the Transfer Agent setting forth the number of Ordinary Shares outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall within two (2) Business Days confirm orally and in writing to the Holder the number of Ordinary Shares then outstanding. In any case, the number of outstanding Ordinary Shares shall be determined after giving effect to the conversion or exercise of securities of the Company, including the SPA Securities and the SPA Warrants, by the Holder and its affiliates since the date as of which such number of outstanding Ordinary Shares was reported. By written notice to the Company, the Holder may increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% specified in such notice; provided that (i) any such increase will not be effective until the sixty-first (61<sup>st</sup>) day after such notice is delivered to the Company, and (ii) any such increase or decrease will apply only to the Holder and not to any other holder of SPA Warrants.

(ii) Principal Market Regulation. The Company shall not be obligated to issue any ADRs upon exercise of this Warrant, and the Holder of this Warrant shall not have the right to receive upon conversion of this Warrant, any ADRs, if the issuance of such ADRs would exceed that number of ADRs which the Company may issue upon exercise of this Warrant (including, as applicable, any ADRs issued upon conversion of the SPA Securities) without breaching the Company's obligations under the rules or regulations of the Principal Market (or such other Eligible Market on which the ADRs or Ordinary Shares are listed) or the ASX (the "**Exchange Cap**"), except that such limitation shall not apply in the event that the Company obtains the approval of its stockholders as required by the applicable rules of the Principal Market and the ASX listing rules for issuances of ADRs in excess of such amount. Until such approval is obtained, no Buyer shall be issued, in the aggregate, upon exercise or conversion, as applicable, of any SPA Warrants or SPA Securities, any ADRs in an amount greater than the product of the Exchange Cap multiplied by a fraction, the numerator of which is the total number of ADRs underlying the SPA Warrants issued to such Buyer pursuant to the Amendment Agreement on the Subscription Date and the denominator of which is the aggregate number of ADRs underlying all the Warrants issued to the Buyers pursuant to the Amendment Agreement on the Subscription Date (with respect to each Buyer, the "**Exchange Cap Allocation**"). In the event that any Buyer shall sell or otherwise transfer any of such Buyer's SPA Warrants, the transferee shall be allocated a pro rata portion of such Buyer's Exchange Cap Allocation, and the restrictions of the prior sentence shall apply to such transferee with respect to the portion of the Exchange Cap Allocation allocated to such transferee. In the event that any holder of SPA Warrants shall exercise all of such holder's SPA Warrants into a number of ADRs which, in the aggregate, is less than such holder's Exchange Cap Allocation, then the difference between such holder's Exchange Cap Allocation and the number of ADRs actually issued to such holder shall be allocated to the respective Exchange Cap Allocations of the remaining holders of SPA Warrants on a pro rata basis in proportion to the ADRs underlying the SPA Warrants then held by each such holder.

(a) If the Company issues or gives the holders of Ordinary Shares in the Company the right, pro rata with existing holdings of Ordinary Shares, to subscribe for additional securities ("**Pro Rata Issue**"), the Exercise Price in respect of one underlying Ordinary Share shall be reduced in accordance with the following formula:

$$O' = O - \frac{E[P - (S + D)]}{N + 1}$$

Where:

- O' = the new Exercise Price in respect of an underlying Ordinary Share.
- O = the original Exercise Price in respect of an underlying Ordinary Share.
- E = the number of underlying Ordinary Shares to be issued on exercise of each Warrant.
- P = the average market price per Ordinary Share (weighted by reference to volume) of the Ordinary Shares during the 5 trading days ending before the ex rights date or ex entitlements date.
- S = the subscription price for an Ordinary Share under the Pro Rata Issue.
- D = the dividend due but not paid on the existing Ordinary Shares (excluding those to be issued under the Pro Rata Issue).
- N = the number of Ordinary Shares which must be held to receive one new Share in the Pro Rata Issue.

(b) Adjustment upon pro rata bonus issue of Ordinary Shares. If the Company makes a pro rata bonus issue of Ordinary Shares to its shareholders prior to the Warrant being exercised, and the Warrant is not exercised prior to the record date for the issue, the Warrant will, when exercised, entitle the Holder to the number of Warrant Shares that would ordinarily be received under Section 1, plus the number of bonus Ordinary Shares which would have been issued to the Holder if the Warrant had been exercised prior to the record date.

(c) Adjustment upon Subdivision or Combination of Ordinary Shares. If the Company at any time on or after the Subscription Date subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding ADRs (or Ordinary Shares underlying such ADRs) into a greater number of ADRs (or Ordinary Shares), the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of Warrant Shares (or Ordinary Shares underlying such Warrant Shares) will be proportionately increased. If the Company at any time on or after the Subscription Date combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding ADRs (or Ordinary Shares underlying such ADRs) into a smaller number of ADRs (or Ordinary Shares underlying such ADRs), the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of Warrant Shares (or Ordinary Shares underlying such Warrant Shares) will be proportionately decreased. Any adjustment under this Section 2(c) shall be subject to (and will be correspondingly reorganized in a manner which is permissible under, or necessary to comply with) the ASX Listing Rules or the rules of any Recognized Exchange in force at the relevant time and shall become effective at the close of business on the date the subdivision or combination becomes effective.

(d) Other Events. If any event occurs of the type contemplated by the provisions of this Section 2 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Company's Board of Directors will make an appropriate adjustment in the Exercise Price and the number of Warrant Shares so as to protect the rights of the Holder; provided that such adjustment is made in accordance with the ASX Listing Rules. No such adjustment pursuant to this Section 2(d) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 2, unless in accordance with any ASX Listing Rule.

(e) Other Capital Reorganizations. Notwithstanding any other provision contained in this Warrant, the rights of a warrant holder will be changed to the extent necessary to comply with the listing rules applying to a reorganization of capital at the time of reorganization. Subject to the above, if there is a reorganization of the capital of the Company, the number of Warrant Shares applicable to the Warrant and/or Exercise Price of the Warrant will be reorganized as follows: (i) if the Company returns capital on its Ordinary Shares, the number of Warrant Shares applicable to the Warrant will remain the same, and the Exercise Price of each Warrant will be reduced by the same amount as the amount returned in relation to each Ordinary Share; (ii) if the Company returns capital on its Ordinary Shares by a cancellation of capital that is lost or not represented by available assets, the number of Warrant Shares applicable to the Warrant and the Exercise Price is unaltered; (iii) if the Company reduces its issued Ordinary Shares on a pro rata basis, the number of Warrant Shares applicable to the Warrant will be reduced in the same ratio as the Ordinary Shares and the Exercise Price will be amended in inverse proportion to that ratio; and (iv) if the Company reorganizes its issued Ordinary Shares in any way not otherwise contemplated by the preceding paragraphs, the number of Warrant Shares applicable to the Warrant or the Exercise Price or both will be reorganized so that the Warrant Holder will not receive a benefit that holders of Ordinary Shares do not receive. The Company shall give notice to Warrant Holders of any adjustments to the number of Warrant Shares applicable to the Warrant or the number of Ordinary Shares which are to be issued on exercise of a Warrant or to the Exercise Price. Before a Warrant is exercised, all adjustment calculations are to be carried out including all fractions (in relation to each of the number of Warrant Shares applicable to the Warrant, the number of Ordinary Shares and the Exercise Price), but on exercise the number of Warrant Shares or Ordinary Shares issued is rounded down to the next lower whole number and the Exercise Price rounded up to the next higher cent.



3. **FUNDAMENTAL TRANSACTIONS** . The Company shall not enter into or be party to a Fundamental Transaction unless, and shall use its best endeavors to procure that, (i) the Successor Entity (if other than the Company) assumes in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section (4)(b) pursuant to written agreements in form and substance reasonably satisfactory to the Required Holders and approved by the Required Holders prior to such Fundamental Transaction, including agreements to deliver to each holder of Warrants in exchange for such Warrants a security of such Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant, including, without limitation, an adjusted exercise price equal to the value for the Ordinary Shares reflected by the terms of such Fundamental Transaction, and exercisable for a corresponding number of shares of capital stock equivalent to the Ordinary Shares underlying the Warrant Shares acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and reasonably satisfactory to the Required Holders and (ii) such Successor Entity is a publicly traded corporation whose common shares (or whose American Depositary Shares) are quoted on or listed for trading on an Eligible Market. Upon the occurrence of any Fundamental Transaction, such Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant referring to the "Company" shall refer instead to such Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of the Fundamental Transaction, such Successor Entity shall deliver to the Holder confirmation that there shall be issued upon exercise of this Warrant at any time after the consummation of the Fundamental Transaction, in lieu of the Warrant Shares (or other securities, cash, assets or other property) purchasable upon the exercise of the Warrant prior to such Fundamental Transaction, such shares of the publicly traded common stock (or their equivalent) of the Successor Entity (including its Parent Entity), as adjusted in accordance with the provisions of this Warrant. In addition to and not in substitution for any other rights hereunder, prior to the consummation of any Fundamental Transaction pursuant to which holders of Ordinary Shares (directly or indirectly through Warrant Shares or otherwise) are entitled to receive securities or other assets with respect to or in exchange for Ordinary Shares (a "Corporate Event"), the Company shall make appropriate provision, to the extent not prohibited by applicable law, to insure that the Holder will thereafter have the right to receive upon an exercise of this Warrant at any time after the consummation of the Fundamental Transaction but prior to the Expiration Date, in lieu of the Warrant Shares purchasable upon the exercise of the Warrant prior to such Fundamental Transaction, such, securities or other, assets which the Holder would have been entitled to receive upon the happening of such Fundamental Transaction had the Warrant been exercised immediately prior to such Fundamental Transaction. The provisions of this Section shall apply similarly and equally to successive Fundamental Transactions and Corporate Events and shall be applied without regard to any limitations on the exercise of this Warrant.

4. NONCIRCUMVENTION . The Company hereby covenants and agrees that the Company will not, by amendment of its Constitution or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any Ordinary Shares underlying the Warrant Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect and (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant.

5. WARRANT HOLDER NOT DEEMED A STOCKHOLDER. Except as otherwise specifically provided herein, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 6, the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company generally, contemporaneously with the giving thereof to the shareholders.

6. REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. If this Warrant is to be transferred, the Holder shall surrender this Warrant to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 7(d)), registered as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 7(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 7(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 7(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, that no Warrants for fractional Warrant Shares shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 7(a) or Section 7(c), the Warrant Shares designated by the Holder which, when added to the number of Warrant Shares underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date, and (iv) shall have the same rights and conditions as this Warrant.

## 7. NOTICES; CURRENCY.

(a) Notices. Whenever notice is required to be given under this Warrant, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon any adjustment of the Exercise Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least fifteen days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Ordinary Shares or Warrant Shares, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property to holders of Ordinary Shares or Warrant Shares or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Currency. Unless otherwise indicated, all dollar amounts referred to in this Warrant are in United States Dollars.

8. AMENDMENT AND WAIVER . The provisions of this Warrant may be amended by the Company and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Required Holders and approval from the holders of Ordinary Shares at a shareholders meeting held in accordance with the ASX Listing Rules and *Corporations Act 2001* (Cth) or if otherwise permitted by the ASX Listing Rules. Notwithstanding any provision of this Warrant, a term of this Warrant which has the effect of reducing the exercise price, increasing the period for exercise or increasing the number of Warrant Shares or Ordinary Shares received on exercise is prohibited if it would result in a breach of the ASX Listing Rules. Notwithstanding the above, no change may increase the exercise price of any SPA Warrant or decrease the number of Warrant Shares or class of stock obtainable upon exercise of any SPA Warrant without the written consent of the Holder, unless otherwise provided in the ASX Listing Rules. A change which has the effect of reducing the purchase price, increasing the period for exercise or increasing the number of securities received cannot be made. In addition, subject to the ASX Listing Rules, no such amendment shall be effective to the extent that it applies to less than all of the holders of the SPA Warrants then outstanding.

