

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 10-Q**

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(Mark One)

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

For the Quarterly Period Ended March 31, 2008

OR

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

For the Period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 1-13165

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**CRYOLIFE, INC.**

(Exact name of registrant as specified in its charter)

**Florida**  
(State or other jurisdiction of  
incorporation or organization)

**59-2417093**  
(I.R.S. Employer  
Identification No.)

**1655 Roberts Boulevard, NW**  
**Kennesaw, Georgia 30144**  
(Address of principal executive offices) (zip code)

**(770) 419-3355**  
(Registrant's telephone number, including area code)

**Not Applicable**  
(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES  NO

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (check one):

Large Accelerated filer   
Non-accelerated filer  (Do not check if a smaller reporting company)

Accelerated filer   
Smaller reporting company

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

The number of shares of common stock, par value \$0.01 per share, outstanding on April 25, 2008 was 27,827,708.

CRYOLIFE, INC. AND SUBSIDIARIES  
SUMMARY CONSOLIDATED STATEMENTS OF OPERATIONS  
(IN THOUSANDS, EXCEPT PER SHARE DATA)

	Three Months Ended March 31,	
	2008	2007
	(Unaudited)	
<b>Revenues:</b>		
Preservation services	\$13,424	\$12,961
Products	11,980	11,395
Other	164	168
<b>Total revenues</b>	<b>25,568</b>	<b>24,524</b>
<b>Costs and expenses:</b>		
Preservation services (including write-downs of \$146 in 2007)	7,318	7,632
Products	1,992	1,948
General, administrative, and marketing	12,067	12,335
Research and development	1,445	1,058
Interest expense	70	153
Interest income	(122)	(97)
Change in valuation of derivative	—	(45)
Other (income) expense, net	(82)	89
<b>Total costs and expenses</b>	<b>22,688</b>	<b>23,073</b>
Income before income taxes	2,880	1,451
Income tax expense	115	97
Net income	<u>\$ 2,765</u>	<u>\$ 1,354</u>
Effect of preferred stock dividends	—	(243)
Net income applicable to common shares	<u>\$ 2,765</u>	<u>\$ 1,111</u>
<b>Income per common share:</b>		
Basic	<u>\$ 0.10</u>	<u>\$ 0.04</u>
Diluted	<u>\$ 0.10</u>	<u>\$ 0.04</u>
<b>Weighted average common shares outstanding:</b>		
Basic	<u>27,566</u>	<u>24,987</u>
Diluted	<u>28,002</u>	<u>25,519</u>

See accompanying notes to summary consolidated financial statements.

CRYOLIFE, INC. AND SUBSIDIARIES  
SUMMARY CONSOLIDATED BALANCE SHEETS  
(IN THOUSANDS)

	<u>March 31,</u> <u>2008</u>	<u>December 31,</u> <u>2007</u>
	<u>(Unaudited)</u>	
<b>ASSETS</b>		
Current Assets:		
Cash and cash equivalents	\$ 12,325	\$ 14,460
Marketable securities, at market	—	2,987
Restricted securities	560	—
Trade receivables, net	13,540	12,311
Other receivables	1,423	1,373
Deferred preservation costs, net	28,800	26,903
Inventories	5,679	5,607
Prepaid expenses and other current assets	1,874	1,811
Total current assets	<u>64,201</u>	<u>65,452</u>
Property and equipment, net	18,015	18,640
Patents, net	3,846	3,906
Trademarks and other intangibles, net	3,142	3,213
Deferred income taxes	148	148
Other long-term assets	1,527	1,325
TOTAL ASSETS	<u>\$ 90,879</u>	<u>\$ 92,684</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current Liabilities:		
Accounts payable	\$ 2,800	\$ 2,956
Accrued compensation	2,336	2,963
Accrued procurement fees	4,959	5,161
Accrued expenses and other current liabilities	7,821	7,962
Deferred income	946	1,111
Line of credit	—	4,506
Current maturities of notes payable and capital lease obligations	52	43
Total current liabilities	<u>18,914</u>	<u>24,702</u>
Line of credit	240	—
Notes payable and capital lease obligations, less current maturities	99	81
Other long-term liabilities	5,404	5,274
Total liabilities	<u>24,657</u>	<u>30,057</u>
Shareholders' Equity:		
Preferred stock	—	—
Common stock (issued shares of 28,755 in 2008 and 28,526 in 2007)	288	285
Additional paid-in capital	121,617	120,562
Retained deficit	(50,216)	(52,981)
Accumulated other comprehensive loss	(24)	—
Treasury stock at cost (shares of 971 in 2008 and 949 in 2007)	(5,443)	(5,239)
Total shareholders' equity	<u>66,222</u>	<u>62,627</u>
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	<u>\$ 90,879</u>	<u>\$ 92,684</u>

See accompanying notes to summary consolidated financial statements.

CRYOLIFE, INC. AND SUBSIDIARIES  
SUMMARY CONSOLIDATED STATEMENTS OF CASH FLOWS  
(IN THOUSANDS)

	Three Months Ended March 31,	
	2008	2007
	(Unaudited)	
<b>Net cash from operating activities:</b>		
Net income	\$ 2,765	\$ 1,354
Adjustments to reconcile net income to net cash from operating activities:		
(Gain) loss on sale or disposal of assets	(2)	77
Depreciation and amortization	1,108	1,124
Write-down of deferred preservation costs and inventory	634	146
Non-cash compensation	655	394
Change in valuation of derivative	—	(45)
Other non-cash adjustments	23	(24)
Changes in operating assets and liabilities:		
Receivables	(1,227)	(1,349)
Income taxes	44	(39)
Deferred preservation costs and inventories	(2,603)	(2,032)
Prepaid expenses and other assets	285	939
Accounts payable, accrued expenses, and other liabilities	(1,330)	595
Net cash provided by operating activities	352	1,140
<b>Net cash from investing activities:</b>		
Capital expenditures	(401)	(271)
Net proceeds from sale of assets	56	7
Deposits	(500)	—
Purchases of marketable securities	(559)	(4,517)
Sales and maturities of marketable securities	3,000	5,155
Other	(24)	(27)
Net cash provided by investing activities	1,572	347
<b>Net cash from financing activities:</b>		
Proceeds from issuance of debt and notes payable	353	149
Principal payments of debt	(4,582)	(153)
Principal payments on capital leases	(10)	(9)
Proceeds from exercise of stock options and issuance of common stock	403	258
Payment of preferred stock dividends	—	(243)
Purchase of treasury stock	(204)	(30)
Net cash used in financing activities	(4,040)	(28)
(Decrease) increase in cash and cash equivalents	(2,116)	1,459
Effect of exchange rate changes on cash	(19)	(26)
Cash and cash equivalents, beginning of period	14,460	4,133
Cash and cash equivalents, end of period	\$12,325	\$ 5,566

See accompanying notes to summary consolidated financial statements.

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CRYOLIFE, INC. AND SUBSIDIARIES  
NOTES TO SUMMARY CONSOLIDATED FINANCIAL STATEMENTS  
(UNAUDITED)

**Note 1 – Basis of Presentation**

The accompanying summary consolidated financial statements include the accounts of CryoLife, Inc., and its subsidiaries (“CryoLife”, the “Company”, “we”, or “us”). All significant intercompany accounts and transactions have been eliminated in consolidation. The accompanying Summary Consolidated Balance Sheet as of December 31, 2007 has been derived from audited financial statements and the accompanying unaudited summary consolidated financial statements for the periods as of and ended March 31, 2008 and 2007 have been prepared in accordance with (i) accounting principles generally accepted in the U.S. for interim financial information and (ii) the instructions to Form 10-Q and Rule 10-01 of Regulation S-X of the U.S. Securities and Exchange Commission (“SEC”). Accordingly, such statements do not include all of the information and disclosures required by accounting principles generally accepted in the U.S. for a complete presentation of financial statements. In the opinion of management, all adjustments (of normal, recurring nature) considered necessary for a fair presentation have been included. Operating results for the three months ended March 31, 2008 are not necessarily indicative of the results that may be expected for the year ending December 31, 2008. These summary consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in CryoLife’s Annual Report on Form 10-K for the fiscal year ended December 31, 2007.

**Note 2 – Exchange and Service Agreement**

On December 19, 2006 the Company announced that it had entered into an exchange and service agreement with Regeneration Technologies, Inc., (“RTI”) and certain of its affiliates, respecting procurement, processing, and distribution activities for cardiac and vascular tissue processed and distributed by RTI and orthopaedic tissue for the knee processed and distributed by CryoLife (the “RTI Agreement”). In accordance with the RTI Agreement, CryoLife ceased accepting donated human orthopaedic tissue for processing commencing January 1, 2007 and began work to transition existing arrangements for recovery of human orthopaedic tissue to RTI. Likewise, on January 1, 2007 RTI ceased accepting donated human cardiac and vascular tissues for processing and began work to transition its arrangements for recovery of these tissues to CryoLife. No cash was exchanged in the transaction. CryoLife will continue to distribute its existing orthopaedic tissue inventory, and RTI will continue to distribute its existing cardiac and vascular tissue inventory, through June 30, 2008. After that date CryoLife will become entitled to distribute RTI’s remaining cardiac and vascular tissue inventory, and RTI will become entitled to distribute CryoLife’s remaining orthopaedic tissue inventory. CryoLife will pay RTI a commission with respect to any of CryoLife’s orthopaedic tissue distributed by RTI and will receive a commission from RTI with respect to any RTI cardiac and vascular tissue distributed by CryoLife. Under the RTI Agreement, from July 1, 2008 through December 31, 2016, except as set forth above, CryoLife has agreed not to market or solicit orders for certain human orthopaedic tissues and RTI has agreed not to market or solicit orders for human cardiac and vascular tissues. The agreement also provides for a non-exclusive license of technology from CryoLife to RTI, and contains customary provisions regarding indemnification and confidentiality.

**Note 3 – Cash Equivalents and Marketable Securities**

The Company maintains cash equivalents and investments in several large, well-capitalized financial institutions, and the Company’s policy excludes investment in any securities rated less than “investment-grade” by national rating services. Management determines the appropriate classification of its marketable securities at the time of purchase and reevaluates such designations quarterly.

Debt securities are classified as held-to-maturity when the Company has the intent and ability to hold the securities to maturity. Held-to-maturity securities are stated at amortized cost. Trading securities are securities that are acquired principally for the purpose of generating a profit from short-term fluctuations in price. Trading securities are stated at their fair values, with the realized and unrealized gains and losses, interest, and dividends included in investment

income. Debt securities not classified as held-to-maturity or marketable equity securities not classified as trading are classified as available-for-sale. Available-for-sale securities are stated at their fair values, with the unrealized gains and losses, net of applicable income taxes, reported in a separate component of shareholders' equity. Interest, dividends, realized gains and losses, and declines in value judged to be other than temporary are included in investment income. The cost of securities sold is based on the specific identification method.

As of March 31, 2008, \$560,000 of marketable securities were designated as held-to-maturity. The held-to-maturity securities were designated as such due to a contractual commitment to hold the securities as pledged collateral relating to one of the Company's product liability insurance policies, and, therefore, they were reported as restricted securities on the March 31, 2008 Summary Consolidated Balance Sheets. As of December 31, 2007 \$3.0 million of marketable securities were designated as available-for-sale.

The Company's cash equivalents include advance funding received under the U.S. Congress 2005 and 2006 Defense Appropriations Conference Reports (the "2005 DOD Grant") and (the "2006 DOD Grant"), respectively, for the continued development of protein hydrogel technology for use on the battlefield. The advance funding is accounted for as deferred income on the Summary Consolidated Balance Sheets and is recognized as other revenue as expenses are incurred related to these grants. As of March 31, 2008 \$946,000 of cash equivalents and deferred income was related to the 2006 DOD grant. As of December 31, 2007 \$1.0 million of cash equivalents and deferred income was related to the 2005 and 2006 DOD grants.