9. SEVERABILITY . If any provision of this Warrant or the application thereof becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of the terms of this Warrant will continue in full force and effect.

10. GOVERNING LAW . This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

11. CONSTRUCTION; HEADINGS . This Warrant shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

12. DISPUTE RESOLUTION . In the case of a dispute as to the determination of the Exercise Price or the calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two (2) Business Days of receipt of the Exercise Notice giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Business Days submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

13. **REMEDIES, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF**. The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant and the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder right to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the holder of this Warrant shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required.

14. **TRANSFER**. This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company, except as may otherwise be required by Section 2(f) of the Securities Purchase Agreement.

15. **CERTAIN DEFINITIONS**. For purposes of this Warrant, the following terms shall have the following meanings:

(a) **"ADRs"** means the American Depositary Receipts of the Company evidencing the American Depositary Shares of the Company which each represent ten (10) Ordinary Shares.

(b) **"ASX"** means the Australian Stock Exchange.

(c) **"Bloomberg"** means Bloomberg Financial Markets.

(d) **"Business Day"** means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York, State of New York, U.S.A. or Perth, Australia are authorized or required by law to remain closed.

(e) **"Closing Bid Price"** and **"Closing Sale Price"** means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by Pink Sheets LLC (formerly the National Quotation Bureau, Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 12. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

(f) "**Convertible Securities**" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for ADRs or Ordinary Shares.

(g) "**Deposit Agreement**" means that certain Deposit Agreement, dated as of January 24, 2005 by and among the Company, the Depository and the holders and beneficial owners from time to time of ADSs evidenced by ADRs issued pursuant to such agreement.

(h) "**Depository**" means Citibank, N.A., acting in such capacity under the Deposit Agreement.

(i) "**Eligible Market**" means the Principal Market, The New York Stock Exchange, Inc., the American Stock Exchange or The Nasdaq Capital Market.

(j) "**Expiration Date**" means the date that is sixty months after the Issuance Date or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a "**Holiday**"), the next date that is not a Holiday.

(k) "**Fundamental Transaction**" means that the Company shall, directly or indirectly, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Person, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company to another Person, or (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than the 50% of either the outstanding Ordinary Shares (not including any Ordinary Shares held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than the 50% of the outstanding Ordinary Shares (not including any Ordinary Shares held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock purchase agreement or other business combination), or (v) reorganize, recapitalize or reclassify its Ordinary Shares.

(l) "**Options**" means any rights, warrants or options to subscribe for or purchase ADRs, Ordinary Shares or Convertible Securities.

(m) "**Ordinary Shares**" means (i) the Company's ordinary shares of common stock, no par value per share, and (ii) any share capital into which such Ordinary Shares shall have been changed or any share capital resulting from a reclassification of such Ordinary Shares.

- (n) **"Parent Entity"** of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.
- (o) **"Person"** means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.
- (p) **"Principal Market"** means the Nasdaq Global Market.
- (q) **"Registration Rights Agreement"** means that certain registration rights agreement by and among the Company and the Buyers.
- (r) **"Required Holders"** means the holders of the SPA Warrants representing at least a majority of Warrant Shares underlying the SPA Warrants then outstanding.
- (s) **"SPA Securities"** means the Notes issued pursuant to the Amendment Agreement.
- (t) **"Successor Entity"** means the Person, which may be the Company, formed by, resulting from or surviving any Fundamental Transaction or the Person with which such Fundamental Transaction shall have been made, provided that if such Person is not a publicly traded entity whose common stock or equivalent equity security is quoted or listed for trading on an Eligible Market, Successor Entity shall mean such Person's Parent Entity.
- (u) **"Trading Day"** means any day on which the ADRs are traded on the Principal Market, or, if the Principal Market is not the principal trading market for the ADRs, then on the principal securities exchange or securities market on which the ADRs are then traded; provided that "Trading Day" shall not include any day on which the ADRs are scheduled to trade on such exchange or market for less than 4.5 hours or any day that the ADRs are suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).
- (v) **"Transaction Documents"** has the meaning set forth in the Securities Purchase Agreement.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the Company has caused this Warrant to Purchase ADRs to be duly executed as of the Issuance Date set out above.

**PSIVIDA LIMITED**

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

Name:

Title:

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## EXERCISE NOTICE

TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS  
WARRANT TO PURCHASE ADRS

## PSIVIDA LIMITED

The undersigned holder hereby exercises the right to purchase \_\_\_\_\_ of the ADRs, each of which representing ten (10) shares of the ordinary shares of common stock, no par value per share ("**Ordinary Shares**") of pSivida Limited, an Australian corporation (the "**Company**"), evidenced by the attached Warrant to Purchase ADRs (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Payment of Exercise Price. The undersigned holder shall pay the Aggregate Exercise Price in the sum of \$\_\_\_\_\_ to the Company in accordance with the terms of the Warrant.

2. Delivery of ADRs. The Company shall deliver to the holder \_\_\_\_\_ ADRs in accordance with the terms of the Warrant.

Date: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Name of Registered Holder

By:

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

Title:

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**ACKNOWLEDGMENT**

The Company hereby acknowledges this Exercise Notice and hereby directs Citibank, N.A. to issue the above indicated number of Ordinary Shares in accordance with the Transfer Agent Instructions dated August \_\_, 2006 from the Company and acknowledged and agreed to by Citibank, N.A.

**pSIVIDA LIMITED**

By:

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Name:

Title

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[FORM OF SERIES B WARRANT]

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISEABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR (B) AN OPINION OF COUNSEL, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) IF SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT, SUCH DOCUMENTS, OPINIONS AND CERTIFICATES AS THE COMPANY MAY REASONABLY REQUIRE. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

PSIVIDA LIMITED

SERIES B WARRANT TO PURCHASE ADRS

Warrant No.: \_\_\_\_\_  
Number of ADRs: \_\_\_\_\_  
Date of Issuance: \_\_\_\_ \_\_\_\_, 200\_ ("**Issuance Date**")

PSIVIDA LIMITED, an Australian corporation (the "**Company**"), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, [CASTLERIGG MASTER INVESTMENTS LTD.], the registered holder hereof or its permitted assigns (the "**Holder**"), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon surrender of this Warrant to Purchase ADRs (as defined below) (including any Warrants to Purchase ADRs issued in exchange, transfer or replacement hereof, the "**Warrant**"), at any time or times on or after the date hereof, but not after 11:59 p.m., New York Time, on the Expiration Date (as defined below), representing up to \_\_\_\_\_ (\_\_\_\_\_) <sup>1</sup> fully paid nonassessable ADRs (as defined below) (the "**Warrant Shares**"). Except as otherwise defined herein, capitalized terms in this Warrant shall have the meanings set forth in Section 15. This Warrant is one of the Warrants to purchase Warrant Shares (the "**SPA Warrants**") issued in connection with those certain convertible notes (the "**Notes**") issued pursuant to that certain Amendment Agreement, dated as of July 28, 2006 (the "**Subscription Date**"), by and among the Company and the investors (the "**Buyers**") referred to therein (the "**Amendment Agreement**").

<sup>1</sup> Insert the number of shares equal to 30% of the number of Conversion Shares issuable upon redemption of the Amended and Restated Convertible Notes pursuant to an Asset Sale Redemption or a Company Optional Redemption.

1. EXERCISE OF WARRANT.

(a) Mechanics of Exercise. Subject to the terms and conditions hereof (including, without limitation, the limitations set forth in Section 1(f)), this Warrant may be exercised by the Holder on any day on or after the date hereof, in whole or in part, by (i) delivery of a written notice, in the form attached hereto as Exhibit A (the "**Exercise Notice**"), of the Holder's election to exercise this Warrant and (ii) payment to the Company of an amount equal to the applicable Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the "**Aggregate Exercise Price**") in cash or wire transfer of immediately available funds. The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. On or before the second (2nd) Business Day following the date on which the Company has received each of the Exercise Notice and the Aggregate Exercise Price the "**Exercise Delivery Documents**"), the Company shall transmit by facsimile an acknowledgment of confirmation of receipt of the Exercise Delivery Documents to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the fifth (5th) Business Day following the date on which the Company has received all of the Exercise Delivery Documents (the "**Share Delivery Date**"), the Company shall (X) provided that the Transfer Agent is participating in The Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, upon the request of the Holder, credit such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal Agent Commission system, or (Y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to the address as specified in the Exercise Notice, a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise. Upon delivery of the Exercise Delivery Documents, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Ordinary Shares represented by the ADRs with respect to which this Warrant has been exercised, irrespective of the date of delivery of the certificates evidencing the ADRs. If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than three Business Days after any exercise and at its own expense, issue a new Warrant (in accordance with Section 7(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional Warrant Shares are to be issued upon the exercise of this Warrant, but, at the option of the Company, (i) the number of Warrant Shares to be issued shall be rounded up to the nearest whole number or (ii) in lieu of any fractional Warrant Shares to which the Holder would otherwise be entitled, the Company shall make a cash payment to the Holder equal to the Closing Sale Price on the date of exercise multiplied by such fraction. Upon exercise of this Warrant, the Company shall deposit the corresponding number of Ordinary Shares representing the American Depositary Shares ("**ADSs**") underlying the ADRs and pay by wire transfer to the Depository's account the ADS issuance fee of \$0.04 per ADS to be issued, together with all applicable taxes and expenses otherwise payable under the terms of the Deposit Agreement for the deposit of Ordinary Shares and issuance of ADSs (including, without limitation, confirmation that any Australian stock transfer taxes in respect of such deposit (if any) have been paid by the Company), and the Company shall otherwise comply with and cause any other necessary party to comply with all the terms of the Deposit Agreement. The Company shall pay any and all taxes (excluding any taxes on the income of the Holder) which may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant. Appropriate and equitable adjustment to the terms and provisions of this Warrant shall be made in the event of any change to the ratio of Warrant Shares to Ordinary Shares represented thereby.

In the event that the Company's Board of Directors should determine that the Company shall transform itself (whether by re-incorporation in the United States or otherwise) from a foreign private issuer (as defined under the Securities Act of 1933, as amended) all references to ADRs or ADSs shall be deemed references to whatever shares are then issued by the re-domiciled Company and all other provisions of this Agreement shall be equitably adjusted by the parties hereto to the extent necessary or appropriate to reflect such new country of incorporation.

(b) Exercise Price. For purposes of this Warrant, "**Exercise Price**" means an amount equal to the lower of (i) 75% of the Average Market Price and (ii) the then applicable Conversion Price (as defined in the Notes), subject to adjustment as provided herein.

(c) Company's Failure to Timely Deliver Securities. If the Company shall fail to issue to the Holder, the number of Warrant Shares to which the Holder is entitled upon the Holder's exercise of this Warrant and register such Warrant Shares on the Company's share register or to credit the Holder's balance account with DTC for such number of Warrant Shares to which the Holder is entitled upon the Holder's exercise of this Warrant on or prior to the date which is three (3) Business Days after receipt of the Exercise Delivery Documents (an "**Exercise Failure**"), then the Company shall pay damages in cash to the Holder for each date of such Exercise Failure in an amount equal to an interest rate equal to 10% per annum applied to the product of (X) the sum of the number of Warrant Shares not issued to the Holder on or prior to the Share Delivery Date and to which the Holder is entitled and (Y) the Closing Sale Price of the Warrant Shares on the Share Delivery Date. In addition to the foregoing, if within three (3) Trading Days after the Company's receipt of the facsimile copy of a Exercise Notice the Company shall fail to issue and deliver to the Holder and register such Warrant Shares on the Company's share register or credit the Holder's balance account with DTC for the number of Warrant Shares to which the Holder is entitled upon such holder's exercise hereunder, and if on or after such Trading Day the Holder purchases (in an open market transaction or otherwise) ADRs to deliver in satisfaction of a sale by the Holder of ADRs issuable upon such exercise that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Business Days after the Holder's request and in the Holder's discretion, either (i) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions, if any) for the ADRs so purchased (the "**Buy-In Price**"), at which point the Company's obligation to deliver and issue such ADRs shall be deemed to have been satisfied and shall terminate, or (ii) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such ADRs and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of ADRs, times (B) the Closing Bid Price on the date of exercise.

(d) Registration Rights. Notwithstanding anything contained herein to the contrary, if a Registration Statement (as defined in the Registration Rights Agreement) covering the Warrant Shares that are the subject of the Exercise Notice (the "**Unavailable Warrant Shares**") is not available for resale of such Unavailable Warrant Shares then the Holder may elect to exercise this Warrant for Warrant Shares in the form of ADRs or in the form of the Ordinary Shares underlying the ADRs and in either case the Company must, contemporaneous with the issue of the Warrant Shares that are the subject of the Exercise Notice, lodge with the ASX Limited a notice complying with section 708A(5)(E) of the Corporations Act 2001 and the ASX Listing Rules ("**Cleansing Notice**") and notify the Holder that it has so lodged a Cleansing Notice, and upon the lodgement by the Company of the Cleansing Notice, the Holder is free to dispose of any Ordinary Shares or any interest in Ordinary Shares it holds on the Australian Stock Exchange Limited in the ordinary course of trading or otherwise in Australia to any person and the restrictions on sale in that certain Securities Purchase Agreement, dated as of October 5, 2005, by and among the Company and the buyers listed on the Schedule of Buyers attached thereto (the "**Securities Purchase Agreement**"), including without limitation in section 2(j)(C) of the Securities Purchase Agreement, does not apply to any such disposal. Notwithstanding the foregoing, from after the second anniversary of the Issuance Date, in the event that the aggregate number of Ordinary Shares that trades on the ASX is less than either (i) an average of 50,000 Common Shares on each Trading Day during any two month period or (ii) a weighted average trading price of at least US\$50,000 on average during each Trading Day during any two month period, then at the request of the Holder the Company as of the date of such request once again (each of (i) and (ii)), a "**Registration Event**") shall be subject to the terms of the Registration Rights Agreement as to the Warrant Shares; provided, that the Holder makes such request within thirty (30) days of a Registration Event.

(e) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 12.

(i) Beneficial Ownership. The Company shall not effect the exercise of this Warrant, and the Holder shall not have the right to exercise this Warrant, to the extent that after giving effect to such exercise, the Holder (together with affiliates) would beneficially own (directly or indirectly through Warrant Shares or otherwise) in excess of 4.99% (the "**Maximum Percentage**") of the Ordinary Shares outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the number of Ordinary Shares beneficially owned (directly or indirectly through Warrant Shares or otherwise) by the Holder and its affiliates shall include the number of Ordinary Shares underlying the Warrant Shares issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude the number of Ordinary Shares underlying Warrant Shares which would be issuable upon (i) exercise of the remaining, unexercised portion of this Warrant beneficially owned by the Holder and its affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by such Person and its affiliates (including, without limitation, any convertible notes or convertible preferred stock or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this section, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. For purposes of this Warrant, in determining the number of outstanding Ordinary Shares, the Holder may rely on the number of outstanding Ordinary Shares as reflected in (1) the Company's most recent Form 20-F, Form 6-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other notice by the Company or the Transfer Agent setting forth the number of Ordinary Shares outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall within two (2) Business Days confirm orally and in writing to the Holder the number of Ordinary Shares then outstanding. In any case, the number of outstanding Ordinary Shares shall be determined after giving effect to the conversion or exercise of securities of the Company, including the SPA Securities and the SPA Warrants, by the Holder and its affiliates since the date as of which such number of outstanding Ordinary Shares was reported. By written notice to the Company, the Holder may increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% specified in such notice; provided that (i) any such increase will not be effective until the sixty-first (61<sup>st</sup>) day after such notice is delivered to the Company, and (ii) any such increase or decrease will apply only to the Holder and not to any other holder of SPA Warrants.

(ii) Principal Market Regulation. The Company shall not be obligated to issue any ADRs upon exercise of this Warrant, and the Holder of this Warrant shall not have the right to receive upon conversion of this Warrant, any ADRs, if the issuance of such ADRs would exceed that number of ADRs which the Company may issue upon exercise of this Warrant (including, as applicable, any ADRs issued upon conversion of the SPA Securities) without breaching the Company's obligations under the rules or regulations of the Principal Market (or such other Eligible Market on which the ADRs or Ordinary Shares are listed) or the ASX (the "**Exchange Cap**"), except that such limitation shall not apply in the event that the Company obtains the approval of its stockholders as required by the applicable rules of the Principal Market and the ASX listing rules for issuances of ADRs in excess of such amount. Until such approval is obtained, no Buyer shall be issued, in the aggregate, upon exercise or conversion, as applicable, of any SPA Warrants or SPA Securities, any ADRs in an amount greater than the product of the Exchange Cap multiplied by a fraction, the numerator of which is the total number of ADRs underlying the SPA Warrants issued to such Buyer pursuant to the Amendment Agreement on the Subscription Date and the denominator of which is the aggregate number of ADRs underlying all the Warrants issued to the Buyers pursuant to the Amendment Agreement on the Subscription Date (with respect to each Buyer, the "**Exchange Cap Allocation**"). In the event that any Buyer shall sell or otherwise transfer any of such Buyer's SPA Warrants, the transferee shall be allocated a pro rata portion of such Buyer's Exchange Cap Allocation, and the restrictions of the prior sentence shall apply to such transferee with respect to the portion of the Exchange Cap Allocation allocated to such transferee. In the event that any holder of SPA Warrants shall exercise all of such holder's SPA Warrants into a number of ADRs which, in the aggregate, is less than such holder's Exchange Cap Allocation, then the difference between such holder's Exchange Cap Allocation and the number of ADRs actually issued to such holder shall be allocated to the respective Exchange Cap Allocations of the remaining holders of SPA Warrants on a pro rata basis in proportion to the ADRs underlying the SPA Warrants then held by each such holder.

2. ADJUSTMENT OF EXERCISE PRICE.

(a) If the Company issues or gives the holders of Ordinary Shares in the Company the right, pro rata with existing holdings of Ordinary Shares, to subscribe for additional securities ("**Pro Rata Issue**"), the Exercise Price in respect of one underlying Ordinary Share shall be reduced in accordance with the following formula:

$$O' = O - \frac{E[P - (S + D)]}{N + 1}$$

Where:

- O' = the new Exercise Price in respect of an underlying Ordinary Share.
- O = the original Exercise Price in respect of an underlying Ordinary Share.
- E = the number of underlying Ordinary Shares to be issued on exercise of each Warrant.
- P = the average market price per Ordinary Share (weighted by reference to volume) of the Ordinary Shares during the 5 trading days ending before the ex rights date or ex entitlements date.
- S = the subscription price for an Ordinary Share under the Pro Rata Issue.
- D = the dividend due but not paid on the existing Ordinary Shares (excluding those to be issued under the Pro Rata Issue).
- N = the number of Ordinary Shares which must be held to receive one new Share in the Pro Rata Issue.



(b) Adjustment upon pro rata bonus issue of Ordinary Shares. If the Company makes a pro rata bonus issue of Ordinary Shares to its shareholders prior to the Warrant being exercised, and the Warrant is not exercised prior to the record date for the issue, the Warrant will, when exercised, entitle the Holder to the number of Warrant Shares that would ordinarily be received under Section 1, plus the number of bonus Ordinary Shares which would have been issued to the Holder if the Warrant had been exercised prior to the record date.

(c) Adjustment upon Subdivision or Combination of Ordinary Shares. If the Company at any time on or after the Subscription Date subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding ADRs (or Ordinary Shares underlying such ADRs) into a greater number of ADRs (or Ordinary Shares), the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of Warrant Shares (or Ordinary Shares underlying such Warrant Shares) will be proportionately increased. If the Company at any time on or after the Subscription Date combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding ADRs (or Ordinary Shares underlying such ADRs) into a smaller number of ADRs (or Ordinary Shares underlying such ADRs), the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of Warrant Shares (or Ordinary Shares underlying such Warrant Shares) will be proportionately decreased. Any adjustment under this Section 2(c) shall be subject to (and will be correspondingly reorganized in a manner which is permissible under, or necessary to comply with) the ASX Listing Rules or the rules of any Recognized Exchange in force at the relevant time and shall become effective at the close of business on the date the subdivision or combination becomes effective.

(d) Other Events. If any event occurs of the type contemplated by the provisions of this Section 2 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Company's Board of Directors will make an appropriate adjustment in the Exercise Price and the number of Warrant Shares so as to protect the rights of the Holder; provided that such adjustment is made in accordance with the ASX Listing Rules. No such adjustment pursuant to this Section 2(d) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 2, unless in accordance with any ASX Listing Rule.

(e) Other Capital Reorganizations. Notwithstanding any other provision contained in this Warrant, the rights of a warrant holder will be changed to the extent necessary to comply with the listing rules applying to a reorganization of capital at the time of reorganization. Subject to the above, if there is a reorganization of the capital of the Company, the number of Warrant Shares applicable to the Warrant and/or Exercise Price of the Warrant will be reorganized as follows: (i) if the Company returns capital on its Ordinary Shares, the number of Warrant Shares applicable to the Warrant will remain the same, and the Exercise Price of each Warrant will be reduced by the same amount as the amount returned in relation to each Ordinary Share; (ii) if the Company returns capital on its Ordinary Shares by a cancellation of capital that is lost or not represented by available assets, the number of Warrant Shares applicable to the Warrant and the Exercise Price is unaltered; (iii) if the Company reduces its issued Ordinary Shares on a pro rata basis, the number of Warrant Shares applicable to the Warrant will be reduced in the same ratio as the Ordinary Shares and the Exercise Price will be amended in inverse proportion to that ratio; and (iv) if the Company reorganizes its issued Ordinary Shares in any way not otherwise contemplated by the preceding paragraphs, the number of Warrant Shares applicable to the Warrant or the Exercise Price or both will be reorganized so that the Warrant Holder will not receive a benefit that holders of Ordinary Shares do not receive. The Company shall give notice to Warrant Holders of any adjustments to the number of Warrant Shares applicable to the Warrant or the number of Ordinary Shares which are to be issued on exercise of a Warrant or to the Exercise Price. Before a Warrant is exercised, all adjustment calculations are to be carried out including all fractions (in relation to each of the number of Warrant Shares applicable to the Warrant, the number of Ordinary Shares and the Exercise Price), but on exercise the number of Warrant Shares or Ordinary Shares issued is rounded down to the next lower whole number and the Exercise Price rounded up to the next higher cent.