The following is a summary of cash equivalents and marketable securities (in thousands):

	Cost Basis	Unrealized Holding Gains	Estimated Market Value
<b>March 31, 2008 (Unaudited)</b>			
Cash equivalents:			
Money market funds	\$ 9,132	\$ —	\$ 9,132
Marketable securities:			
Restricted government entity sponsored debt securities	\$ 560	\$ —	\$ 560
<b>December 31, 2007</b>			
Cash equivalents:			
Money market funds	\$11,724	\$ —	\$11,724
Marketable securities:			
Government entity sponsored debt securities	\$ 2,984	\$ 3	\$ 2,987

There were no gross realized gains or losses on sales of available-for-sale securities for the three months ended March 31, 2008 and 2007. Differences between cost and market value listed above, consisting of an unrealized holding gain of \$3,000 at December 31, 2007, are included as a separate component of other comprehensive income in the shareholders' equity section of the Summary Consolidated Balance Sheets.

At March 31, 2008 all of the Company's marketable securities had a maturity date between 90 days and one year. At December 31, 2007 all of the Company's marketable securities had a maturity date within 90 days.

#### Note 4 – Inventories

Inventories are comprised of the following (in thousands):

	March 31, 2008 (Unaudited)	December 31, 2007
Raw materials	\$ 3,209	\$ 2,956
Work-in-process	466	650
Finished goods	2,004	2,001
Total inventories	<u>\$ 5,679</u>	<u>\$ 5,607</u>

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**Note 5 – Income Taxes**

The Company periodically assesses the recoverability of its deferred tax assets in accordance with Statement of Financial Accounting Standards (“SFAS”) No. 109 “Accounting for Income Taxes” (“SFAS 109”), as necessary, when the Company experiences changes that could materially affect its determination of the recoverability of its deferred tax assets. Management provides a valuation allowance when, as a result of this analysis, management believes it is more likely than not that its deferred tax assets will not be realized. In assessing the recoverability of its deferred tax assets at December 31, 2007 the Company reviewed its historical operating results, including the reasons for its operating losses in prior years and uncertainties regarding projected future operating results. Based on the results of this analysis, at December 31, 2007 the Company determined that it was more likely than not that the Company’s deferred tax assets would not be realized. Therefore, as of March 31, 2008 and December 31, 2007 the Company had a total of \$28.2 million in valuation allowances against deferred tax assets and a net deferred tax liability of \$27,000. The Company will reverse the remaining valuation allowance, or a portion thereof, when and if its deferred tax assets meet the SFAS 109 “more likely than not” standard for recognition. Also, the realizability of the Company’s deferred tax assets could be limited in future periods following a change in control as mandated by Section 382 of the Internal Revenue Code of 1986, as amended, which relates to certain specified changes in control of taxpayers.

The Company adopted the provisions of FIN 48 on January 1, 2007. As a result of the adoption of FIN 48, the Company recorded \$1.7 million in liabilities for unrecognized tax benefits plus estimated interest and penalties of \$283,000. The aggregate \$2.0 million liability was accounted for as a decrease to the January 1, 2007 balance of retained earnings of \$762,000 and a reclassification of a portion of the valuation allowances against the Company’s deferred tax assets of \$1.2 million to an uncertain tax liability. To the extent these unrecognized tax benefits are ultimately recognized, it would not affect the annual effective income tax rate due to the existence of the valuation allowance.

The Company recognizes interest and penalties related to uncertain tax positions in other income and expense on the Company’s Summary Consolidated Statements of Operations. As of March 31, 2008 and December 31, 2007 the Company had approximately \$370,000 and \$347,000, respectively, of accrued interest and penalties related to uncertain tax positions.

The tax years 2004-2007 remain open to examination by the major taxing jurisdictions to which the Company is subject.

**Note 6 – Debt**

On March 26, 2008 CryoLife and its subsidiaries entered into a credit agreement with General Electric Capital Corporation (“GE Capital”) as lender (the “GE Credit Agreement”). The GE Credit Agreement provides for a revolving credit facility in an aggregate amount not to exceed the initial commitment of \$15.0 million (including a letter of credit subfacility of up to an aggregate of \$1.5 million). The initial commitment may be reduced or increased from time to time pursuant to the terms of the GE Credit Agreement. While the Company currently expects that its aggregate borrowing capacity under the GE Credit Agreement will equal \$15.0 million, there can be no assurance that the borrowing capacity will remain at this level. The GE Credit Agreement places limitations on the amount that the Company may borrow, and includes various affirmative and negative covenants, including financial covenants such as a requirement that CryoLife (i) not exceed a defined leverage ratio, (ii) maintain a minimum adjusted earnings before extraordinary gains, interest, taxes, depreciation, and amortization (“Adjusted EBITDA”) as of specified dates, and (iii) not make or commit capital expenditures in excess of a defined limitation. As of April 15, 2008 per the terms of the GE Credit Agreement, the Company is maintaining cash and cash equivalents of at least \$5.0 million in accounts in which GE Capital has a first priority perfected lien. The GE Credit Agreement also includes customary conditions on incurring new indebtedness and prohibits payments of cash dividends on the Company’s common stock. There is no restriction on the payment of stock dividends. Commitment fees are paid based on the unused portion of the facility. The GE Credit Agreement expires on March 25, 2011, at which time the outstanding principal balance will be due.

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Amounts borrowed under the GE Credit Agreement are secured by substantially all of the tangible and intangible assets of CryoLife and its subsidiaries and bear interest at either LIBOR plus 3.25% or GE Capital's base rate, as defined, plus 2.25%, as applicable. As of March 31, 2008 the outstanding balance of the GE Credit Agreement was \$240,000, the aggregate interest rate was 7.5%, and the remaining availability was \$14.8 million.

On February 8, 2005 CryoLife and its subsidiaries entered into a credit agreement with Wells Fargo Foothill, Inc. as lender which provided for a revolving credit facility in an aggregate amount equal to the lesser of \$15.0 million (including a letter of credit subfacility of up to an aggregate of \$2.0 million) or a borrowing base determined in accordance with the terms of the credit agreement. The credit agreement with Wells Fargo Foothill, Inc. expired on February 8, 2008 in accordance with its terms, at which time the outstanding principal balance of \$4.5 million was paid from cash on hand. In the first quarter of 2007 the Company obtained a \$500,000 letter of credit under the subfacility of this credit agreement relating to one of the Company's product liability insurance policies. Upon the February 8, 2008 expiration of the credit agreement with Wells Fargo Foothill, Inc., the Company remitted approximately \$500,000 as collateral to cover the remaining term of the letter of credit agreement, which expired on April 2, 2008. This remitted amount is included in prepaid expenses and other current assets on the Company's March 31, 2008 Summary Consolidated Balance Sheet.

The Company routinely enters into agreements to finance insurance premiums for periods not to exceed the terms of the related insurance policies. In the second quarter of 2007 the Company entered into two agreements to finance approximately \$1.4 million and \$478,000 in insurance premiums associated with the yearly renewal of certain of the Company's insurance policies. The amounts financed accrued interest at 7.027% and were payable in equal monthly payments over a nine month and an eight month period, respectively. As of March 31, 2008 the aggregate outstanding balance under these agreements was zero.

#### **Note 7 – Convertible Preferred Stock**

On March 18 and April 19, 2005 the Company completed a public offering of 417,000 shares of 6% convertible preferred stock (the "Preferred Stock") at a price to the public of \$50.00 per share. Net proceeds from the offering, after deducting underwriting discounts and offering-related expenses, totaled approximately \$19.1 million.

Dividends on the Preferred Stock were cumulative from the date of original issue at the annual rate of 6% of the liquidation preference of the Preferred Stock, payable quarterly on the first day of January, April, July, and October, commencing July 1, 2005. Any dividends were required to be declared by the Company's board of directors and to come from funds legally available for dividend payments. On March 13, 2007 the Company declared a dividend of \$0.75 per share on its Preferred Stock. The dividend of approximately \$243,000 was paid on April 2, 2007 to shareholders of record on March 22, 2007. No dividends were declared during the remainder of 2007.

The Preferred Stock was convertible at the option of the holder at any time into the Company's common stock at a conversion rate of approximately 6.2189 shares of common stock for each share of Preferred Stock, based on an initial conversion price of \$8.04. The Company had reserved 4,600,000 shares of common stock for issuance upon conversion. Through June 4, 2007 holders had cumulatively voluntarily converted 139,000 shares of Preferred Stock into 867,000 shares of common stock.

The Preferred Stock contained provisions that allowed the Company to convert its Preferred Stock into common stock if the closing price of the Company's common stock exceeded \$12.06, which is 150% of the conversion price of the Preferred Stock, for at least 20 trading days during any 30-day trading period, ending within five trading days prior to notice of automatic conversion. This condition was satisfied on June 4, 2007 and on that day the Company exercised its right to automatically convert the Preferred Stock into common stock. As a result, on June 25, 2007 the Company automatically converted the remaining 278,000 shares of Preferred Stock into 1,726,000 shares of common stock at the conversion rate of approximately 6.2189 shares of common stock per share of Preferred Stock.

The Company was required to make additional payments for both the voluntary and automatic conversions of Preferred Stock equal to the aggregate amount of dividends that would have been payable on the Preferred Stock through and including April 1, 2008, less any dividends already paid on the Preferred Stock (the "Dividend Make-Whole Payment"). The Dividend Make-Whole Payment was payable in cash or, at the Company's option, in shares of the Company's common stock, or a combination of cash and shares of common stock. The Dividend Make-Whole Payment is discussed further in Note 8 below.



As of March 31, 2008 and December 31, 2007 there were no outstanding shares of Preferred Stock as a result of the second quarter 2007 automatic conversion of the Preferred Stock to common stock.

#### Note 8 – Derivative

In accordance with SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities” (“SFAS 133”), the Company was required to separate and account for the Dividend Make-Whole Payment feature of its Preferred Stock as an embedded derivative (the “Derivative”). As an embedded derivative instrument, the Dividend Make-Whole Payment feature was measured at fair value and reflected as a current liability on the Company’s Summary Consolidated Balance Sheets. Changes in the fair value of the Derivative were recognized in the line item change in valuation of derivative as a non-operating income/expense on the Company’s Summary Consolidated Statements of Operations.

The Company determined the fair value of the Derivative to be \$1.0 million on March 18, 2005, the date of issuance. The Company determined the fair value of the Derivative related to the issuance of additional Preferred Stock upon exercise of the underwriter’s over allotment option to be \$32,000 on April 19, 2005, the date of issuance. The proceeds from the Preferred Stock recorded on the Summary Consolidated Balance Sheets were reduced by these amounts, which were allocated to the derivative liability.

As discussed in Note 7 above, on June 25, 2007 the Company automatically converted the remaining shares of the Preferred Stock into common stock, thereby, triggering the payment of the remaining Dividend Make-Whole Payment. Through June 4, 2007 the Company had issued 132,000 shares of common stock to converting holders in satisfaction of the Dividend Make-Whole Payment. The value of voluntary conversions during 2007 was \$178,000 based on the share prices on the respective dates of conversion. On June 25, 2007 the Company issued 69,000 shares of common stock to preferred shareholders to satisfy the Dividend Make-Whole Payment due to the automatic conversion. The value of the Dividend Make-Whole Payment was \$878,000 based on the share price of \$12.71 on the date of conversion.

The Company recorded other income of \$45,000 for the three months ended March 31, 2007 related to the quarterly revaluations of the Derivative.

At March 31, 2008 and December 31, 2007 there was no remaining derivative liability as a result of the second quarter 2007 automatic conversion of the Preferred Stock to common stock.

#### Note 9 – Comprehensive Income

The following is a summary of comprehensive income (in thousands):

	Three Months Ended	
	March 31,	
	2008	2007
	(Unaudited)	
Net income	\$ 2,765	\$ 1,354
Change in unrealized loss on investments	(3)	(1)
Translation adjustment	(21)	(28)
Comprehensive income	<u>\$ 2,741</u>	<u>\$ 1,325</u>

The tax effect on the change in unrealized loss on investments and the translation adjustment is zero for each period presented.

Components of accumulated other comprehensive income consist of the following (in thousands):

	March 31, 2008 (Unaudited)	December 31, 2007
Unrealized gain on investments	\$ —	\$ 3
Translation adjustment	(24)	(3)
Total accumulated other comprehensive loss	<u>\$ (24)</u>	<u>\$ —</u>

#### Note 10 – Income per Common Share

The following table sets forth the computation of basic and diluted income per common share (in thousands, except per share data). The net income for the three months ended March 31, 2007 is adjusted by the effect of the Company's cumulative, convertible Preferred Stock to arrive at net income (loss) applicable to common shares in accordance with SFAS No. 128 "Earnings Per Share" ("SFAS 128"). The Company also considers, as applicable, the effect of its Preferred Stock, as discussed in Note 7, the Derivative, as discussed in Note 8, common stock options, as discussed in Note 11, contingently returnable shares, and contingent stock awards in the calculation of diluted weighted-average shares below.