3. **FUNDAMENTAL TRANSACTIONS** . The Company shall not enter into or be party to a Fundamental Transaction unless, and shall use its best endeavors to procure that, (i) the Successor Entity (if other than the Company) assumes in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section (4)(b) pursuant to written agreements in form and substance reasonably satisfactory to the Required Holders and approved by the Required Holders prior to such Fundamental Transaction, including agreements to deliver to each holder of Warrants in exchange for such Warrants a security of such Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant, including, without limitation, an adjusted exercise price equal to the value for the Ordinary Shares reflected by the terms of such Fundamental Transaction, and exercisable for a corresponding number of shares of capital stock equivalent to the Ordinary Shares underlying the Warrant Shares acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and reasonably satisfactory to the Required Holders and (ii) such Successor Entity is a publicly traded corporation whose common shares (or whose American Depositary Shares) are quoted on or listed for trading on an Eligible Market. Upon the occurrence of any Fundamental Transaction, such Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant referring to the "Company" shall refer instead to such Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of the Fundamental Transaction, such Successor Entity shall deliver to the Holder confirmation that there shall be issued upon exercise of this Warrant at any time after the consummation of the Fundamental Transaction, in lieu of the Warrant Shares (or other securities, cash, assets or other property) purchasable upon the exercise of the Warrant prior to such Fundamental Transaction, such shares of the publicly traded common stock (or their equivalent) of the Successor Entity (including its Parent Entity), as adjusted in accordance with the provisions of this Warrant. In addition to and not in substitution for any other rights hereunder, prior to the consummation of any Fundamental Transaction pursuant to which holders of Ordinary Shares (directly or indirectly through Warrant Shares or otherwise) are entitled to receive securities or other assets with respect to or in exchange for Ordinary Shares (a "Corporate Event"), the Company shall make appropriate provision, to the extent not prohibited by applicable law, to insure that the Holder will thereafter have the right to receive upon an exercise of this Warrant at any time after the consummation of the Fundamental Transaction but prior to the Expiration Date, in lieu of the Warrant Shares purchasable upon the exercise of the Warrant prior to such Fundamental Transaction, such, securities or other, assets which the Holder would have been entitled to receive upon the happening of such Fundamental Transaction had the Warrant been exercised immediately prior to such Fundamental Transaction. The provisions of this Section shall apply similarly and equally to successive Fundamental Transactions and Corporate Events and shall be applied without regard to any limitations on the exercise of this Warrant.

4. NONCIRCUMVENTION . The Company hereby covenants and agrees that the Company will not, by amendment of its Constitution or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any Ordinary Shares underlying the Warrant Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect and (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant.

5. WARRANT HOLDER NOT DEEMED A STOCKHOLDER. Except as otherwise specifically provided herein, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 6, the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company generally, contemporaneously with the giving thereof to the shareholders.

6. REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. If this Warrant is to be transferred, the Holder shall surrender this Warrant to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 7(d)), registered as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 7(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 7(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 7(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, that no Warrants for fractional Warrant Shares shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 7(a) or Section 7(c), the Warrant Shares designated by the Holder which, when added to the number of Warrant Shares underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date, and (iv) shall have the same rights and conditions as this Warrant.

7. NOTICES; CURRENCY.

(a) Notices. Whenever notice is required to be given under this Warrant, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon any adjustment of the Exercise Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least fifteen days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Ordinary Shares or Warrant Shares, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property to holders of Ordinary Shares or Warrant Shares or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Currency. Unless otherwise indicated, all dollar amounts referred to in this Warrant are in United States Dollars.

8. AMENDMENT AND WAIVER . The provisions of this Warrant may be amended by the Company and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Required Holders and approval from the holders of Ordinary Shares at a shareholders meeting held in accordance with the ASX Listing Rules and *Corporations Act 2001* (Cth) or if otherwise permitted by the ASX Listing Rules. Notwithstanding any provision of this Warrant, , a term of this Warrant which has the effect of reducing the exercise price, increasing the period for exercise or increasing the number of Warrant Shares or Ordinary Shares received on exercise is prohibited if it would result in a breach of the ASX Listing Rules. Notwithstanding the above, no change may increase the exercise price of any SPA Warrant or decrease the number of Warrant Shares or class of stock obtainable upon exercise of any SPA Warrant without the written consent of the Holder, unless otherwise provided in the ASX Listing Rules. A change which has the effect of reducing the purchase price, increasing the period for exercise or increasing the number of securities received cannot be made. In addition, subject to the ASX Listing Rules, no such amendment shall be effective to the extent that it applies to less than all of the holders of the SPA Warrants then outstanding.

9. SEVERABILITY . If any provision of this Warrant or the application thereof becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of the terms of this Warrant will continue in full force and effect.

10. GOVERNING LAW . This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

11. CONSTRUCTION; HEADINGS . This Warrant shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

12. DISPUTE RESOLUTION . In the case of a dispute as to the determination of the Exercise Price or the calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two (2) Business Days of receipt of the Exercise Notice giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Business Days submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

13. **REMEDIES, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF** . The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant and the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder right to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the holder of this Warrant shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required.

14. **TRANSFER**. This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company, except as may otherwise be required by Section 2(f) of the Securities Purchase Agreement.

15. **CERTAIN DEFINITIONS**. For purposes of this Warrant, the following terms shall have the following meanings:

(a) **"ADRs"** means the American Depositary Receipts of the Company evidencing the American Depositary Shares of the Company which each represent ten (10) Ordinary Shares.

(b) **"ASX"** means the Australian Stock Exchange.

(c) **"Average Market Price"** means, as of any date, the lesser of (i) the arithmetic average of the Weighted Average Price (as defined in the Notes) of the ADRs during the twenty (20) consecutive Trading Day period ending on the Trading Day immediately prior to such date (the **"Measuring Period"**), (ii) the arithmetic average of the Weighted Average Price of the ADRs during the first three (3) consecutive Trading Day period of such Measuring Period and (iii) the arithmetic average of the Weighted Average Price of the ADRs during the last three (3) consecutive Trading Day period of such Measuring Period; provided, that all such determinations shall be appropriately adjusted for any stock split, stock dividend, stock combination or other similar transaction that proportionately decreases or increases the ADRs during such periods.

(d) **"Bloomberg"** means Bloomberg Financial Markets.

(e) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York, State of New York, U.S.A. or Perth, Australia are authorized or required by law to remain closed.

(f) "**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by Pink Sheets LLC (formerly the National Quotation Bureau, Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 12. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

(g) "**Convertible Securities**" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for ADRs or Ordinary Shares.

(h) "**Deposit Agreement**" means that certain Deposit Agreement, dated as of January 24, 2005 by and among the Company, the Depository and the holders and beneficial owners from time to time of ADSs evidenced by ADRs issued pursuant to such agreement.

(i) "**Depository**" means Citibank, N.A., acting in such capacity under the Deposit Agreement.

(j) "**Eligible Market**" means the Principal Market, The New York Stock Exchange, Inc., the American Stock Exchange or The Nasdaq Capital Market.

(k) "**Expiration Date**" means the date that is sixty months after the Issuance Date or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a "**Holiday**"), the next date that is not a Holiday.

(l) **"Fundamental Transaction"** means that the Company shall, directly or indirectly, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Person, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company to another Person, or (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than the 50% of either the outstanding Ordinary Shares (not including any Ordinary Shares held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than the 50% of the outstanding Ordinary Shares (not including any Ordinary Shares held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock purchase agreement or other business combination), or (v) reorganize, recapitalize or reclassify its Ordinary Shares.

(m) **"Options"** means any rights, warrants or options to subscribe for or purchase ADRs, Ordinary Shares or Convertible Securities.

(n) **"Ordinary Shares"** means (i) the Company's ordinary shares of common stock, no par value per share, and (ii) any share capital into which such Ordinary Shares shall have been changed or any share capital resulting from a reclassification of such Ordinary Shares.

(o) **"Parent Entity"** of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(p) **"Person"** means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(q) **"Principal Market"** means the Nasdaq Global Market.

(r) **"Registration Rights Agreement"** means that certain registration rights agreement by and among the Company and the Buyers.

(s) **"Required Holders"** means the holders of the SPA Warrants representing at least a majority of Warrant Shares underlying the SPA Warrants then outstanding.

(t) **"SPA Securities"** means the Notes issued pursuant to the Amendment Agreement.

(u) **"Successor Entity"** means the Person, which may be the Company, formed by, resulting from or surviving any Fundamental Transaction or the Person with which such Fundamental Transaction shall have been made, provided that if such Person is not a publicly traded entity whose common stock or equivalent equity security is quoted or listed for trading on an Eligible Market, Successor Entity shall mean such Person's Parent Entity.



(v) "**Trading Day**" means any day on which the ADRs are traded on the Principal Market, or, if the Principal Market is not the principal trading market for the ADRs, then on the principal securities exchange or securities market on which the ADRs are then traded; provided that "Trading Day" shall not include any day on which the ADRs are scheduled to trade on such exchange or market for less than 4.5 hours or any day that the ADRs are suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

(w) "**Transaction Documents**" has the meaning set forth in the Securities Purchase Agreement.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the Company has caused this Warrant to Purchase ADRs to be duly executed as of the Issuance Date set out above.

**PSIVIDA LIMITED**

By:

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Name:

Title:

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EXERCISE NOTICE

TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS  
WARRANT TO PURCHASE ADRS

PSIVIDA LIMITED

The undersigned holder hereby exercises the right to purchase \_\_\_\_\_ of the ADRs, each of which representing ten (10) shares of the ordinary shares of common stock, no par value per share ("**Ordinary Shares**") of pSivida Limited, an Australian corporation (the "**Company**"), evidenced by the attached Warrant to Purchase ADRs (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Payment of Exercise Price. The undersigned holder shall pay the Aggregate Exercise Price in the sum of \$\_\_\_\_\_ to the Company in accordance with the terms of the Warrant.

2. Delivery of ADRs. The Company shall deliver to the holder \_\_\_\_\_ ADRs in accordance with the terms of the Warrant.

Date: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Name of Registered Holder

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

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**ACKNOWLEDGMENT**

The Company hereby acknowledges this Exercise Notice and hereby directs Citibank, N.A. to issue the above indicated number of Ordinary Shares in accordance with the Transfer Agent Instructions dated August \_\_, 2006 from the Company and acknowledged and agreed to by Citibank, N.A.

**pSIVIDA LIMITED**

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

Name:

Title:

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## AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT

AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT (this "**Agreement**"), dated as of August \_\_, 2006, by and among pSivida Limited, an Australian corporation, with headquarters located at Level 12 BGC Centre, 28 The Esplanade, Perth Australia 6000 (the "**Company**"), and Castlerigg Master Investments Ltd. (the "**Investor**").

WHEREAS:

A. The Company and the Investor (collectively with any other investors that may become a party to this Agreement, the "**Investors**") are parties to that certain Securities Purchase Agreement, dated as of October 5, 2005 (the "**Securities Purchase Agreement**"), pursuant to which, among other things, the Investors purchased from the Company (i) Subordinated Convertible Notes, dated November 16, 2005 (the "**Existing Notes**") and (ii) warrants (the "**Existing Warrants**"), which are exercisable to purchase ADSs (the "**Existing Warrant Shares**").

In connection with the Amendment Agreement by and among the Company and the Investor, dated as of July 28, 2006, (the "**Amendment Agreement**"), the Company has agreed, among other things, (i) to amend and restate all of such Investor's Existing Notes for senior secured convertible notes (the "**Notes**"), which shall be convertible into ADSs (as converted, the "**Conversion Shares**"), in accordance with the terms thereof, (ii) to issue to the Investor warrants (the "**Series A Warrants**") which shall be exercisable to purchase ADSs (the "**Series A Warrant Shares**") and (iii) to be obligated under the terms of the Notes to issue, from time to time, Series B warrants (the "**Series B Warrants**" and together with the Series A Warrants and the Existing Warrants, the "**Warrants**") which shall be exercisable into ADRs (the "**Series B Warrant Shares**" and together with the Series A Warrant Shares and the Existing Warrant Shares, the "**Warrant Shares**") to the investor in the future in accordance with the terms of the Notes.B.

C. To induce the Buyers to execute and deliver the Amendment Agreement, the Company has agreed to execute and deliver this Agreement which amends, restates and consolidates the terms and conditions of that certain Registration Rights Agreement, by and among the Company and the Investors, dated as of November 16, 2005 whereby the Company agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "**1933 Act**"), and applicable state securities laws.