	Three Months Ended March 31, 2008      2007 (Unaudited)	
Numerator for basic income per common share:		
Net income	\$ 2,765	\$ 1,354
Effect of preferred stock <sup>a</sup>	—	(243)
Net income applicable to common shares	<u>\$ 2,765</u>	<u>\$ 1,111</u>
Denominator for basic income per common share:		
Basic weighted-average common shares	<u>27,566</u>	<u>24,987</u>
Basic income per common share	<u>\$ 0.10</u>	<u>\$ 0.04</u>

	Three Months Ended March 31, 2008      2007 (Unaudited)	
Numerator for diluted income per common share:		
Net income	\$ 2,765	\$ 1,354
Effect of preferred stock <sup>a</sup>	—	(243)
Net income applicable to common shares	<u>\$ 2,765</u>	<u>\$ 1,111</u>
Denominator for diluted income per common share:		
Basic weighted-average common shares	27,566	24,987
Effect of dilutive convertible preferred stock <sup>b</sup>	—	—
Effect of dilutive stock options	366	532
Effect of contingently returnable shares <sup>c</sup>	40	—
Effect of contingent stock awards <sup>d</sup>	30	—
Adjusted weighted-average common shares	<u>28,002</u>	<u>25,519</u>
Diluted income per common share	<u>\$ 0.10</u>	<u>\$ 0.04</u>

<sup>a</sup> The amount of the accumulated dividend on Preferred Stock reduced the net income applicable to common shares for the three months ended March 31, 2007.

- b The amount of the accumulated dividend on Preferred Stock reduced the net income applicable to common shares by \$243,000 for the three months ended March 31, 2007. The adjustment for the quarterly revaluation of the derivative liability would have instead reduced the net income applicable to common shareholders by \$45,000 for the three months ended March 31, 2007, and the common shares that would be issued to shareholders upon conversion of the remaining Preferred Stock and in payment of the remaining Dividend Make-Whole Payment would have increased the weighted-average shares by 2.4 million for the three months ended March 31, 2007. These adjustments were excluded from the calculation above, as they were anti-dilutive pursuant to the provisions of SFAS 128.
- c Contingently returnable shares include shares of common stock issued pursuant to stock grants which have not vested and are returnable to the Company upon forfeiture.
- d Contingent stock awards include shares to be issued pursuant to performance based bonus plans that have been approved by the compensation committee of the Board of Directors.

In future periods the basic and diluted earnings per common share are expected to be affected by the fluctuations in the fair value of the Company's common stock, the exercise and issuance of additional stock options, contingently returnable shares, and contingent stock awards.

#### **Note 11 – Stock Compensation**

The Company has stock option and stock incentive plans for employees and non-employee Directors that provide for grants of shares and options to purchase shares of Company common stock at exercise prices generally equal to the fair values of such stock at the dates of grant. The Company maintains a shareholder approved Employee Stock Purchase Plan (the "ESPP") for the benefit of its employees. The ESPP allows eligible employees the right to purchase common stock on a quarterly basis at the lower of 85% of the market price at the beginning or end of each three-month offering period. Pursuant to the adoption of SFAS 123 Revised, "Share-Based Payment" ("SFAS 123R"), both the Company's 15% discount on ESPP stock purchases and the look back portion of ESPP stock purchases are considered components of stock compensation and must be expensed in the Company's financial statements. The look back portion of the Company's ESPP constitutes an option and, as such, the expense is determined by performing a valuation as discussed below.

##### *Stock Grants*

In February 2008 the Compensation Committee of the Company's Board of Directors approved the terms of the Company's 2008 performance-based bonus plans to recognize the performance of the Company's executives and managers. A portion of the awards to be issued under these plans will be paid in Company stock pursuant to the Company's existing stock incentive plans, if the required performance is achieved. The Company recorded an accrual of \$225,000 related to this contingent stock grant during the quarter ended March 31, 2008. The Company expects to pay out cash and stock related to these bonus plans in the first quarter of 2009.

During the first quarter of 2008 the Compensation Committee of the Company's Board of Directors authorized grants of stock from approved stock incentive plans to certain Company executives and managers totaling 125,000 shares of common stock. The stock, which had an aggregate value of \$1.2 million, was valued based on the stock prices on the respective grant dates. The grants of stock during the first quarter of 2008 include 81,000 shares of common stock valued at \$786,000 issued as part of the 2007 performance-based bonus plans for certain Company executives and managers. The Company recorded the expense related to the 2007 performance-based bonus plans during the year ended December 31, 2007. The remaining value of the stock granted will be recorded as an expense on the Company's Consolidated Statements of Operations over the respective vesting periods in accordance with SFAS 123R as discussed below.

During the first quarter of 2007 the Compensation Committee of the Company's Board of Directors authorized grants of stock from approved stock incentive plans to certain Company executives totaling 98,000 shares of common stock. The stock, which had an aggregate value of \$852,000, was valued based on the stock prices on the respective grant dates. The grants of stock during the first quarter of 2007 include 68,000 shares of common stock valued at \$587,000 issued as part of the 2006 performance-based bonus plan for certain Company executives. The Company

recorded the expense related to the 2006 performance-based bonus plan during the year ended December 31, 2006. The remaining value of the stock granted will be recorded as an expense on the Company's Consolidated Statements of Operations over the respective vesting periods in accordance with SFAS 123R as discussed below.

#### *Stock Options*

The Compensation Committee of the Company's Board of Directors authorized grants of stock options from approved stock incentive plans to certain Company executives and employees totaling 333,000 and 273,000 shares during the quarters ended March 31, 2008 and 2007, respectively, with exercise prices equal to the stock prices on the respective grant dates. The value of the stock options granted will be recorded as an expense on the Company's Consolidated Statements of Operations over the respective vesting periods in accordance with SFAS 123R as discussed below.

Employees purchased common stock totaling 10,000 shares in each of the quarters ended March 31, 2008 and 2007 through the Company's ESPP. The value of the option portion of the stock purchased was recorded as an expense on the Company's Consolidated Statements of Operations in each quarterly period in accordance with SFAS 123R as discussed below.

#### *Stock Compensation Expense*

The Company uses the Black-Scholes model to value its stock option grants under SFAS 123R and expenses the related compensation cost using the straight-line method over the vesting period. The fair value of the Company's ESPP options is also determined using the Black-Scholes model and is expensed quarterly at the end of the purchase period, as the option is fully vested at that time. The fair value of stock options is determined on the grant date using assumptions for the expected term, expected volatility, dividend yield, and the risk free interest rate. The term assumption is primarily based on the contractual term of the option and historic data related to exercise and post-vesting cancellation history experienced by the Company, adjusted based on management's expectations of future results. The expected term is determined separately for options issued to the Company's directors and to employees. The Company's anticipated volatility level is primarily based on the historic volatility of the Company's common stock, adjusted to remove the effects of certain periods of unusual volatility not expected to recur, and adjusted based on management's expectations of future volatility, for the life of the option or option group. The Company's model includes a zero dividend yield assumption, as the Company has not historically paid nor does it anticipate paying dividends on its common stock. The risk free interest rate is based on recent U.S. Treasury note auction results with a similar life to that of the option. The Company's model does not include a discount for post-vesting restrictions, as the Company has not issued awards with such restrictions. The period expense is then determined based on the valuation of the options, and at that time an estimated forfeiture rate is used to reduce the expense recorded. The Company's estimate of pre-vesting forfeitures is primarily based on the recent historical experience of the Company, and the expense recorded is adjusted to reflect actual forfeitures at each vesting date.

The following weighted-average assumptions were used to determine the fair value of options under SFAS 123R:

	Three Months Ended March 31, 2008		Three Months Ended March 31, 2007	
	Stock Options	ESPP Options	Stock Options	ESPP Options
	(Unaudited)		(Unaudited)	
Expected dividend yield	0%	0%	0%	0%
Expected stock price volatility	.600	.760	.600	.395
Risk-free interest rate	2.26%	3.26%	4.78%	4.84%
Expected life of options	3.5 Years	.25 Years	3.5 Years	.25 Years

The following table summarizes stock compensation expenses (in thousands):

	Three Months Ended	
	March 31,	
	2008	2007
	(Unaudited)	
Stock grant expense	\$ 395	\$ 217
Stock option expense	260	177
Total stock compensation expense	<u>\$ 655</u>	<u>\$ 394</u>

Included in this total stock compensation expense were expenses related to common stock grants, options issued prior and subsequent to the adoption of SFAS 123R that continue to vest during the period, and compensation related to the Company's ESPP. These amounts were recorded as compensation expense and were subject to the Company's normal allocation of expenses to inventory and deferred preservation costs. The Company capitalized \$19,000 and \$20,000 in the three months ended March 31, 2008 and 2007, respectively, of the stock compensation expense into its deferred preservation costs and inventory costs. The Company did not recognize a tax benefit, or a related operating cash outflow and financing cash inflow, related to the compensation expense recorded in the three months ended March 31, 2008 and 2007, as the Company is maintaining a full valuation allowance on its deferred tax assets. See Note 5 for additional discussions of the Company's income tax valuation.

As of March 31, 2008 and March 31, 2007 the Company had a total of \$871,000 and \$1.1 million, respectively, in total unrecognized compensation costs related to unvested stock grants, before considering the effect of expected forfeitures. This expense is expected to be recognized over each stock grant's vesting period. As of March 31, 2008 the Company has outstanding stock grants that complete vesting in 2008, 2010, and 2011.

As of March 31, 2008 and 2007 there was approximately \$2.0 million and \$3.0 million, respectively, in total unrecognized compensation costs related to unvested stock options, before considering the effect of expected forfeitures. As of March 31, 2008 and 2007 this expense is expected to be recognized over a weighted average period of 1.7 years and 2.0 years, respectively.

#### Note 12 – Segment Information

The Company has two reportable segments organized according to its services and products: Preservation Services and Implantable Medical Devices.

The Preservation Services segment includes external services revenue from the cryopreservation of cardiac and vascular tissues and from shipments of previously cryopreserved orthopaedic tissues. The Implantable Medical Devices segment includes external revenue from product sales of BioGlue and bioprosthetic devices, including the CryoLife-O'Brien Stentless Aortic Bioprosthesis, SynerGraft processed bovine vascular grafts, and CardioWrap. There are no intersegment revenues.

The primary measure of segment performance, as viewed by the Company's management, is segment gross margin, or net external revenues less cost of preservation services and products. The Company does not segregate assets by segment; therefore, asset information is excluded from the segment disclosures below.

The following table summarizes revenues, cost of preservation services and products, and gross margins for the Company's operating segments (in thousands):

	Three Months Ended March 31,	
	2008	2007
	(Unaudited)	
<b>Revenue:</b>		
Preservation services	\$13,424	\$12,961
Implantable medical devices	11,980	11,395
All other <sup>a</sup>	164	168
	<u>25,568</u>	<u>24,524</u>
<b>Cost of Preservation Services and Products:</b>		
Preservation services	7,318	7,632
Implantable medical devices	1,992	1,948
All other <sup>a</sup>	—	—
	<u>9,310</u>	<u>9,580</u>
<b>Gross Margin:</b>		
Preservation services	6,106	5,329
Implantable medical devices	9,988	9,447
All other <sup>a</sup>	164	168
	<u>\$16,258</u>	<u>\$14,944</u>

<sup>a</sup> The "All other" designation includes 1) grant revenue and 2) revenues related to the licensing of the Company's technology to a third party.

The following table summarizes net revenues by product (in thousands):

	Three Months Ended March 31,	
	2008	2007
	(Unaudited)	
<b>Preservation services:</b>		
Cardiac tissue	\$ 6,238	\$ 4,973
Vascular tissue	6,859	6,139
Orthopaedic tissue	327	1,849
Total preservation services	<u>13,424</u>	<u>12,961</u>
<b>Products:</b>		
BioGlue	11,887	11,163
Other implantable medical devices	93	232
Total products	<u>11,980</u>	<u>11,395</u>
All other <sup>a</sup>	164	168
	<u>\$25,568</u>	<u>\$24,524</u>

<sup>a</sup> The "All other" designation includes 1) grant revenue and 2) revenues related to the licensing of the Company's technology to a third party.