D. To further induce the Buyers to execute and deliver the Amendment Agreement, the Company has agreed that in the event that a Registration Event (as defined in the Warrants) occurs or Series B Warrants are issued, the Company shall, at the request of the Required Holders (as defined below), register (a "**Subsequent Registration**") the Warrant Shares underlying any outstanding Warrants.

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NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each of the Buyers hereby agree as follows:

1. Definitions.

As used in this Agreement, the following terms shall have the following meanings:

- a. "**ADRs**" means the American Depositary Receipts of the Company evidencing the American Depositary Shares of the Company which each represent ten (10) ordinary shares of the Company ("**Ordinary Shares**").
- b. "**Business Day**" means any day other than Saturday, Sunday or any other day on which commercial banks in The City of New York, State of New York, U.S. A. or Perth, Australia are authorized or required by law to remain closed.
- c. "**Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.
- d. "**Effective Date**" means, with respect to the Initial Registration Statement or a Subsequent Registration Statement, the date such Registration Statement has been declared effective by the SEC.
- e. "**Effectiveness Deadline**" means the Initial Effectiveness Deadline (as defined below) and the Subsequent Effectiveness Deadline (as defined below), as applicable.
- f. "**Initial Effectiveness Deadline**" means September 15, 2006 or, in the event the SEC requires the Company to make substantial and material accounting disclosure to the SEC (other than any disclosure specifically requested by the SEC prior to the date hereof) solely relating to the transactions contemplated by the Amendment Agreement, October 15, 2006.
- g. "**Initial Registrable Securities**" means (i) the Conversion Shares, (ii) the Warrant Shares issuable upon the exercise of any Warrants then outstanding, (iii) any Interest Shares (as defined in the Notes) issued or issuable under the Notes and (iv) any shares of capital stock issued or issuable with respect to the Conversion Shares, the Interest Shares, the Warrant Shares issuable upon the exercise of any Warrants then outstanding, the Notes and the Warrants, as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise, without regard to any limitations on conversions of the Notes or exercises of the Warrants.
- h. "**Initial Required Registration Amount**" means (i) 130% of the number of Conversion Shares issued and issuable as of the Trading Day immediately preceding the applicable date of determination, (ii) 130% of the number of Warrant Shares issued and issuable pursuant to the Warrants as of the Trading Day immediately preceding the applicable date of determination, in each case subject to adjustment as provided in Section 2(f) and (iii) 100% of the Interest Shares paid by the Company.

- i. **"Investor"** means a Buyer, any transferee or assignee thereof to whom a Buyer assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9 and any transferee or assignee thereof to whom a transferee or assignee assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9.
- j. **"Person"** means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.
- k. **"register," "registered," and "registration"** refer to a registration effected by preparing and filing one or more Registration Statements in compliance with the 1933 Act and pursuant to Rule 415 and the declaration or ordering of effectiveness of such Registration Statement(s) by the SEC.
- l. **"Registrable Securities"** means the Initial Registrable Securities and the Subsequent Registrable Securities.
- m. **"Registration Statement"** means a registration statement or registration statements of the Company filed under the 1933 Act covering the Registrable Securities.
- n. **"Required Holders"** means the holders of at least a majority of the Registrable Securities.
- o. **"Required Registration Amount"** means with respect to an Initial Registration Statement, the Initial Required Registration Amount, and, with respect to a Subsequent Registration Statement, the Subsequent Required Registration Amount.
- p. **"Rule 415"** means Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous or delayed basis.
- q. **"Subsequent Filing Deadline"** means 30 days after (i) in the case of a registration pursuant to Section 2(b)(i) the date of receipt by the Company of a Subsequent Registration Request and (ii) in the case of a registration pursuant to Section 2(b)(ii) the issuance of the applicable Series B Warrants.
- r. **"Subsequent Effectiveness Deadline"** means 120 days after (i) in the case of a registration pursuant to Section 2(b)(i) the date of receipt by the Company of a Subsequent Registration Request and (ii) in the case of a registration pursuant to Section 2(b)(ii) the issuance of the applicable Series B Warrants.
- s. **"Subsequent Registrable Securities"** means, as applicable (i) in the case of a registration pursuant to Section 2(b)(i), after the second anniversary of the Issuance Date, the Warrant Shares issued and issuable in connection with the Warrants, provided that there shall have occurred a Registration Event and (ii) in the case of a registration pursuant to Section 2(b)(ii), the Series B Warrant Shares issuable upon exercise of any Series B Warrants then outstanding and not previously registered.

t. "Subsequent Registration Request" means a request to the Company from a Holder of Warrants for a Subsequent Registration of Subsequent Registrable Securities, which Subsequent Registration Request has been sent to and received by the Company within 30 days of the Registration Event to which it relates.

u. "Subsequent Registration Statement" means a registration statement or registration statements of the Company filed under the 1933 Act covering any Subsequent Registrable Securities.

v. "Subsequent Required Registration Amount" means 130% of (i) in the case of a registration pursuant to Section 2(b)(i), the number of Warrant Shares issued and issuable pursuant to the Warrants as of the Trading Day immediately preceding the applicable date of determination which have not previously been sold pursuant to an effective registration statement, without restriction pursuant to Rule 144(k) or on the ASX, subject to adjustment as provided in Section 2(f) and (ii) in the case of a registration pursuant to Section 2(b)(ii), the number of Series B Warrant Shares issued and issuable pursuant to the Series B Warrants as of the Trading Day immediately preceding the applicable date of determination, in each case subject to adjustment as provided in Section 2(f).

w. "SEC" means the United States Securities and Exchange Commission.

x. "Trading Day" means any day on which the ADRs are traded on the Nasdaq National Market, or, if the Nasdaq National Market is not the principal trading market for the ADRs, then on the principal securities exchange or securities market on which the ADRs are then traded; provided that "Trading Day" shall not include any day on which the ADRs are scheduled to trade on such exchange or market for less than 4.5 hours or any day that the ADRs are suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement. In the event that the Company's Board of Directors should determine that the Company shall transform itself (whether by re-incorporation in the United States or otherwise) from a foreign private issuer (as defined in the Securities Act of 1933, as amended), all references to ADRs shall be deemed references to the securities that are substituted for the ADRs with equitable adjustment of the provisions of this Agreement for such substituted securities.

## 2. Registration.

a. Initial Mandatory Registration. The Company shall prepare, and, as soon as practicable, (i) file with the SEC the Initial Registration Statement on Form F-3 or Form S-3 covering the resale of all of the Initial Registrable Securities or (ii) amend its existing registration statement on Form F-3 with the SEC file number 333-132777 to cover the resale of all the Initial Registrable Securities. In the event that Form F-3 or Form S-3 is unavailable for such a registration, the Company shall use Form F-1 or Form S-1, as applicable, subject to the provisions of Section 2(e). The Initial Registration Statement prepared pursuant hereto shall register for resale at least the number of ADRs equal to the Initial Required Registration Amount as of the date the Initial Registration Statement is initially filed with the SEC. The Initial Registration Statement shall contain (except if otherwise directed by the Required Holders) the "Selling Shareholders" and "Plan of Distribution" sections in substantially the form attached hereto as Exhibit B, with such changes as may be appropriate to reflect the inclusion of other permissible securities of the Company and other changes which may be necessary or appropriate. The Company shall use its reasonable best efforts to have the Initial Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the Initial Effectiveness Deadline.



b. Subsequent Mandatory Registrations.

(i) The Company shall, after the occurrence of a Registration Event and upon receipt of a Subsequent Registration Request, prepare, and, as soon as practicable but in no event later than the Subsequent Filing Deadline, file with the SEC a Subsequent Registration Statement on Form F-3, Form SB-2 or Form S-3 covering the resale of all of the Subsequent Registrable Securities. In the event that Form F-3, Form SB-2 or Form S-3 is unavailable for such a registration, the Company shall use such other form as is available for such a registration on another appropriate form reasonably acceptable to the Required Holders, subject to the provisions of Section 2(e). Each Subsequent Registration Statement prepared pursuant hereto shall register for resale at least that number of ADRs equal to the Subsequent Required Registration Amount as of the date such Registration Statement is initially filed with the SEC. Each Subsequent Registration Statement shall contain (except if otherwise directed by the Required Holders) the "Selling Shareholders" and "Plan of Distribution" sections in substantially the form attached hereto as Exhibit B, with such changes as may be necessary or appropriate. The Company shall use its reasonable best efforts to have each Subsequent Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the applicable Subsequent Effectiveness Deadline.

(ii) The Company shall, after the issuance of any Series B Warrants, prepare, and, as soon as practicable but in no event later than the Subsequent Filing Deadline, file with the SEC a Subsequent Registration Statement on Form F-3, Form SB-2 or Form S-3 covering the resale of all of the Subsequent Registrable Securities. In the event that Form F-3, Form SB-2 or Form S-3 is unavailable for such a registration, the Company shall use such other form as is available for such a registration on another appropriate form reasonably acceptable to the Required Holders, subject to the provisions of Section 2(e). Each Subsequent Registration Statement prepared pursuant hereto shall register for resale at least that number of ADRs equal to the Subsequent Required Registration Amount as of the date such Registration Statement is initially filed with the SEC. Each Subsequent Registration Statement shall contain (except if otherwise directed by the Required Holders) the "Selling Shareholders" and "Plan of Distribution" sections in substantially the form attached hereto as Exhibit B, with such changes as may be necessary or appropriate. The Company shall use its reasonable best efforts to have each Subsequent Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the applicable Subsequent Effectiveness Deadline.

c. Allocation of Registrable Securities. The initial number of Registrable Securities included in any Registration Statement and any increase in the number of Registrable Securities included therein shall be allocated pro rata among the Investors based on the number of Registrable Securities held by each Investor at the time the Registration Statement covering such initial number of Registrable Securities or increase thereof is declared effective by the SEC. In the event that an Investor sells or otherwise transfers any of such Investor's Registrable Securities, each transferee shall be allocated a pro rata portion of the then remaining number of Registrable Securities included in such Registration Statement for such transferor. Any ADRs included in a Registration Statement and which remain allocated to any Person which ceases to hold any Registrable Securities covered by such Registration Statement shall be allocated to the remaining Investors, pro rata based on the number of Registrable Securities then held by such Investors which are covered by such Registration Statement. Other than as permitted by Section 4(k) of the Securities Purchase Agreement, in no event shall the Company include any securities other than Registrable Securities on any Registration Statement without the prior written consent of the Required Holders.

d. Legal Counsel. Subject to Section 5 hereof, the Required Holders shall have the right to select one legal counsel to review and oversee any registration pursuant to this Section 2, which shall be Schulte Roth & Zabel LLP or such other counsel as is thereafter designated in writing by the Required Holders prior to the initiation of such other legal counsel's review and oversight of any registration ("**Legal Counsel**"). The Company and Legal Counsel shall reasonably cooperate with each other in performing the Company's obligations under this Agreement.

e. Ineligibility for Form F-3 or Form S-3. In the event that Form F-3 or Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on another appropriate form reasonably acceptable to the Required Holders and (ii) undertake to register the Registrable Securities on Form F-3 or Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form F-3 or Form S-3 covering the Registrable Securities has been declared effective by the SEC.