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## Note 13 – Commitments and Contingencies

### *Product Liability Claims*

In the normal course of business as a medical device and services company, the Company has product liability complaints filed against it. As of April 25, 2008 two product liability lawsuits were pending against the Company with one arising out of each of the Company's allograft heart valve and orthopaedic tissue preservation services. These lawsuits are covered by product liability insurance and are in the pre-discovery or discovery stages. Other parties have made complaints that may result in lawsuits in future periods.

The Company performed an analysis as of March 31, 2008 of the pending product liability lawsuits and other claims based on settlement negotiations to date and advice from counsel. As of March 31, 2008 the Company had accrued a total of approximately \$330,000 for the pending product liability lawsuits. The \$330,000 accrual was included as a component of accrued expenses and other current liabilities on the March 31, 2008 Summary Consolidated Balance Sheet. As of December 31, 2007 the Company had accrued a total of approximately \$330,000 for a pending product liability lawsuit. The \$330,000 accrual was included as a component of accrued expenses and other current liabilities on the December 31, 2007 Summary Consolidated Balance Sheet.

On April 1, 2008 the Company bound product liability coverage for the 2008/2009 insurance policy year. This policy is a six-year claims-made insurance policy, i.e. claims incurred during the period April 1, 2003 through March 31, 2009 and reported during the period April 1, 2008 through March 31, 2009 are covered by this policy. Claims incurred prior to April 1, 2003 that have not been reported are uninsured. Any punitive damage components of claims are also uninsured.

The Company maintains claims-made insurance policies to mitigate its financial exposure to product liability claims. Claims-made insurance policies generally cover only those asserted claims and incidents that are reported to the insurance carrier while the policy is in effect. Thus, a claims-made policy does not generally represent a transfer of risk for claims and incidents that have been incurred but not reported to the insurance carrier during the policy period. The Company periodically evaluates its exposure to unreported product liability claims and records accruals as necessary for the estimated cost of unreported claims related to services performed and products used. In January 2008 the Company retained an independent actuarial firm to perform estimates of the unreported claims as of December 31, 2007 and June 30, 2008. The independent firm estimated the unreported product loss liability using a frequency-severity approach, whereby projected losses were calculated by multiplying the estimated number of claims by the estimated average cost per claim. The estimated claims were calculated based on the reported claim development method and the Bornhuetter-Ferguson method using a blend of the Company's historical claim experience and industry data. The estimated cost per claim was calculated using a lognormal claims model blending the Company's historical average cost per claim with industry claims data. The independent actuarial firm used a number of assumptions in order to estimate the unreported product loss liability including:

- A ceiling of \$5.0 million was selected for actuarial purposes in determining the liability per claim given the uncertainty in projecting claim losses in excess of \$5.0 million,
- The future claim reporting lag time would be a blend of the Company's experiences and industry data,
- The frequency of unreported claims for accident years 2001 through 2008 would be lower than the Company's experience in the 2002/2003 policy year, but higher than the Company's historical claim frequency prior to the 2002/2003 policy year,
- The average cost per claim would be lower than the Company's experience since the 2002/2003 policy year, but higher than the Company's historical cost per claim prior to the 2002/2003 policy year,
- The average cost per BioGlue claim would be consistent with the Company's overall historical exposures until adequate historical data is available on this product line, and
- The number of BioGlue claims per million dollars of BioGlue revenue would be 50% lower than non-BioGlue claims per million dollars of revenue. The 50% factor was selected based on BioGlue claims experience to date and consultation with the actuary.

The Company believes that these assumptions provide a reasonable basis for the calculation of the unreported product liability loss, but the accuracy of the actuarial firm's estimates is limited by the general uncertainty that exists for any estimate of future activity due to uncertainties surrounding the assumptions used and due to Company specific conditions and the scarcity of industry data directly relevant to the Company's business activities. Due to these factors, actual results may differ significantly from the assumptions used and amounts accrued.

Based on the actuarial valuation performed in January 2008 as of December 31, 2007 and June 30, 2008, the Company estimated that its liability for unreported product liability claims was \$6.3 million as of December 31, 2007 and would be \$6.7 million as of June 30, 2008. In accordance with Emerging Issues Task Force Issue 03-8, the Company has accrued a prorated amount of \$6.5 million, representing the Company's best estimate of the total liability for unreported product liability claims related to services performed and products sold prior to March 31, 2008. The \$6.5 million balance is included as a component of accrued expenses and other current liabilities of \$3.2 million and other long-term liabilities of \$3.3 million on the March 31, 2008 Summary Consolidated Balance Sheet. Further analysis indicated that the liability could be estimated to be as high as \$12.2 million, after including a reasonable margin for statistical fluctuations calculated based on actuarial simulation techniques. Based on the actuarial valuation, the Company estimated that as of March 31, 2008, \$2.5 million of the accrual for unreported liability claims would be recoverable under the Company's insurance policies. The \$2.5 million insurance recoverable is included as a component of other receivables of \$1.2 million and other long-term assets of \$1.3 million on the March 31, 2008 Summary Consolidated Balance Sheet. These amounts represent management's estimate of the probable losses and anticipated recoveries for unreported product liability claims related to services performed and products sold prior to March 31, 2008. Actual results may differ from this estimate.

As of December 31, 2007 the Company accrued \$6.3 million for unreported product liability claims and recorded a receivable of \$2.4 million for unreported liability claims estimated to be recoverable under the Company's insurance policies. This \$6.3 million accrual was included as a component of accrued expenses and other current liabilities of \$3.2 million and other long-term liabilities of \$3.1 million on the December 31, 2007 Summary Consolidated Balance Sheet. The \$2.4 million insurance recoverable was included as a component of other current receivables of \$1.1 million and other long-term assets of \$1.3 million on the December 31, 2007 Summary Consolidated Balance Sheet.

#### **Note 14 – New Accounting Pronouncements**

The Company was required to adopt SFAS No. 157 "Fair Value Measurements" ("SFAS 157") for the fiscal year beginning January 1, 2008. SFAS 157 provides a single definition of fair value and a hierarchical framework for measuring it, as well as establishing additional disclosure requirements about the use of fair value to measure assets and liabilities. The adoption of SFAS 157 did not have a material affect on the Company's results of operations or financial position.

The Company was required to adopt SFAS No. 159 "The Fair Value Option for Financial Assets and Liabilities" ("SFAS 159") for the fiscal year beginning January 1, 2008. SFAS 159 provides the option to report certain financial assets and liabilities at fair value, with the intent to mitigate volatility in financial reporting that can occur when related assets and liabilities are measured differently. The Company does not expect to voluntarily implement the optional fair value measurements portions of SFAS 159 for eligible items. The adoption of SFAS 159 did not have a material affect on the Company's results of operations or financial position.

#### **Note 15 – Subsequent Events**

In April 2008 the Company entered into an agreement to finance approximately \$1.3 million in insurance premiums associated with the yearly renewal of certain of the Company's insurance policies. The amount financed accrues interest at a 4.632% annual rate and is payable in equal monthly payments over a nine month period.

On April 17, 2008 CryoLife signed an exclusive three-year agreement with Minneapolis-based Medafor, Inc. ("Medafor"). Under terms of the agreement CryoLife will distribute Medafor's microporous polysaccharide hemostatic agent for use in cardiac and vascular surgery in the U.S. and for cardiac, vascular and general surgery, other than orthopaedic and ear, nose and throat surgery, internationally. The unique, absorbable powder hemostat, which received CE Mark approval in 2003 and U.S. Food and Drug Administration pre-market approval in September 2006, will be distributed by CryoLife under the private label name Hemostase MPH.



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## PART I—FINANCIAL INFORMATION

### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

#### **Overview**

CryoLife, Inc. ("CryoLife", the "Company", "we", or "us"), incorporated January 19, 1984 in Florida, develops and commercializes biomaterials and implantable medical devices, and preserves and distributes human tissues for cardiac and vascular transplant applications. The Company's human tissues include the CryoValve® SG pulmonary human heart valve, processed using CryoLife's proprietary SynerGraft® Technology. The Company's biomaterials and implantable medical devices include BioGlue® Surgical Adhesive ("BioGlue"), CryoLife-O'Brien® Stentless Porcine Aortic Bioprosthesis, and ProPatch™ Soft Tissue Repair Matrix ("ProPatch"). Additionally, the Company distributes CardioWrap® for MAST BioSurgery, Inc ("MAST").

In the quarter ended March 31, 2008, CryoLife reported revenues of \$25.6 million, the highest quarterly revenues in the history of the Company. The \$25.6 million in revenues included preservation services revenues of \$13.4 million and BioGlue revenues of \$12.0 million. In 2008 the Company also announced advances in its product offerings. In April the Company announced that it had signed an exclusive three-year agreement with Minneapolis-based Medafor, Inc. ("Medafor") to distribute its microporous polysaccharide hemostatic agent under the private label name Hemostase MPH, in March the Company announced its first implant of the CryoValve® SG pulmonary human heart valve since it received 510(k) clearance from the U.S. Food and Drug Administration ("FDA"), and in January the Company announced that it had signed an exclusive license agreement with Trophic Solutions, LLC ("Trophic") to develop and market products related to the cold storage and preservation of internal organs prior to transplant. See Recent Events below for further discussion of these items, and see Results of Operations below for further discussion of the Company's financial results during the quarter ended March 31, 2008.

#### **Recent Events**

##### ***Medafor License Agreement***

On April 17, 2008 CryoLife signed an exclusive three-year agreement with Medafor. Under terms of the agreement CryoLife will distribute Medafor's microporous polysaccharide hemostatic agent for use in cardiac and vascular surgery in the U.S. and for cardiac, vascular, and general surgery, other than orthopaedic and ear, nose and throat surgery, internationally. The unique, absorbable powder hemostat, which received CE Mark approval in 2003 and FDA pre-market approval in September 2006, will be distributed by CryoLife under the private label name Hemostase MPH.

CryoLife expects to begin distributing Hemostase MPH in the U.S. in the second quarter of 2008, except to approximately 41 hospitals for which Medafor will retain distribution rights until no later than December 31, 2008. Pursuant to the terms of the agreement, Medafor also retained the exclusive rights to distribute to U.S. Department of Defense hospitals. Outside of the U.S., CryoLife expects to begin distributing Hemostase MPH in Canada, United Kingdom, and Germany in the second quarter of 2008, with distribution in other markets beginning in 2009.

##### ***\$15 Million Credit Facility***

On March 26, 2008 CryoLife entered into a credit facility with General Electric Capital Corporation ("GE Capital"), which provides for up to \$15 million in revolving credit for working capital, acquisitions, and other corporate purposes ("the GE Credit Agreement"). The credit agreement expires in March 2011, at which time the outstanding principal balance will be due. Amounts borrowed bear interest at LIBOR or the lender's base rate, as defined, plus an applicable margin, and are secured by substantially all of the assets of the Company and its subsidiaries. The credit agreement includes various covenants such as minimum operating performance requirements, customary conditions on incurring new indebtedness, and prohibits payments of cash dividends on the Company's common stock.

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### ***SynerGraft Processed Human Pulmonary Heart Valve 510(k) Clearance***

On February 7, 2008 CryoLife received 510(k) clearance from the FDA for its CryoValve SG pulmonary human heart valve processed with the Company's proprietary SynerGraft technology. CryoLife's proprietary SynerGraft process removes donor cells and cellular remnants from the valves using a gentle hypotonic lysis and enzymatic washing step thereby creating a decellularized collagen matrix that has fewer antigens than standard processed allograft tissues. The CryoValve SG pulmonary human heart valve is indicated for the replacement of diseased, damaged, malformed, or malfunctioning native pulmonary valves. The valve can be used in conjunction with right ventricular outflow tract reconstruction procedures ("RVOT"), commonly performed in children with congenital heart defects. In addition, the valve can be used for pulmonary valve replacement during the Ross Procedure, an operation in which a patient's defective aortic valve is removed and replaced with his own pulmonary valve. The CryoValve SG is then surgically implanted in place of the removed native pulmonary valve.

At the FDA's request, CryoLife is planning a post-clearance study to seek evidence for the potential and implied long-term benefits of the SynerGraft process. Data to be collected is expected to include long-term safety and hemodynamic function, immune response, and explant analysis. CryoLife believes that this information may help it ascertain whether the SynerGraft process reduces the immune response of the transplanted heart valve and allows for the collagen matrix to recellularize with the recipient's own cells.