f. Sufficient Number of ADRs Registered. In the event the number of ADRs available under a Registration Statement filed pursuant to Section 2(a) is insufficient to cover all of the Registrable Securities required to be covered by such Registration Statement or an Investor's allocated portion of the Registrable Securities pursuant to Section 2(c), the Company shall amend the applicable Registration Statement, or file a new Registration Statement (on the short form available therefor, if applicable), or both, so as to cover at least the Required Registration Amount, but as of the Trading Day immediately preceding the date of the filing of such amendment or new Registration Statement, in each case, as soon as practicable, but in any event not later than fifteen (15) Business Days after the necessity therefor arises. The Company shall use its best efforts to cause such amendment and/or new Registration Statement to become effective as soon as practicable following the filing thereof. For purposes of the foregoing provision, the number of ADRs available under a Registration Statement shall be deemed "insufficient to cover all of the Registrable Securities" if at any time the number of ADRs available for resale under the Registration Statement is less than the product determined by multiplying (i) the Required Registration Amount by (ii) 0.90. The calculation set forth in the foregoing sentence shall be made without regard to any limitations on the conversion of the Notes or the exercise of the Warrants and such calculation shall assume that the Notes and the Warrants are then convertible into ADRs and are issuable at the then prevailing Interest Conversion Price (as defined in the Notes), Conversion Rate (as defined in the Notes) or Exercise Price (as defined in the Warrants), as applicable.

g. Effect of Failure to File and Obtain and Maintain Effectiveness of Registration Statement. If a Registration Statement covering all of the Registrable Securities required to be covered thereby and required to be filed by the Company pursuant to this Agreement is not declared effective by the SEC on or before the Initial Effectiveness Deadline (an "**Initial Effectiveness Failure**") then, as partial relief for the damages to any holder by reason of any such delay in or reduction of its ability to sell the ADRs (which remedy shall not be exclusive of any other remedies available at law or in equity), the Company shall pay to each holder of Registrable Securities relating to such Registration Statement an amount in cash equal to two and one half percent (2.5%) of the aggregate Purchase Price of such Investor's Registrable Securities included in such Registration Statement (minus any Registration Delay Payments previously paid to such holder) on (B) every thirtieth day (pro rated for periods totaling less than thirty days) from the date of an Initial Effectiveness Failure until such Initial Effectiveness Failure is cured; provided, however, Registration Delay Payments (as defined below) will be deemed to have begun to accrue for such Initial Effectiveness Failure on May 15, 2006. If (i) a Registration Statement covering all of the Registrable Securities required to be covered thereby and required to be filed by the Company pursuant to this Agreement is not, with respect to a Subsequent Registration Statement, (A) filed with the SEC on or before the Subsequent Filing Deadline (a "**Filing Failure**") or (B) declared effective by the SEC on or before the Subsequent Effectiveness Deadline (a "**Subsequent Effectiveness Failure**") or (ii) on any day after the Effective Date (A) sales of all of the Registrable Securities required to be included on such Registration Statement cannot be made (other than during an Allowable Grace Period (as defined in Section 3(r)) pursuant to such Registration Statement (including, without limitation, because of a failure to keep such Registration Statement effective, to disclose such information as is necessary for sales to be made pursuant to such Registration Statement or to register a sufficient number of ADRs), (B) the Registrable Securities are not listed or included for quotation on an Eligible Market (as defined in the Notes) or trading of the ADRs is suspended or halted thereon (other than during an Allowable Trading Grace Period) (each, a "**Maintenance Failure**"), then, as partial relief for the damages to any holder by reason of any such delay in or reduction of its ability to sell the ADRs (which remedy shall not be exclusive of any other remedies available at law or in equity), the Company shall pay to each holder of Registrable Securities relating to such Registration Statement an amount in cash equal to one and one half percent (1.5%) of the aggregate Purchase Price of such Investor's Registrable Securities included in such Registration Statement on each of the following dates: (A) every thirtieth day (pro rated for periods totaling less than thirty days) after a Filing Failure until such Filing Failure is cured; (B) every thirtieth day (pro rated for periods totaling less than thirty days) from the date of a Subsequent Effectiveness Failure until such Subsequent Effectiveness Failure is cured and (C) every thirtieth day (pro rated for periods totaling less than thirty days) from the date of a Maintenance Failure until such Maintenance Failure is cured. The payments to which a holder shall be entitled pursuant to this Section 2(g) are referred to herein as "**Registration Delay Payments.**" Registration Delay Payments shall be paid on the earlier of (I) the last day of the calendar month during which such Registration Delay Payments are incurred and (II) the fifth Business Day after the event or failure giving rise to the Registration Delay Payments is cured. In the event the Company fails to make Registration Delay Payments in a timely manner, such Registration Delay Payments shall bear interest at the rate of 1.0% per month (prorated for partial months) until paid in full.

3. Related Obligations.

At such time as the Company is obligated to file a Registration Statement with the SEC pursuant to Section 2(a), 2(b) or 2(f), the Company will use its reasonable best efforts to effect the registration of the Registrable Securities consistent with the Plan of Distribution and, pursuant thereto, the Company shall have the following obligations:

a. The Company shall promptly prepare and file with the SEC a Registration Statement with respect to the Registrable Securities and use its reasonable best efforts to cause such Registration Statement relating to the Registrable Securities to become effective as soon as practicable after such filing (but in no event later than the Effectiveness Deadline). The Company shall keep each Registration Statement effective pursuant to Rule 415 at all times until the earlier of (i) the date as of which the Investors may sell all of the Registrable Securities covered by such Registration Statement without restriction pursuant to Rule 144(k) (or successor thereto) promulgated under the 1933 Act or (ii) the date on which the Investors shall have sold all the Registrable Securities covered by such Registration Statement (the "**Registration Period**"), which Registration Statement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading. The term "best efforts" shall mean, among other things, that the Company shall submit to the SEC, within four (4) Business Days after the later of the date that (i) Company learns that no review of a particular Registration Statement will be made by the staff of the SEC or that the staff has no further comments on the Registration Statement, as the case may be, and (ii) the approval of Legal Counsel pursuant to Section 3(c) (which approval is immediately sought), a request for acceleration of effectiveness of such Registration Statement to a time and date not later than 48 hours after the submission of such request.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to a Registration Statement and the prospectus used in connection with such Registration Statement, which prospectus is to be filed pursuant to Rule 424 promulgated under the 1933 Act, as may be necessary to keep such Registration Statement effective at all times during the Registration Period, subject to Allowable Grace Periods, and, during such period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by such Registration Statement. In the case of amendments and supplements to a Registration Statement which are required to be filed pursuant to this Agreement (including pursuant to this Section 3(b)) by reason of the Company filing a report on Form 10-K or 10-KSB, as applicable, Form 10-Q or 10-QSB, as applicable, or Form 8-K or any analogous report under the Securities Exchange Act of 1934, as amended (the "**1934 Act**"), the Company shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the SEC on the same day on which the 1934 Act report is filed which created the requirement for the Company to amend or supplement such Registration Statement.

c. The Company shall (A) permit Legal Counsel to review and comment upon (i) a Registration Statement at least five (5) Business Days prior to its filing with the SEC and (ii) all amendments and supplements to all Registration Statements (except for reports incorporated by reference therein) within a reasonable number of days prior to their filing with the SEC, and (B) not file any Registration Statement or amendment or supplement thereto in a form to which Legal Counsel reasonably objects. The Company shall not submit a request for acceleration of the effectiveness of a Registration Statement or any amendment or supplement thereto without the prior approval of Legal Counsel, which consent shall not be unreasonably withheld. The Company shall furnish to Legal Counsel, without charge, (i) copies of any correspondence from the SEC or the staff of the SEC to the Company or its representatives relating to any Registration Statement, (ii) promptly after the same is prepared and filed with the SEC, one copy of any Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by an Investor, and all exhibits and (iii) upon the effectiveness of any Registration Statement, one copy of the prospectus included in such Registration Statement and all amendments and supplements thereto. The Company shall reasonably cooperate with Legal Counsel in performing the Company's obligations pursuant to this Section 3.

d. The Company shall furnish to each Investor whose Registrable Securities are included in any Registration Statement, without charge, (i) promptly after the same is prepared and filed with the SEC, at least one copy of such Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by an Investor, all exhibits and each preliminary prospectus, (ii) upon the effectiveness of any Registration Statement, ten (10) copies of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as such Investor may reasonably request) and (iii) such other documents, including copies of any preliminary or final prospectus, as such Investor may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by such Investor.

e. The Company shall use its reasonable best efforts to (i) register and qualify, unless an exemption from registration and qualification applies, the resale by Investors of the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of all applicable jurisdictions in the United States, (ii) prepare and file in those jurisdictions, such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(e), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify Legal Counsel and each Investor who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

f. The Company shall notify Legal Counsel and each Investor in writing, of the happening of any event, as promptly as practicable after becoming aware of such event, as a result of which the prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, nonpublic information), and, subject to Section 3(r), promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission, and deliver ten (10) copies of such supplement or amendment to Legal Counsel and each Investor (or such other number of copies as Legal Counsel or such Investor may reasonably request). The Company shall also promptly notify Legal Counsel and each Investor in writing, (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, and when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to Legal Counsel and each Investor by facsimile or e-mail on the same day of such effectiveness and by overnight mail), (ii) of any request by the SEC for amendments or supplements to a Registration Statement or related prospectus or related information, and (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate.

g. The Company shall use its reasonable best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, or the suspension of the qualification of any of the Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and to notify Legal Counsel and each Investor who holds Registrable Securities being sold of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

h. If any Investor is required under applicable securities law to be described in the Registration Statement as an underwriter, at the reasonable request of any Investor, the Company shall furnish to such Investor, on the date of the effectiveness of the Registration Statement and thereafter from time to time on such dates as an Investor may reasonably request (i) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the Investors, and (ii) an opinion, dated as of such date, of counsel representing the Company for purposes of such Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, addressed to the Investors.

i. The Company shall make available for inspection by (i) any Investor, (ii) Legal Counsel and (iii) one firm of accountants or other agents retained by the Investors (collectively, the "**Inspectors**"), all pertinent financial and other records, and pertinent corporate documents and properties of the Company (collectively, the "**Records**"), as shall be necessary and reasonably requested by each Inspector, and cause the Company's officers, directors and employees, counsel and the Company's independent certified public accountants to supply all information which may be necessary and any Inspector may reasonably request; provided, however, that each Inspector shall agree to hold in strict confidence and shall not make any disclosure (except to an Investor) or use of any Record or other information which the Company determines in good faith to be confidential, and of which determination the Inspectors are so notified, and such inspector executes any non-disclosure, non-use or similar document which may be reasonably required by Company, its independent certified public accountants or its counsel (and upon execution of which the Company shall not be deemed to be in violation of its agreement not to provide to such Investor any material, nonpublic information or to publicly disclose such information) unless (a) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required under the 1933 Act, (b) the release of such Records is ordered pursuant to a final, non-appealable subpoena or order from a court or government body of competent jurisdiction, or (c) the information in such Records has been made generally available to the public other than by disclosure in violation of this or any other agreement of which the Inspector has knowledge. Each Investor agrees that it shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein (or in any other confidentiality agreement between the Company and any Investor) shall be deemed to limit the Investors' ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

j. The Company shall hold in confidence and not make any disclosure of information concerning an Investor provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other agreement of which the Company has knowledge. The Company agrees that it shall, upon learning that disclosure of such information concerning an Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to such Investor and allow such Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

k. The Company shall use its reasonable best efforts either to (i) cause all the Registrable Securities covered by a Registration Statement to be listed on each securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, or (ii) secure designation and quotation of all the Registrable Securities covered by the Registration Statement on the Nasdaq National Market, or (iii) if, despite the Company's best efforts to satisfy the preceding clause (i) or (ii), the Company is unsuccessful in satisfying the preceding clause (i) or (ii), to secure the inclusion for quotation on The Nasdaq SmallCap Market for such Registrable Securities and, without limiting the generality of the foregoing, to use its best efforts to arrange for at least two market makers to register with the National Association of Securities Dealers, Inc. ("**NASD**") as such with respect to such Registrable Securities. The Company shall pay all fees and expenses in connection with satisfying its obligation under this Section 3(k).