CryoLife began using the SynerGraft technology for the majority of its pulmonary valve processing in February of 2008 and began shipments of the CryoValve SG in March of 2008.

### ***Trophic Solutions License Agreement***

On January 8, 2008 CryoLife announced that it had signed an exclusive license agreement with Trophic to develop and market products related to the cold storage and preservation of internal organs prior to transplant. Under terms of the agreement, the Company will license from Trophic the right to develop, manufacture, and market products and processes derived from a patent owned by Trophic, which relates to solutions containing purified antimicrobial polypeptides and/or cell surface receptor binding proteins for use in the storage and preservation of internal organs prior to transplant. In early animal and human studies, the Trophic technology has shown that kidneys may be stored for up to six days prior to transplant without compromising graft function rather than three days using present cold storage solutions. These studies also indicate that the solution may reduce or eliminate the need for pumping kidneys, which may reduce the cost of maintaining and transporting kidneys for transplant. The agreement gives CryoLife the exclusive right to determine if a commercial product can be developed using the process covered by the patent for a period of one year, which may be extended for an additional ninety days. CryoLife is currently preparing further animal studies to determine if a commercial product can be developed using the Trophic patented process.

### ***Critical Accounting Policies***

A summary of the Company's significant accounting policies is included in Part II, Item 8, "Note 1 of the Notes to Consolidated Financial Statements," contained in the Company's Form 10-K for the fiscal year ended December 31, 2007. Management believes that the consistent application of these policies enables the Company to provide users of the financial statements with useful and reliable information about the Company's operating results and financial condition. The summary consolidated financial statements are prepared in accordance with accounting principles generally accepted in the U.S. for interim financial information, which require the Company to make estimates and assumptions. The following are accounting policies that management believes are most important to the portrayal of the Company's financial condition and results and may involve a higher degree of judgment and complexity.

***Product Liability Claims:*** In the normal course of business as a medical device and services company, the Company has product liability complaints filed against it. As of April 25, 2008 two product liability lawsuits were pending against the Company with one arising out of each of the Company's allograft heart valve and orthopaedic tissue preservation services. These lawsuits are covered by product liability insurance and are in the pre-discovery or discovery stages. Other parties have made complaints that may result in lawsuits in future periods.

The Company performed an analysis as of March 31, 2008 of the pending product liability lawsuits and other claims based on settlement negotiations to date and advice from counsel. As of March 31, 2008 the Company had accrued a total of approximately \$330,000 for the pending product liability lawsuits. The \$330,000 accrual was included as a component of accrued expenses and other current liabilities on the March 31, 2008 Summary Consolidated Balance Sheet. As of December 31, 2007 the Company had accrued a total of approximately \$330,000 for a pending product liability lawsuit. The \$330,000 accrual was included as a component of accrued expenses and other current liabilities on the December 31, 2007 Summary Consolidated Balance Sheet.

On April 1, 2008 the Company bound product liability coverage for the 2008/2009 insurance policy year. This policy is a six-year claims-made insurance policy, i.e. claims incurred during the period April 1, 2003 through March 31, 2009 and reported during the period April 1, 2008 through March 31, 2009 are covered by this policy. Claims incurred prior to April 1, 2003 that have not been reported are uninsured. Any punitive damage components of claims are also uninsured.

The Company maintains claims-made insurance policies to mitigate its financial exposure to product liability claims. Claims-made insurance policies generally cover only those asserted claims and incidents that are reported to the insurance carrier while the policy is in effect. Thus, a claims-made policy does not generally represent a transfer of risk for claims and incidents that have been incurred but not reported to the insurance carrier during the policy period. The Company periodically evaluates its exposure to unreported product liability claims and records accruals as necessary for the estimated cost of unreported claims related to services performed and products used. In January 2008 the Company retained an independent actuarial firm to perform estimates of the unreported claims as of December 31, 2007 and June 30, 2008. The independent firm estimated the unreported product loss liability using a frequency-severity approach, whereby projected losses were calculated by multiplying the estimated number of claims by the estimated average cost per claim. The estimated claims were calculated based on the reported claim development method and the Bornhuetter-Ferguson method using a blend of the Company's historical claim experience and industry data. The estimated cost per claim was calculated using a lognormal claims model blending the Company's historical average cost per claim with industry claims data. The independent actuarial firm used a number of assumptions in order to estimate the unreported product loss liability including:

- A ceiling of \$5.0 million was selected for actuarial purposes in determining the liability per claim given the uncertainty in projecting claim losses in excess of \$5.0 million,
- The future claim reporting lag time would be a blend of the Company's experiences and industry data,
- The frequency of unreported claims for accident years 2001 through 2008 would be lower than the Company's experience in the 2002/2003 policy year, but higher than the Company's historical claim frequency prior to the 2002/2003 policy year,
- The average cost per claim would be lower than the Company's experience since the 2002/2003 policy year, but higher than the Company's historical cost per claim prior to the 2002/2003 policy year,
- The average cost per BioGlue claim would be consistent with the Company's overall historical exposures until adequate historical data is available on this product line, and
- The number of BioGlue claims per million dollars of BioGlue revenue would be 50% lower than non-BioGlue claims per million dollars of revenue. The 50% factor was selected based on BioGlue claims experience to date and consultation with the actuary.

The Company believes that these assumptions provide a reasonable basis for the calculation of the unreported product liability loss, but the accuracy of the actuarial firm's estimates is limited by the general uncertainty that exists for any estimate of future activity due to uncertainties surrounding the assumptions used and due to Company specific conditions and the scarcity of industry data directly relevant to the Company's business activities. Due to these factors, actual results may differ significantly from the assumptions used and amounts accrued.

Based on the actuarial valuation performed in January 2008 as of December 31, 2007 and June 30, 2008, the Company estimated that its liability for unreported product liability claims was \$6.3 million as of December 31, 2007 and would be \$6.7 million as of June 30, 2008. In accordance with Emerging Issues Task Force Issue 03-8, the Company has accrued a prorated amount of \$6.5 million, representing the Company's best estimate of the total liability for unreported product liability claims related to services performed and products sold prior to March 31, 2008. The \$6.5 million balance is included as a component of accrued expenses and other current liabilities of \$3.2 million and other long-term liabilities of \$3.3 million on the March 31, 2008 Summary Consolidated Balance Sheet.

Further analysis indicated that the liability could be estimated to be as high as \$12.2 million, after including a reasonable margin for statistical fluctuations calculated based on actuarial simulation techniques. Based on the actuarial valuation, the Company estimated that as of March 31, 2008, \$2.5 million of the accrual for unreported liability claims would be recoverable under the Company's insurance policies. The \$2.5 million insurance recoverable is included as a component of other receivables of \$1.2 million and other long-term assets of \$1.3 million on the March 31, 2008 Summary Consolidated Balance Sheet. These amounts represent management's estimate of the probable losses and anticipated recoveries for unreported product liability claims related to services performed and products sold prior to March 31, 2008. Actual results may differ from this estimate.

**Deferred Preservation Costs:** By federal law, human tissues cannot be bought or sold. Therefore, the tissues the Company preserves and further processes cannot be held as inventory. Tissue is procured from deceased human donors by organ and tissue procurement agencies, which consign the tissue to the Company for processing, preservation, and distribution. Preservation costs consist primarily of direct labor and materials (including salary and fringe benefits, laboratory expenses, tissue procurement fees, and freight-in charges) and indirect costs (including allocations of costs from departments that support processing activities and facility allocations). Although the Company cannot own human tissue, the preservation process is a manufacturing process that is accounted for in accordance with ARB No. 43 Chapter 4, "Inventory Pricing" ("ARB 43"). Preservation costs are stated at the lower of cost or market on a first-in, first-out basis and are deferred until revenue is recognized upon shipment of the tissue to the implanting facilities. Cost of preservation services also includes idle facility expense, excessive spoilage, double freight, and rehandling costs and requires allocation of fixed production overheads to be based on the normal capacity of the production facilities in accordance with Statement of Financial Accounting Standards ("SFAS") No. 151 "Inventory Costs" ("SFAS 151").

The calculation of deferred preservation costs involves a high degree of judgment and complexity. The costs included in deferred preservation costs contain several estimates due to the timing differences between the occurrence of the cost and receipt of final bills for services. Costs that contain estimates include tissue procurement fees, which are estimated based on the Company's contracts with independent procurement agencies, and freight-in charges, which are estimated based on the Company's prior experiences with these charges. These costs are adjusted for differences between estimated and actual fees when invoices for these services are received. Management believes that its estimates approximate the actual costs of these services, but estimates could differ from actual costs. Total deferred preservation costs are then allocated among the different tissues processed during the period based on specific cost drivers such as the number of donors and the number of tissues processed. At each balance sheet date a portion of the deferred preservation costs relates to tissues currently in active processing or held in quarantine pending release to implantable status. The Company applies a yield estimate to all tissues in process and in quarantine to estimate the portion of tissues that will ultimately become implantable. Management determines this estimate of quarantine yields based on its experience in prior periods and reevaluates this estimate periodically. Due to the nature of this estimate and the length of the processing times experienced by the Company, actual yields could differ from the Company's estimates. A significant change in quarantine yields could materially impact the amount of deferred preservation costs on the Company's Consolidated Balance Sheets and the cost of preservation services, including the lower of cost or market write-down, described below, on the Company's Consolidated Statements of Operations.

The Company regularly evaluates its deferred preservation costs to determine if the costs are appropriately recorded at the lower of cost or market value and to determine if there are any impairments to the book value of the Company's deferred preservation costs. CryoLife records a charge to cost of preservation services to write-down the amount of deferred preservation costs that are not deemed to be recoverable. These write-downs are permanent impairments that create a new cost basis, which cannot be restored to its previous levels when tissues are shipped or become available for shipment.

The Company recorded a write-down of \$146,000 for the three months ended March 31, 2007 for the value of certain deferred preservation costs that exceeded market value. No write-down of deferred preservation costs has been recorded in 2008. The amount of the 2007 write-down was primarily due to excess tissue processing costs incurred in that period that exceeded market value based on then recent average service fees. Actual results may differ from these estimates.

As of March 31, 2008 deferred preservation costs consisted of \$8.6 million for allograft heart valve tissues, \$2.2 million for non-valved cardiac tissues, \$17.9 million for vascular tissues, and \$49,000 for orthopaedic tissues. As of December 31, 2007 deferred preservation costs consisted of \$7.6 million for allograft heart valve tissues, \$2.1 million for non-valved cardiac tissues, \$17.1 million for vascular tissues, and \$123,000 for orthopaedic tissues.

**Deferred Income Taxes:** Deferred income taxes reflect the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and tax return purposes. The Company generated deferred tax assets primarily as a result of write-downs of deferred preservation costs, accruals for product liability claims, and operating losses. The Company periodically assesses the recoverability of its deferred tax assets in accordance with SFAS No. 109 "Accounting for Income Taxes" ("SFAS 109"), as necessary, when the Company experiences changes that could materially affect its determination of the recoverability of its deferred tax assets. Management provides a valuation allowance when, as a result of this analysis, management believes it is more likely than not that its deferred tax assets will not be realized. In assessing the recoverability of its deferred tax assets at December 31, 2007 the Company reviewed its historical operating results, including the reasons for its operating losses in prior years and uncertainties regarding projected future operating results. Based on the results of this analysis, discussed further below, at December 31, 2007 the Company determined that it was more likely than not that the Company's deferred tax assets would not be realized. Therefore, as of December 31, 2007 the Company had a total of \$28.2 million in valuation allowances against deferred tax assets and a net deferred tax liability of \$27,000.

Based on the Company's results for the year ended December 31, 2007 and its projections for 2008, the Company anticipates that it will utilize a portion of its net operating loss carryforwards in the 2008 income tax year to offset its U.S. taxable income, as it did in the 2007 and 2006 tax years. Although CryoLife is beginning to utilize its net operating loss carryforwards, the Company currently believes that a change in its determination of the recoverability of its deferred tax assets is not yet warranted. CryoLife will continue to evaluate its determination in accordance with the guidance in SFAS 109, which indicates the Company's net losses in recent years constitute significant evidence against the recoverability of its deferred tax assets that is difficult to overcome. CryoLife will reverse the remaining valuation allowance, or a portion thereof, when and if its deferred tax assets meet the SFAS 109 "more likely than not" standard for recognition. Also, the realizability of the Company's deferred tax assets could be limited in future periods following a change in control as mandated by Section 382 of the Internal Revenue Code of 1986, as amended, which relates to certain specified changes in control of taxpayers.

The tax years 2004-2007 remain open to examination by the major taxing jurisdictions to which the Company is subject.

**Impairments of Long-Lived Assets:** The Company assesses the potential impairment of its long-lived assets whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Factors that could trigger an impairment review include the following:

- Significant underperformance relative to expected historical or projected future operating results,
- Significant negative industry or economic trends,
- Significant decline in the Company's stock price for a sustained period, or
- Significant decline in the Company's market capitalization relative to net book value.

SFAS No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144"), requires the write-down of a long-lived asset to be held and used if the carrying value of the asset or the asset group to which the asset belongs is not recoverable. The carrying value of the asset or asset group is not recoverable if it exceeds the sum of the undiscounted future cash flows expected to result from the use and eventual disposition of the asset or asset group. For the year ended December 31, 2007 the Company did not experience any factors that indicated an SFAS 144 impairment review was warranted.

SFAS No. 142 "Goodwill and Other Intangible Assets" ("SFAS 142") requires that goodwill resulting from business acquisitions and other non-amortizing intangible assets be subject to annual impairment testing. The Company's non-amortizing intangible assets as of December 31, 2007 consist of trademarks and, as a result of the Company's agreement with Regeneration Technologies, Inc. ("RTI") and certain of its affiliates as discussed in Item 1, Note 2 of the "Notes to Summary Consolidated Financial Statements", procurement contracts and access to the procurement of cardiac and vascular human tissues previously received by RTI. In accordance with SFAS 142, the Company performed an analysis on its non-amortizing intangible assets as of December 31, 2007. Based on the

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results of its analysis, the Company did not believe that an impairment existed related to its non-amortizing intangible assets as of December 31, 2007. Management will continue to evaluate the recoverability of these non-amortizing intangible assets at least on an annual basis in accordance with SFAS 142.

For the three months ended March 31, 2008 the Company did not experience any changes that would materially affect the Company's analysis of and recoverability of any of its long-lived assets.

#### **New Accounting Pronouncements**

The Company was required to adopt SFAS No. 157 "Fair Value Measurements" ("SFAS 157") for the fiscal year beginning January 1, 2008. SFAS 157 provides a single definition of fair value and a hierarchical framework for measuring it, as well as establishing additional disclosure requirements about the use of fair value to measure assets and liabilities. The adoption of SFAS 157 did not have a material affect on the Company's results of operations or financial position.

The Company was required to adopt SFAS No. 159 "The Fair Value Option for Financial Assets and Liabilities" ("SFAS 159") for the fiscal year beginning January 1, 2008. SFAS 159 provides the option to report certain financial assets and liabilities at fair value, with the intent to mitigate volatility in financial reporting that can occur when related assets and liabilities are measured differently. The Company does not expect to voluntarily implement the optional fair value measurements portions of SFAS 159 for eligible items. The adoption of SFAS 159 did not have a material affect on the Company's results of operations or financial position.

## Results of Operations

### Revenues (Tables in thousands)

	Three Months Ended March 31,	
	2008	2007
Total Revenues	\$25,568	\$24,524

Revenues increased 4% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007. The increase in the three months ended March 31, 2008 was primarily due to an increase in BioGlue revenues and an increase in tissue preservation services revenues, as compared to the prior year period.

A detailed discussion of the change in preservation services revenues for each of the three major tissue types distributed by the Company and in BioGlue and other implantable medical device revenues is presented below.

#### *Cardiac Preservation Services*

	Three Months Ended March 31,	
	2008	2007
Revenues	\$6,238	\$4,973
Cardiac revenues as a percentage of total revenues	24%	20%

Revenues from cardiac preservation services increased 25% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007. This increase was primarily due to a 26% increase in unit shipments of cardiac tissues, which increased revenues by 17%, and an increase in average service fees, which increased revenues by 8%.

The increase in cardiac volume for the three months ended March 31, 2008 was primarily due to increased shipments of non-valved cardiac tissues. The increase in shipments of non-valved cardiac tissues was a result of increased availability of these high demand tissues, which are primarily used in pediatric cardiac reconstructions. The increase in average service fees for the three months ended March 31, 2008 was primarily due to the fee increases that went into effect in January 2008 on most cardiac tissues.

The Company's procurement of cardiac tissues, from which heart valves and non-valved cardiac tissues are processed, increased 13% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007.

As discussed in Recent Events above, on February 7, 2008 the Company obtained FDA clearance of its 510(k) premarket notification for the CryoValve SG. The Company began shipping the CryoValve SG in March of 2008. The Company could experience an increase in its 2008 cardiac preservation services revenues as a result of shipments of the CryoValve SG, which have a premium fee over the standard processed CryoValve. However, there can be no assurance that the CryoValve SG will continue to command premium fees or that shipments of the CryoValve SG will occur at material levels.

#### *Vascular Preservation Services*

	Three Months Ended March 31,	
	2008	2007
Revenues	\$6,859	\$6,139
Vascular revenues as a percentage of total revenues	27%	25%

Revenues from vascular preservation services increased 12% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007. This increase was primarily due to an 8% increase in unit shipments of vascular tissues, which increased revenues by 8%, and an increase in average service fees, which increased revenues by 4%.

The increase in vascular volume for the three months ended March 31, 2008 was primarily due to increases in shipments of saphenous veins, due to the strong demand for saphenous veins, primarily for use in peripheral vascular reconstruction surgeries to avoid limb amputations. The increase in average service fees for the three months ended March 31, 2008 was primarily due to the fee increases that went into effect in January 2008 on most vascular tissues, including an additional fee for long segment saphenous veins.

The Company's procurement of vascular tissues decreased 8% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007.

#### ***Orthopaedic Preservation Services***

	Three Months Ended March 31,	
	2008	2007
Revenues	\$ 327	\$ 1,849
Orthopaedic revenues as a percentage of total revenues	1%	8%

Revenues from orthopaedic preservation services decreased 82% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007. This increase was primarily due to an 86% decrease in unit shipments of orthopaedic tissues, which decreased revenues by 82%.

The decrease in orthopaedic volume for the three months ended March 31, 2008 was primarily due to decreases in unit shipments of orthopaedic tissues, as a result of the limited supply of orthopaedic tissues available for shipment, resulting from the Company's cessation of procuring and processing these tissues on January 1, 2007 and, to a lesser extent, due to declining demand for the Company's orthopaedic tissues, as the Company is no longer actively marketing its orthopaedic preservation services.

Although CryoLife will continue to ship its existing orthopaedic tissues through June 30, 2008, pursuant to its agreement with RTI, the Company anticipates that orthopaedic service revenues for the second quarter of 2008 will be minimal due to the limited tissues available for shipment as the higher demand orthopaedic tissues and sizes are exhausted from the Company's tissue inventories, and due to the transition of the Company's orthopaedic tissue customers to alternative suppliers.

#### ***BioGlue***

	Three Months Ended March 31,	
	2008	2007
Revenues	\$11,887	\$11,163
BioGlue revenues as a percentage of total revenues	46%	46%

Revenues from the sale of BioGlue increased 6% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007. This increase was primarily due to the aggregate favorable impact of volume/product mix, which increased revenues by 3% and an increase in average selling prices, which increased revenues by 3%.

The volume/product mix impact was primarily due to a favorable product mix shift in international markets, in which increased sales of BioGlue products with higher prices offset sales decreases of lower priced products, particularly accessories. This resulted in a net revenue increase, despite a 3% decrease in the BioGlue milliliters shipped worldwide. The increase in average selling prices for the three months ended March 31, 2008 was primarily due to domestic list price increases that went into effect in January 2008.



Domestic revenues accounted for 72% of total BioGlue revenues for the three months ended March 31, 2008 and 74% of total BioGlue revenues for the three months ended March 31, 2007.

**Other Implantable Medical Devices**

	Three Months Ended March 31,	
	2008	2007
Revenues	\$ 93	\$ 232
Other implantable medical device revenues as a percentage of total revenues	0%	1%

Revenues from the sale of other implantable medical devices decreased 60% for the three months ended March 31, 2008 as compared to the three months ended March 31, 2007.

**Other Revenues**

	Three Months Ended March 31,	
	2008	2007
Revenues	\$ 164	\$ 168
Other revenues as a percentage of total revenues	1%	1%

Other revenues for the three months ended March 31, 2008 and 2007 included revenues for research grants and revenues related to the licensing of the Company's technology to a third party.

In 2005 CryoLife was awarded \$930,000 in funding allocated from the U.S. Congress 2005 Defense Appropriations Conference Report (the "2005 DOD Grant") in connection with the development of BioFoam®. Grant revenues in 2008 and 2007 are related to funding under this grant. In 2007 CryoLife was awarded \$1.9 million in funding allocated from the 2006 Defense Appropriations Conference Report, (the "2006 DOD Grant") in connection with further development of BioFoam. The 2007 Defense Appropriations Conference Report (the "2007 DOD Grant") included approximately \$1.0 million for the continued development of protein hydrogel technology for use on the battlefield. CryoLife applied for funding under this bill during 2007. The Company does not currently know if and when it will be approved to receive funding under the 2007 DOD Grant.

Through March 31, 2008 CryoLife had received a total of \$1.9 million in advances on these grants and approximately \$968,000 in advances is yet to be received. The Company expects to receive the final funding awarded under the 2006 DOD Grant in the second quarter of 2008. As of March 31, 2008 CryoLife had \$946,000 in unspent cash advances under the grants recorded as cash and deferred revenues on the Company's Summary Consolidated Balance Sheet.

The Company anticipates that grant revenues for 2008 could increase as compared to 2007 due to spending on BioFoam research.

**Costs and Expenses**

**Cost of Preservation Services**

	Three Months Ended March 31,	
	2008	2007
Cost of preservation services	\$ 7,318	\$ 7,632
Cost of preservation services as a percentage of preservation services revenues	55%	59%

Cost of preservation services for the three months ended March 31, 2008 decreased primarily due to the effect of \$146,000 in write-downs recorded in 2007, which did not recur in 2008, related to the Company's non-valved

cardiac tissue costs that exceeded market value. Additionally the decrease is due to the favorable effect of shipments of orthopaedic tissues in the quarter ended March 31, 2008 for which cost of preservation services, estimated to be approximately \$108,000, had been recorded in prior periods. These costs were written-down in prior periods when estimates indicated that the costs of processing these tissues were not expected to be recoverable.

Cost of preservation services as a percentage of preservation services revenues for the three months ended March 31, 2008 decreased when compared to the three months ended March 31, 2007 primarily due to increases in average service fees and a favorable shift in tissue types as the less profitable fees related to orthopaedic tissue processing represented a lower percentage of the Company's tissue shipments, and to a lesser extent, the premium related to the Company's SynerGraft processed tissues. Cost of preservation services as a percentage of preservation services revenues for the three months ended March 31, 2008 was also favorably affected by the absence of non-valved tissue write-downs and the absence of costs related to orthopaedic tissues due to prior write-downs, as discussed above.

The Company anticipates that cost of preservation services as a percentage of preservation services revenues in 2008 may be favorably impacted by shipments of the CryoValve SG, as CryoValve SG currently has and is expected to continue to have a premium fee over the standard processed CryoValve. However, there can be no assurance that the CryoValve SG will continue to command premium fees or that shipments of the CryoValve SG will occur at material levels.

#### ***Cost of Products***

	Three Months Ended March 31,	
	2008	2007
Cost of products	\$ 1,992	\$ 1,948
Cost of products as a percentage of product revenues	17%	17%

Cost of products for the three months ended March 31, 2008 was comparable to the three months ended March 31, 2007. Cost of products as a percentage of product revenues for the three months ended March 31, 2008 was comparable to the three months ended March 31, 2007. An increase in other implantable medical devices costs as a percentage of revenues, primarily due to a write-down of other implantable medical device inventory, was largely offset by decreases in BioGlue costs as a percentage of revenues, primarily due to price increases that went into effect on the majority of BioGlue products in January 2008.