l. The Company shall cooperate with the Investors who hold Registrable Securities being offered and, to the extent applicable, facilitate the timely preparation and delivery of certificates (not bearing any restrictive legend) representing the Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the Investors may reasonably request and registered in such names as the Investors may request.

m. If reasonably requested by an Investor, the Company shall as soon as reasonably practicable (i) incorporate in a prospectus supplement or post-effective amendment such information as an Investor reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; and (ii) make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment if reasonably requested by an Investor holding any Registrable Securities.

n. The Company shall use its reasonable best efforts to cause the Registrable Securities covered by the Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to consummate the disposition of such Registrable Securities.

o. The Company shall make generally available to its security holders as soon as practical, but not later than one hundred eighty (180) days after the close of the period covered thereby, an earnings statement (in form complying with the provisions of Rule 158 under the 1933 Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the effective date of the Registration Statement.

p. The Company shall otherwise use its best efforts to comply with all applicable rules and regulations of the SEC in connection with any registration hereunder.

q. Within three (3) Business Days after a Registration Statement which covers Registrable Securities is ordered effective by the SEC, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Investors whose Registrable Securities are included in such Registration Statement) confirmation that such Registration Statement has been declared effective by the SEC substantially in the form attached hereto as Exhibit A.



r. Notwithstanding anything to the contrary herein, the Company may delay, including by delaying the filing of a Registration Statement, the disclosure of material, non-public information concerning the Company the disclosure of which at the time is not, in the good faith opinion of the Board of Directors of the Company and its counsel, in the best interest of the Company and, in the opinion of counsel to the Company, otherwise required (a "**Grace Period**") and, as applicable, suspend sales of Registered Securities under an effective Registration Statement; provided, that the Company shall promptly (i) notify the Investors in writing of the existence of material, non-public information giving rise to a Grace Period (provided that in each notice the Company will not disclose the content of such material, non-public information to the Investors) and the date on which the Grace Period will begin, and (ii) notify the Investors in writing of the date on which the Grace Period ends; and, provided further, that no Grace Period shall exceed 15 consecutive days and during any 365 day period such Grace Periods shall not exceed an aggregate of 45 days and the first day of any Grace Period must be at least 2 Trading Days after the last day of any prior Grace Period (an "**Allowable Grace Period**"). For purposes of determining the length of a Grace Period above, the Grace Period shall begin on and include the date the holders receive the notice referred to in clause (i) and shall end on and include the later of the date the holders receive the notice referred to in clause (ii) and the date referred to in such notice. The provisions of Sections 2(f) and 3(e) hereof shall not be applicable during the period of any Allowable Grace Period. Upon expiration of the Grace Period, the Company shall again be bound by the first sentence of Section 3(f) with respect to the information giving rise thereto unless such material non-public information is no longer applicable. Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended certificates for ADRs to a transferee of an Investor in accordance with the terms of the Securities Purchase Agreement in connection with any sale of Registrable Securities with respect to which an Investor has entered into a contract for sale, and delivered a copy of the prospectus included as part of the applicable Registration Statement, prior to the Investor's receipt of the notice of a Grace Period and for which the Investor has not yet settled.

Notwithstanding anything to the contrary herein, the Company may suspend trading of its equity securities on the applicable Eligible Market on which its equity securities are then trading, due to the existence of material, non-public information concerning the Company the disclosure of which at the time is not, in the good faith opinion of the Board of Directors of the Company and its counsel, in the best interest of the Company (a "**Trading Grace Period**"); provided, that the Company shall promptly (i) notify the Investors in writing of the existence of such suspension (provided that in each notice the Company will not disclose the content of any material, non-public information to the Investors) and the date on which the Trading Grace Period will begin, and (ii) notify the Investors in writing of the date on which the Trading Grace Period ends; and, provided further, that no Trading Grace Period shall exceed 5 consecutive days and during any 365 day period such Trading Grace Periods shall not exceed an aggregate of 15 days and the first day of any Trading Grace Period must be at least 2 Trading Days after the last day of any prior Trading Grace Period (an "**Allowable Grace Trading Period**"). For purposes of determining the length of a Trading Grace Period above, the Trading Grace Period shall begin on and include the date the holders receive the notice referred to in clause (i) and shall end on and include the later of the date the holders receive the notice referred to in clause (ii) and the date referred to in such notice. The provisions of Sections 2(f) hereof shall not be applicable during the period of any Allowable Trading Grace Period.

4. Obligations of the Investors.

a. At least five (5) Business Days prior to the first anticipated filing date of a Registration Statement, the Company shall notify each Investor in writing of the information the Company requires from each such Investor if such Investor elects to have any of such Investor's Registrable Securities included in such Registration Statement. It shall be a condition precedent to the obligations of the Company to complete the registration pursuant to this Agreement with respect to the Registrable Securities of a particular Investor that such Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it, as shall be reasonably required to effect and maintain the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

b. Each Investor, by such Investor's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of any Registration Statement hereunder, unless such Investor has notified the Company in writing of such Investor's election to exclude all of such Investor's Registrable Securities from such Registration Statement.

c. Each Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(g) or the first sentence of 3(f), such Investor will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until such Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(g) or the first sentence of 3(f) or receipt of notice that no supplement or amendment is required. Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended certificates for ADRs to a transferee of an Investor in accordance with the terms of the Securities Purchase Agreement in connection with any sale of Registrable Securities with respect to which an Investor has entered into a contract for sale prior to the Investor's receipt of a notice from the Company of the happening of any event of the kind described in Section 3(g) or the first sentence of 3(f) and for which the Investor has not yet settled.

d. Each Investor covenants and agrees that it will comply with the prospectus delivery requirements of the 1933 Act as applicable to it in connection with sales of Registrable Securities pursuant to the Registration Statement.

5. Expenses Of Registration.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, and fees and disbursements of counsel for the Company shall be paid by the Company. The Company shall also reimburse Castlerigg Master Investments Ltd. for the fees and disbursements of Legal Counsel incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3 of this Agreement which amount shall be limited to \$10,000 in the aggregate.

6. Indemnification.

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

a. To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend each Investor, the directors, officers, partners, members, employees, agents, representatives of, and each Person, if any, who controls any Investor within the meaning of the 1933 Act or the 1934 Act (each, an "**Indemnified Person**"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, reasonable attorneys' fees, amounts paid in settlement or expenses, joint or several, (collectively, "**Claims**") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("**Indemnified Damages**"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("**Blue Sky Filing**"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement or (iv) any material violation of this Agreement (the matters in the foregoing clauses (i) through (iv) being, collectively, "**Violations**"). Subject to Section 6(c), the Company shall reimburse the Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Indemnified Person for such Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(d); (ii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company, including a corrected prospectus, if such prospectus or corrected prospectus was timely made available by the Company pursuant to Section 3(d); and (iii) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investors pursuant to Section 9.

b. In connection with any Registration Statement in which an Investor is participating, each such Investor agrees to severally and not jointly indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement and each Person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act (each, an "**Indemnified Party**"), against any Claim or Indemnified Damages to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information furnished to the Company by such Investor expressly for use in connection with such Registration Statement; and, subject to Section 6(c), such Investor will reimburse any legal or other expenses reasonably incurred by an Indemnified Party in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Investor, which consent shall not be unreasonably withheld or delayed; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investors pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving a Claim, such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses of not more than one counsel for such Indemnified Person or Indemnified Party to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. In the case of an Indemnified Person, legal counsel referred to in the immediately preceding sentence shall be selected by the Required Holders to which the Claim relates. The Indemnified Party or Indemnified Person shall cooperate reasonably with the indemnifying party in connection with any negotiation or defense of any such action or Claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnified Party or Indemnified Person which relates to such action or Claim. The indemnifying party shall keep the Indemnified Party or Indemnified Person fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent, provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Indemnified Party or Indemnified Person, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party or Indemnified Person of a release from all liability in respect to such Claim or litigation. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party or Indemnified Person with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action.

d. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when Indemnified Damages are incurred and applicable bills are received.

e. The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law.

f. Nothing herein shall the right of any party to this Agreement to bring a contractual claim against any other party to this Agreement for a breach of this Agreement.

7. Contribution.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that: (i) no person involved in the sale of Registrable Securities which person is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) in connection with such sale shall be entitled to contribution from any person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities pursuant to such Registration Statement.

8. Reports Under The 1934 Act.

Until the date on which (A) the Investors shall have sold all the Conversion Shares and the Warrant Shares and (B) none of the Notes or Warrants is outstanding, with a view to making available to the Investors the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investors to sell securities of the Company to the public without registration ("**Rule 144**"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to each Investor so long as such Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, to the extent not available on EDGAR, and (iii) such other information as may be reasonably requested to permit the Investors to sell such securities pursuant to Rule 144 without registration.

9. Assignment of Registration Rights.

The rights under this Agreement shall be automatically assignable by the Investors to any transferee of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within three (3) Business Days after such assignment; (ii) the Company is, within three (3) Business Days after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned; (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws; (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein; and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement.

10. Amendment of Registration Rights.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Required Holders. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon each Investor and the Company. No such amendment shall be effective to the extent that it applies to less than all of the holders of the Registrable Securities. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

11. Miscellaneous.

a. A Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the such record owner of such Registrable Securities.

b. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one Business Day after deposit with a nationally recognized overnight delivery service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

pSivida Limited.  
Level 12, BGC Centre  
28 The Esplanade, Perth  
WA 6000 Australia  
Telephone: 61 8 9226 5099  
Facsimile: 61 8 9226 5499  
Attention: Gavin Rezos, Managing Director

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

Curtis, Mallet-Prevost, Colt & Mosle LLP  
101 Park Avenue  
New York, N.Y. 10178  
U.S.A.  
Telephone: 212-696-6000  
Facsimile: 212-697-1559  
Attention: Lawrence Goodman, Esq.

If to Legal Counsel:

Schulte Roth & Zabel LLP  
919 Third Avenue  
New York, New York 10022  
Telephone: (212) 756-2000  
Facsimile: (212) 593-5955  
Attention: Eleazer Klein, Esq.

If to a Buyer, to its address and facsimile number set forth on the Schedule of Buyers attached hereto, with copies to such Buyer's representatives as set forth on the Schedule of Buyers, or to such other address and/or facsimile number and/or to the attention of such other person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by a courier or overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from a nationally recognized overnight delivery service in accordance with clause (i), (ii) or (iii) above, respectively.

c. The Company hereby irrevocably appoints National Corporate Research Ltd., 225 West 34<sup>th</sup> Street, Suite 910, New York, N.Y. 10112 ("NCR") as its agent for the receipt of service of process in the United States. The Company agrees that any document may be effectively served on it in connection with any action, suit or proceeding in the United States by service on its agents. The Buyers consent and agree that the Company may, in its reasonable discretion, irrevocably appoint a substitute agent for the receipt of service of process located within the United States, and that upon such appointment, the appointment of NCR may be revoked.

(1) Any document shall be deemed to have been duly served if marked for the attention of the agent at its address (as set forth in Section 9(f) of the Securities Purchase Agreement) or such other address in the United States as may be notified to the party wishing to serve the document and (a) left at the specified address if its receipt is acknowledged in writing; or (b) sent to the specified address by post, registered mail return receipt requested. In the case of (a), the document will be deemed to have been duly served when it is left and signed for. In the case of (b), the document shall be deemed to have been duly served when received and acknowledged.

(2) If the Company's agent at any time ceases for any reason to act as such, the Company shall appoint a replacement agent having an address for service in the United States and shall notify each Buyer of the name and address of the replacement agent. Failing such appointment and notification, the Buyer shall be entitled by notice to the Company to appoint a replacement agent to act on the Company's behalf. The provisions of this Section 11(c) applying to service on an agent apply equally to service on a replacement agent.