#### ***General, Administrative, and Marketing Expenses***

	Three Months Ended March 31,	
	2008	2007
General, administrative, and marketing expenses	\$12,067	\$12,335
General, administrative, and marketing expenses as a percentage of total revenues	47%	50%

The decrease in general, administrative, and marketing expenses for the three months ended March 31, 2008 was primarily due to a decrease in expense for postemployment benefits, partially offset by an increase in stock based compensation expense.

General, administrative, and marketing expenses for the three months ended March 31, 2007 included a charge of \$686,000 for postemployment benefits. General, administrative, and marketing expenses for the three months ended March 31, 2008 included \$636,000 for stock based compensation expense as compared to \$374,000 for the three months ended March 31, 2007.

## Research and Development Expenses

	Three Months Ended	
	March 31,	
	2008	2007
Research and development expenses	\$ 1,445	\$ 1,058
Research and development expenses as a percentage of total revenues	6%	4%

Research and development spending for the three months ended March 31, 2008 and 2007 included research on the Company's SynerGraft® products and tissues, Protein Hydrogel Technologies ("PHT"), and tissue preservation. Research and development spending in 2008 also included research on cold storage and preservation of internal organs related to the Company's agreement with Trophic Solutions, LLC.

SynerGraft products and tissues include the Company's allograft and xenograft heart valves, vascular grafts, and ProPatch™ Soft Tissue Repair Matrix. PHT includes BioGlue, BioFoam, BioDisc™, and related products.

The Company anticipates that research and development expenses for 2008 will exceed 2007, primarily due to increased spending on research related to BioFoam, BioDisc, cold storage and preservation of internal organs, and SynerGraft products and tissues.

## Other Costs and Expenses

Interest expense was \$70,000 for the three months ended March 31, 2008, compared to \$153,000 for the three months ended March 31, 2007. Interest expense for the three months ended March 31, 2008 and 2007 included interest incurred related to the Company's prior credit agreement with Wells Fargo Foothill, Inc. as discussed in Note 6 of the "Notes to Summary Consolidated Financial Statements", capital leases, and interest related to uncertain tax positions.

Interest income was \$122,000 for the three months ended March 31, 2008, compared to \$97,000 for the three months ended March 31, 2007. Interest income for the three months ended March 31, 2008 and 2007 was primarily due to interest earned on the Company's cash, cash equivalents, and marketable securities.

The change in valuation of the embedded derivative feature of the Company's preferred stock was zero for the three months ended March 31, 2008 as compared to income of \$45,000 for the three months ended March 31, 2007. The change in valuation of the derivative for the three months ended March 31, 2007 was due to the revaluation of the derivative prior to the conversion of the Company's preferred stock to common stock in the second quarter of 2007.

The Company's income tax expense of \$115,000 and \$97,000 for the three months ended March 31, 2008 and 2007, respectively, was primarily due to estimated alternative minimum tax on the Company's U.S. taxable income for 2007 that cannot be offset by the Company's net operating loss carryforwards and estimated foreign taxes on income of the Company's wholly owned European subsidiary.

## Seasonality

The demand for BioGlue appears to be seasonal, with a flattening or slight decline in demand generally occurring in the third quarter followed by stronger demand in the fourth quarter. Management believes that this trend for BioGlue may be due to fewer surgeries being performed on adult patients in the summer months. The Company will continue to evaluate the seasonal nature of BioGlue sales.

The demand for the Company's cardiac preservation services has historically been seasonal, with peak demand generally occurring in the second and third quarters. Management believes this trend for cardiac preservation services is primarily due to the high number of surgeries scheduled during the summer months for school aged patients, who drive the demand for a large percentage of cardiac tissues processed by CryoLife. This seasonal trend has been obscured in recent years, but the Company expects that this seasonal trend will be more apparent in future years.

The demand for the Company's human vascular preservation services and bioprosthetic cardiac and vascular devices does not appear to be seasonal. Due to the expected decline in shipments of orthopaedic tissue, the Company does not expect seasonality trends to impact its revenues related to orthopaedic tissues, which are expected to be minimal for all future periods.

## **Liquidity and Capital Resources**

### ***Net Working Capital***

At March 31, 2008 net working capital (current assets of \$64.2 million less current liabilities of \$18.9 million) was \$45.3 million, with a current ratio (current assets divided by current liabilities) of 3 to 1, compared to net working capital (current assets of \$65.5 million less current liabilities of \$24.7 million) of \$40.8 million, with a current ratio (current assets divided by current liabilities) of 3 to 1 at December 31, 2007.

The Company's primary capital requirements for the three months ended March 31, 2008 arose out of the payment of the balance due under the Company's prior credit agreement which expired in February 2008, general working capital needs, including annual payments of royalties and bonuses accrued in the prior year, capital expenditures for facilities and equipment, and funding of research and development projects. The Company funded its cash requirements primarily through sales and maturities of its marketable securities and its operating activities, which generated cash during the period.

### ***Overall Liquidity and Capital Resources***

In March of 2008 CryoLife entered into a credit facility with GE Capital, which provides for up to \$15 million in revolving credit for working capital, acquisitions and other corporate purposes. As of March 31, 2008 the outstanding balance under this agreement was \$240,000.

In January 2006 the Company engaged a financial advisor to assist the Company's management and Board of Directors in identifying and evaluating potential strategies to enhance shareholder value. In November 2006 the Company announced that as a result of this review, the Board of Directors has directed management to actively pursue three key strategies designed to generate revenue and earnings growth in addition to continuing to focus on growing its business and leveraging its strengths and expertise in its core marketplaces. These three strategies are: (i) identify and evaluate acquisition opportunities of complementary product lines and companies; (ii) license Company technology to third parties for non-competing uses; and (iii) analyze and identify underperforming assets for potential sale or disposal. Management's actions related to this Board directive are ongoing and any material acquisition of complementary product lines or companies would likely require additional debt or equity financing.

The Company's cash equivalents include advance funding received under the 2005 DOD Grant and the 2006 DOD Grant for the continued development of protein hydrogel technology for use on the battlefield. As of March 31, 2008 \$946,000 of cash equivalents were recorded on the Company's Summary Consolidated Balance Sheet related to the 2006 DOD grants. These funds must be used for the specified purposes. As of April 15, 2007 per the terms of the GE Credit Agreement, the Company is maintaining cash and equivalents of at least \$5.0 million in accounts in which GE Capital has a first priority perfected lien. As a result these funds would not be available to meet the Company's liquidity needs.

The Company believes that its existing cash, cash equivalents, marketable securities, and borrowing availability will enable the Company to meet its operational liquidity needs for the next twelve months.

### ***Product Liability Claims***

As discussed in Critical Accounting Policies above, as of March 31, 2008 the Company had a \$330,000 accrual for pending product liability lawsuits and claims. The timing and amount of actual future payments with respect to product liability claims is dependent on when and if judgments are rendered, and/or settlements are reached. Should payments be required, the Company's portion of these monies would have to be paid from liquid assets. The Company continues to attempt to reach resolution of outstanding claims in order to minimize the potential cash payout.

As discussed in Critical Accounting Policies above, at March 31, 2008 the Company had accrued a total \$6.5 million for the estimated costs of unreported product liability claims related to services performed and products sold prior to March 31, 2008 and had recorded a receivable of \$2.5 million representing estimated amounts to be recoverable from the Company's insurance carriers with respect to such accrued liability. Further analysis indicated that the liability could be estimated to be as high as \$12.2 million, after including a reasonable margin for statistical fluctuations calculated based on actuarial simulation techniques. The \$6.5 million accrual does not represent cash set aside. The timing of future payments related to the accrual is dependent on when and if claims are asserted, judgments are rendered, and/or settlements are reached. Should payments related to the accrual be required, these monies would have to be paid from insurance proceeds and liquid assets. Since the amount accrued is based on actuarial estimates, actual amounts required could vary significantly from this estimate.

#### ***Net Cash from Operating Activities***

Net cash provided by operating activities was \$352,000 for the three months ended March 31, 2008 as compared to \$1.1 million for the three months ended March 31, 2007. The decrease in cash provided by operating activities from the prior year quarter was partially due to not receiving grant funding in the quarter ended March 31, 2008 as compared to the receipt of \$972,000 in grant funding in the quarter ended March 31, 2007, and changes in working capital due to the timing of receipts and payments in the ordinary course of business.

The current year cash provided of \$352,000 was primarily due to net income generated during the period, largely offset by the working capital needs of the Company. The Company uses the indirect method to prepare its cash flow statement, and accordingly, the operating cash flows are based on the Company's net income, which is then adjusted to remove non-cash items and for changes in operating assets and liabilities from the prior year end. For the three months ended March 31, 2008 the Company's \$2.8 million net income included non-cash items that generated favorable and unfavorable adjustments to net income. These included favorable adjustments of \$1.1 million in depreciation and amortization expense, \$634,000 in write-downs for impairment of inventory, and \$655,000 in non-cash compensation, primarily related to expense for stock options and stock awards.

The Company's working capital needs, or changes in operating assets and liabilities, also affected cash from operations. For the three months ended March 31, 2008 these unfavorable changes included \$2.6 million due to the buildup of deferred preservation costs and inventories, \$1.2 million due to the buildup of accounts receivable, and \$1.3 million due to the timing differences between the recording of accounts payable, accrued expenses, and other current liabilities and the actual payment of cash.

#### ***Net Cash from Investing Activities***

Net cash provided by investing activities was \$1.6 million for the three months ended March 31, 2008, as compared to \$347,000 for the three months ended March 31, 2007. The current year cash provided was primarily due to \$3.0 million in sales and maturities of marketable securities, partially offset by \$559,000 in purchases of marketable securities, \$500,000 in deposits, and \$401,000 in capital expenditures.

#### ***Net Cash from Financing Activities***

Net cash used by financing activities was \$4.0 million for the three months ended March 31, 2008, as compared to \$28,000 for the three months ended March 31, 2007. The current year cash used was primarily due to \$4.6 million in principal payments on debt, partially offset by \$353,000 in proceeds from debt issuance and \$403,000 in proceeds from the exercise of options and the issuance of stock. The principal payments on debt were primarily due to the payoff of the balance due under the Company's prior credit agreement which expired in February 2008.

#### **Off-Balance Sheet Arrangements**

The Company has no off-balance sheet arrangements.

### Scheduled Contractual Obligations and Future Payments

Scheduled contractual obligations and the related future payments as of March 31, 2008 are as follows (in thousands):

	Total	Remainder of		2010	2011	2012	Thereafter
		2008	2009				
Operating leases	\$16,891	\$1,790	\$2,277	\$2,154	\$2,145	\$2,188	\$ 6,337
Compensation payments	3,035	—	1,050	—	993	992	—
Purchase commitments	1,148	1,029	119	—	—	—	—
Line of credit	240	240	—	—	—	—	—
Royalty payments	200	200	—	—	—	—	—
Capital lease obligations	127	39	53	35	—	—	—
Other obligations	600	512	65	10	10	3	—
Total contractual obligations	<u>\$22,241</u>	<u>\$3,810</u>	<u>\$3,564</u>	<u>\$2,199</u>	<u>\$3,148</u>	<u>\$3,183</u>	<u>\$ 6,337</u>

The Company's operating lease obligations result from the lease of land and buildings that comprise the Company's corporate headquarters and manufacturing facilities, leases related to additional office and warehouse space rented by the Company, leases on Company vehicles, and leases on a variety of office equipment.

The line of credit obligation results from the Company's borrowing of funds under the GE Credit Agreement. The timing of this obligation is based on the agreement's March 25, 2011 expiration date, at which time the outstanding principal balance will be due. The table above does not include interest and fees on the line of credit, as these can vary due to changes in the level of borrowings and changes in interest rates.

The Company's compensation payment obligations represent estimated cash payments to be made for its 2008 performance based bonus plans and estimated payments for post employment benefits for the Company's Chief Executive Officer ("CEO"). The timing of the post employment benefits is based on the December 2010 expiration date of the CEO's agreement. Payment of this benefit may be accelerated by a change in control or by the voluntary retirement of the CEO.

The Company's purchase commitments include obligations from agreements with suppliers to stock certain custom raw materials needed for the Company's processing and production and contractual payments for licensing computer software. The Company's royalty payments are primarily related to BioGlue revenues. The Company's capital lease obligations result from the financing of certain of the Company's equipment.

The Company's other obligations contain various items including payments to support research and development activities, and other items as appropriate.