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

e. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

f. This Agreement and the other Transaction Documents (as defined in the Securities Purchase Agreement) constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the other Transaction Documents supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

g. Subject to the requirements of Section 9, this Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of each of the parties hereto.

h. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

i. This Agreement may be executed in identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

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

k. All consents and other determinations required to be made by the Investors pursuant to this Agreement shall be made, unless otherwise specified in this Agreement, by the Required Holders, determined as if all of the Notes held by Investors then outstanding have been converted into Registrable Securities and all Warrants then outstanding have been exercised for Registrable Securities without regard to any limitations on conversion of the Notes or on exercises of the Warrants.

l. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party.

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

n. The obligations of each Buyer hereunder are several and not joint with the obligations of any other Buyer, and no provision of this Agreement is intended to confer any obligations on any Buyer vis a vis any other Buyer. Nothing contained herein, and no action taken by any Buyer pursuant hereto, shall be deemed to constitute the Buyers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Buyers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated herein.

\* \* \* \* \*

**IN WITNESS WHEREOF**, each Buyer and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

**COMPANY:**

**PSIVIDA LIMITED**

By:

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Name: Gavin Rezos

Title: Managing Director

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**IN WITNESS WHEREOF**, each Buyer and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

**BUYERS:**

**CASTLERIGG MASTER INVESTMENTS LTD.**

By:

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

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SCHEDULE OF BUYERS

<u>Buyer</u>	<u>Buyer Address and Facsimile Number</u>	<u>Buyer's Representative's Address and Facsimile Number</u>
<b>Castlerigg Master Investments</b>	c/o Sandell Asset Management Corp. 40 West 57th Street 26th Floor New York, New York 10019 Attention: Cem Hacioglu/Matthew Pliskin Facsimile: (212) 603-5710 Telephone: (212) 603-5775	Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 Attn: Eleazer Klein, Esq. Facsimile: (212) 593-5955 Telephone: (212) 756-2000

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FORM OF NOTICE OF EFFECTIVENESS  
OF REGISTRATION STATEMENT

Citibank, N.A.  
388 Greenwich Street,  
14th Floor  
New York, New York 10013  
Attention: Paul Martin

Re: PSIVIDA LIMITED

Ladies and Gentlemen:

We are counsel to pSivida Limited, an Australian corporation (the "**Company**"), and have represented the Company in connection with that certain Amendment Agreement (the "**Purchase Agreement**") entered into by and among the Company and the buyers named therein (collectively, the "**Holder**s") pursuant to which the Company issued to the Holders notes convertible into the Company's ADRs (as converted, the "**Conversion Shares**"), and warrants (the "**Warrants**") exercisable for Ordinary Shares (the "**Warrant Shares**"). Pursuant to the Purchase Agreement, the Company also has entered into a Registration Rights Agreement with the Holders (the "**Registration Rights Agreement**") pursuant to which the Company agreed, among other things, to register the resale of the Registrable Securities (as defined in the Registration Rights Agreement), including the ADRs issuable upon conversion of the Notes, as interest on the Notes and upon exercise of the Warrants under the Securities Act of 1933, as amended (the "**1933 Act**"). In connection with the Company's obligations under the Registration Rights Agreement, on \_\_\_\_\_, 2006, the Company filed a Registration Statement on Form F-3 (File No. 333-\_\_\_\_\_) (the "**Registration Statement**") with the Securities and Exchange Commission (the "**SEC**") relating to the Registrable Securities which names each of the Holders as a selling stockholder thereunder.

In connection with the foregoing, we advise you that a member of the SEC's staff has advised us by telephone that the SEC has entered an order declaring the Registration Statement effective under the 1933 Act at [ENTER TIME OF EFFECTIVENESS] on [ENTER DATE OF EFFECTIVENESS] and we have no knowledge, after telephonic inquiry of a member of the SEC's staff, that any stop order suspending its effectiveness has been issued or that any proceedings for that purpose are pending before, or threatened by, the SEC and the Registrable Securities are available for resale under the 1933 Act pursuant to the Registration Statement.

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This letter shall serve as our standing opinion to you that the ADRs are freely transferable by the Holders pursuant to the Registration Statement. You need not require further letters from us to effect any future legend-free issuance or reissuance of ADRs to the Holders as contemplated by the Company's Irrevocable Transfer Agent Instructions dated August \_\_, 2006. This letter shall serve as our standing instructions to you with regard to this matter.

Very truly yours,

[ISSUER'S COUNSEL]

By:

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CC: [LIST NAMES OF HOLDERS]

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**SELLING STOCKHOLDERS**

The ADRs being offered by the selling stockholders are issuable (i) upon conversion of the convertible notes, (ii) as interest on the convertible notes and (iii) upon exercise of the warrants. For additional information regarding the notes and warrants, see "Private Placement of Convertible Notes and Warrants" above. We are registering the ADRs in order to permit the selling stockholders to offer the ADRs for resale from time to time. Except for the ownership of the notes and the warrants, the selling stockholders have not had any material relationship with us within the past three years.

The table below lists the selling stockholders and other information regarding the beneficial ownership of the ordinary shares underlying the ADRs by each of the selling stockholders. The second column lists the number of ordinary shares beneficially owned (directly or indirectly through ADRs) by each selling stockholder, based on its ownership of the notes and the warrants, as of \_\_\_\_\_, 2006, assuming conversion of all the notes and exercise of all warrants held by the selling stockholders on that date, without regard to any limitations on conversions or exercise.

The third column lists the ordinary shares being offered by this prospectus by the selling stockholders.

In accordance with the terms of registration rights agreements with the holders of the notes and the warrants, this prospectus generally covers the resale of at least 130% of the sum of (i) the maximum number of ADRs issuable upon conversion of the notes (assuming that the notes are convertible at their initial Conversion Price and without taking into account any limitations on the conversion of the notes set forth in such notes), (ii) the maximum number of ADRs issuable upon exercise of the related warrants (without taking into account any limitations on the exercise of the warrants set forth in the warrants) and (iii) as interest on the convertible notes, in each case as of the Trading Day immediately preceding the date this registration statement was initially filed with the SEC. Because the conversion price of the notes and the exercise price of the warrants may be adjusted, the number of ADRs that will actually be issued may be more or less than the number of ADRs being offered by this prospectus. The fourth column assumes the sale of all of the ADRs offered by the selling stockholders pursuant to this prospectus.

Under the terms of the notes and the warrants, a selling stockholder may not convert the notes, or exercise the warrants, to the extent such conversion or exercise would cause such selling stockholder, together with its affiliates, to beneficially own a number of ordinary shares (directly or indirectly through ADRs) which would exceed 4.99% of our then outstanding ordinary shares following such conversion or exercise, excluding for purposes of such determination ordinary shares issuable upon conversion of the notes which have not been converted and upon exercise of the warrants which have not been exercised. The number of shares in the second column does not reflect this limitation. The selling stockholders may sell all, some or none of their ADRs in this offering. See "Plan of Distribution."

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<u>Name of Selling Stockholder</u>	<u>Number of Ordinary Shares Owned Prior to Offering</u>	<u>Maximum Number of Ordinary Shares to be Sold Pursuant to this Prospectus</u>	<u>Number of Ordinary Shares Owned After Offering</u>
<b>Castlerigg Master Investments (1)</b>			0

(1) Sandell Asset Management Corp. is the investment manager of Castlerigg Master Investment Ltd. ("Castlerigg") and has shared voting and dispositive power over the securities owned by Castlerigg. Sandell Asset Management Corp. and Thomas E. Sandell, its sole shareholder, disclaim beneficial ownership of the securities owned by Castlerigg.

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## PLAN OF DISTRIBUTION

We are registering the ADRs issuable upon conversion of the notes and upon exercise of the warrants and as interest on the convertible notes to permit the resale of these ADRs by the holders of the notes and the warrants from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling stockholders of the ADRs. We will bear all fees and expenses incident to our obligation to register the ADRs.

The selling stockholders may sell all or a portion of the ADRs beneficially owned by them and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the ADRs are sold through underwriters or broker-dealers, the selling stockholders will be responsible for underwriting discounts or commissions or agent's commissions. The ADRs may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale, or at negotiated prices. These sales may be effected in transactions, which may involve crosses or block transactions,

- on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
  - in the over-the-counter market;
  - in transactions otherwise than on these exchanges or systems or in the over-the-counter market;
  - through the writing of options, whether such options are listed on an options exchange or otherwise;
  - ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
  - block trades in which the broker-dealer will attempt to sell the ADRs as agent but may position and resell a portion of the block as principal to facilitate the transaction;
  - purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
  - an exchange distribution in accordance with the rules of the applicable exchange;
  - privately negotiated transactions;
  - short sales;
  - pursuant to Rule 144 under the Securities Act;
  - broker-dealers may agree with the selling securityholders to sell a specified number of such ADRs at a stipulated price per ADR;
  - a combination of any such methods of sale; and
  - any other method permitted pursuant to applicable law.
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If the selling stockholders effect such transactions by selling ADRs to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling stockholders or commissions from purchasers of the ADRs for whom they may act as agent or to whom they may sell as principal (which discounts, concessions or commissions as to particular underwriters, broker-dealers or agents may be in excess of those customary in the types of transactions involved). In connection with sales of the ADRs or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the ADRs in the course of hedging in positions they assume. The selling stockholders may also sell ADRs short and deliver ADRs covered by this prospectus to close out short positions. The selling stockholders may also loan or pledge ADRs to broker-dealers that in turn may sell such ADRs.

The selling stockholders may pledge or grant a security interest in some or all of the notes, warrants or the ADRs owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the ADRs from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933, as amended, amending, if necessary, the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer and donate the ADRs in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

The selling stockholders and any broker-dealer participating in the distribution of the ADRs may be deemed to be "underwriters" within the meaning of the Securities Act, and any commission paid, or any discounts or concessions allowed to, any such broker-dealer may be deemed to be underwriting commissions or discounts under the Securities Act. At the time a particular offering of the ADRs is made, a prospectus supplement, if required, will be distributed which will set forth the aggregate amount of ADRs being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the selling stockholders and any discounts, commissions or concessions allowed or reallocated or paid to broker-dealers.

Under the securities laws of some states, the ADRs may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the ADRs may not be sold unless such ADRs have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

There can be no assurance that any selling stockholder will sell any or all of the ADRs registered pursuant to the shelf registration statement, of which this prospectus forms a part.

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The selling stockholders and any other person participating in such distribution will be subject to applicable provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, including, without limitation, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the ADRs by the selling stockholders and any other participating person. Regulation M may also restrict the ability of any person engaged in the distribution of the ADRs to engage in market-making activities with respect to the ADRs. All of the foregoing may affect the marketability of the ADRs and the ability of any person or entity to engage in market-making activities with respect to the ADRs.

We will pay all expenses of the registration of the ADRs pursuant to the registration rights agreement, estimated to be \$[ ] in total, including, without limitation, Securities and Exchange Commission filing fees and expenses of compliance with state securities or "blue sky" laws; provided, however, that a selling stockholder will pay all underwriting discounts and selling commissions, if any. We will indemnify the selling stockholders against liabilities, including some liabilities under the Securities Act, in accordance with the registration rights agreements, or the selling stockholders will be entitled to contribution. We may be indemnified by the selling stockholders against civil liabilities, including liabilities under the Securities Act, that may arise from any written information furnished to us by the selling stockholder specifically for use in this prospectus, in accordance with the related registration rights agreements, or we may be entitled to contribution.

Once sold under the shelf registration statement, of which this prospectus forms a part, the ADRs will be freely tradable in the hands of persons other than our affiliates.

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