The schedule of contractual obligations above excludes any estimated liability for product liabilities, as no amounts were due under contractual obligations. The schedule does not include additional payments of up to \$1.2 million related to licensing of technology from a third party which are contingent upon the outcome of the Company's research activities. The schedule of contractual obligations does not include \$946,000 in advance funding received under the 2006 DOD Grant for which a specific timetable of spending has not been established and for which there are no current agreements or contracts in place. The schedule of contractual obligations above excludes any estimated liability for uncertain tax positions, currently estimated to be \$2.1 million, because the Company cannot make a reasonably reliable estimate of the amount and period of related future payments as no specific assessments have been made by any taxing authorities.

The schedule of contractual obligations does not include items which became obligations to the Company from April 1, 2008 through April 25, 2008, including insurance premium obligations of \$1.7 million and other obligations of \$75,000. Additionally, subsequent to March 31, 2008, the Company signed an agreement containing minimum purchase recommendations in 2008, 2009, 2010, and 2011, which the Company is not contractually obligated to execute. Through April 25, 2008 the Company has committed to orders totaling \$500,000 under this agreement.

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***Capital Expenditures***

Capital expenditures for the three months ended March 31, 2008 were \$401,000 compared to \$271,000 for the three months ended March 31, 2007. Planned capital expenditures for 2008 are primarily related to routine purchases of tissue processing, manufacturing, computer, and office equipment needed to support the Company's business.

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## FORWARD-LOOKING STATEMENTS

This Form 10-Q contains forward-looking statements and information made or provided by the Company that are based on the beliefs of its management as well as estimates and assumptions made by and information currently available to management. The words “could,” “may,” “will,” “would,” “should,” “pro forma,” “potential,” “pending,” “intend,” “believe,” “expect,” “anticipate,” “estimate,” “plan,” “future,” and other similar expressions generally identify forward-looking statements, including, in particular, statements regarding anticipated revenues, cost savings, insurance coverage, regulatory activity, available funds and capital resources, and pending litigation. These forward-looking statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Investors are cautioned not to place undue reliance on these forward-looking statements, which are as of their respective dates. Such forward-looking statements reflect the views of our management at the time such statements are made and are subject to a number of risks, uncertainties, estimates, and assumptions, including, without limitation, in addition to those identified in the text surrounding such statements, those identified under “Risks and Uncertainties” and elsewhere in this filing.

All statements, other than statements of historical facts, included herein that address activities, events, or developments that the Company expects or anticipates will or may occur in the future, are forward-looking statements, including statements regarding:

- The Company’s ability to increase, and methods for increasing, BioGlue and preserved tissue market penetration;
- The Company’s continued use of human tissue implant data;
- The expected benefits of surgical adhesives and sealants;
- The Company’s plans to apply for further federal funding for the development of BioFoam;
- The anticipated competitive advantages and potential impact on revenues of SynerGraft;
- Expected increases in grant revenues;
- Expectations regarding, and possible increases in the cost and retention of, future insurance coverage;
- Current intentions not to pay cash dividends on our common stock;
- Current intentions to retain future earnings for capital requirements;
- Expectations regarding the use of net operating loss carryforwards;
- Expected decreases in revenues from the distribution of orthopaedic tissue;
- Expectations regarding the impact of CryoValve SG pulmonary heart valve on cost of preservation services as a percentage of preservation services revenues;
- Expectations regarding capital expenditures;
- Expected usage of SynerGraft technology;
- Expected timing regarding availability of CryoValve SG;
- Commercialization plans regarding ProPatch;
- Potential BioGlue product line extensions;
- The ability of the Company to distribute Hemostase MPH when expected;
- The potential benefits of products licensed from Trophic Solutions;
- Information regarding the expected SynerGraft post-clearance study;
- The ability of BioGlue to minimize post-operative pain following hernia operations;
- The expected outcome of lawsuits filed against the Company;
- The Company’s estimated future liability for existing product liability lawsuits and for product liability claims incurred but not yet reported;
- The Company’s competitive position, including the impact of price increases;
- The receipt of governmental grants for BioFoam development;
- Future increases in research and development expenses;
- Competitive advantages offered by the Company’s patents, trade secrets, trademarks, and technology licensing rights;
- Expected impact of adoption of new accounting pronouncements;
- Expected seasonality trends;
- Anticipated impact of changes in interest rates and foreign currency exchange rates;
- The ability to expand the Company’s service and product offerings;



- 
- Those issues most likely to impact the Company's future financial performance and cash flows;
  - The anticipated impact of the Company's strategic plans and its ability to implement them;
  - The adequacy of the Company's financial resources; and
  - Other statements regarding future plans and strategies, anticipated events, or trends.

These statements are based on certain assumptions and analyses made by the Company in light of its experience and its perception of historical trends, current conditions, and expected future developments as well as other factors it believes are appropriate in the circumstances. However, whether actual results and developments will conform with the Company's expectations and predictions is subject to a number of risks and uncertainties which could cause actual results to differ materially from the Company's expectations, including without limitation, in addition to those specified in the text surrounding such statements, the risk factors set forth below, the risks set forth under "Risk Factors" in Part I, Item 1A of the Company's Form 10-K for the year ended December 31, 2007 and other factors, many of which are beyond the control of the Company. Consequently, all of the forward-looking statements made in this Form 10-Q are qualified by these cautionary statements and there can be no assurance that the actual results or developments anticipated by the Company will be realized or, even if substantially realized, that they will have the expected consequences to or effects on the Company or its business or operations. The Company assumes no obligation to update publicly any such forward-looking statements, whether as a result of new information, future events, or otherwise.

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## RISKS AND UNCERTAINTIES

The risks and uncertainties which might impact the forward-looking statements and the Company, its ability to continue as a going concern, and the trading value of its common stock include concerns that:

- The FDA has previously issued a recall of certain of our products and has the ability to inspect our facilities, suspend our operations, and issue a recall of our products in the future;
- We have experienced operating losses and negative cash flows, and we must continue to address the underlying causes in order to continue to operate profitably and generate positive cash flows;
- Key growth strategies identified as a result of our strategic review may not generate the anticipated benefits;
- There are limitations on the use of our net operating loss carryforwards;
- We are significantly dependent on our revenues from BioGlue and are subject to a variety of risks affecting this product;
- We are dependent on the availability of sufficient quantities of tissue from human donors;
- Physicians have been and may continue to be reluctant to implant our preserved tissues or use our other products;
- Our products and the tissues we process allegedly have caused and may in the future cause injury to patients, and we have been and may be exposed to product liability claims and additional regulatory scrutiny as a result;
- We may receive a form 483 notice of observations from the FDA and we may be unable to address the concerns raised by the FDA in such form 483;
- SynerGraft processed pulmonary heart valves may not be accepted by the marketplace;
- SynerGraft processed pulmonary heart valves must be shipped and implanted within one year or we will be required to discard them;
- Our SynerGraft post-clearance study may not provide expected results;
- Regulatory action outside of the U.S. has affected our business in the past and may also affect our business in the future;
- Our failure to adequately comply with government regulations could result in loss of revenues and customers as well as additional compliance expense;
- Our existing insurance policies may not be sufficient to cover our actual claims liability;
- We may be unable to obtain adequate insurance at a reasonable cost, if at all;
- Intense competition may affect our ability to operate profitably;
- We may not be successful in obtaining necessary clinical results and regulatory approvals for products and services in development, and our new products and services may not achieve market acceptance;
- Investments in new technologies and acquisitions of products or distribution rights may not be successful;
- If we are not successful in expanding our business activities in international markets, we will not be able to pursue one of our strategies for increasing our revenues;
- We are dependent on our key personnel;
- Extensive government regulation may adversely affect our ability to develop and sell products and services;
- Uncertainties related to patents and protection of proprietary technology may adversely affect the value of our intellectual property;
- Future health care reimbursement methods and policies may affect the availability, amount, and timing of our revenues;
- Rapid technological change could cause our services and products to become obsolete;
- Trading prices for our securities have been, and may continue to be, volatile;
- Anti-takeover provisions may discourage or make more difficult an attempt to obtain control of CryoLife; and
- We are not likely to pay common stock dividends in the foreseeable future, and we may not be able to pay cash dividends on our capital stock due to legal restrictions and lack of liquidity;
- The Company may not be able to effectively leverage its existing sales force to sell Hemostase MPH;
- Surgeons may not chose to utilize Hemostase MPH;
- Hemostase MPH may not perform as expected or provide all expected benefits;
- The Company may not be able to maintain the required Adjusted EBITDA levels or other borrowing conditions under its credit facility;

- 
- There is no guarantee that the credit facility will provide the Company with sufficient resources to pursue strategic opportunities that may arise, and as a result additional financing activities may be required; and
  - While the Company currently expects that its aggregate borrowing capacity under the GE Credit Agreement will equal \$15.0 million, there can be no assurance that the borrowing capacity will remain at this level.

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Item 3. Quantitative and Qualitative Disclosures About Market Risk.

***Interest Rate Risk***

The Company's interest income and expense are sensitive to changes in the general level of U.S. interest rates. In this regard, changes in U.S. interest rates affect the interest earned on the Company's cash and cash equivalents of \$12.3 million as of March 31, 2008. A 10% adverse change in interest rates as compared to the rates experienced by the Company in the three months ended March 31, 2008, affecting the Company's cash and cash equivalents would not have a material impact on the Company's financial position, results of operations, or cash flows.

***Foreign Currency Exchange Rate Risk***

The Company has balances, such as cash, accounts receivable, accounts payable, and accruals that are denominated in foreign currencies. These foreign currency transactions are sensitive to changes in exchange rates. In this regard, changes in exchange rates could cause a change in the U.S. dollar equivalent of cash or funds that the Company will receive in payment for assets or that the Company would have to pay to settle liabilities. As a result the Company could be required to record these changes as gains or losses on foreign currency translation. A 10% adverse change in foreign currency rates as compared to the rates on March 31, 2008 affecting the Company's balances denominated in foreign currencies would not have a material impact on the Company's financial position, results of operations, or cash flows.

Item 4. Controls and Procedures.

The Company's management, including the Company's President and Chief Executive Officer ("CEO") and the Company's Executive Vice President, Chief Operating Officer, and Chief Financial Officer ("CFO"), does not expect that its disclosure controls will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. The design of any system of controls is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been or will be detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdown can occur because of simple error or mistake.

Based upon the Company's most recent disclosure controls evaluation as of March 31, 2008, the CEO and CFO have concluded that the Company's disclosure controls were effective at the reasonable assurance level to satisfy their objectives and to ensure that the information required to be disclosed by the Company in its periodic reports is accumulated and communicated to management, including the CEO and CFO, as appropriate, to allow timely decisions regarding disclosure and is recorded, processed, summarized, and reported within the time periods specified in the U.S. Securities and Exchange Commission's rules and forms.

During the quarter ended March 31, 2008 there were no changes in the Company's internal control over financial reporting that materially affected or that are reasonably likely to materially affect the Company's internal control over financial reporting.

Part II—OTHER INFORMATION

Item 1. Legal Proceedings.

**Product Liability Claims**

On January 18, 2008, the Company was served with a lawsuit filed in the State Court of Cobb County, Georgia, by Michael Hohenbery, an individual who underwent surgery in December 2006 for implantation of a meniscal allograft preserved by the Company. The plaintiff alleges that such tissue was contaminated and resulted in an infection in his knee requiring further surgery. The plaintiff seeks \$10 million in compensatory damages and \$100 million in punitive damages against the Company. The Company intends to defend against this lawsuit and believes that it has adequate insurance coverage for this particular case.

Item 1A. Risk Factors.

The Company's most recent Form 10-K was filed February 21, 2008. There have been no material changes from the risk factors previously disclosed in the Company's Form 10-K in response to Part I, Item 1A of Form 10-K.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

- (c) The following table provides information about purchases by the Company during the quarter ended March 31, 2008 of equity securities that are registered by the Company pursuant to Section 12 of the Exchange Act:

Issuer Purchases of Equity Securities				
Common Stock				
Period	Total Number of Common Shares Purchased	Average Price Paid per Common Share	Total Number of Common Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Common Shares That May Yet Be Purchased Under the Plans or Programs
01/01/08 – 01/31/08	5,974	\$ 8.36	—	—
02/01/08 – 02/29/08	3,485	9.75	—	—
03/01/08 – 03/31/08	12,260	9.75	—	—
Total	21,719	\$ 9.37	—	—

The Company currently has no stock repurchase program, publicly announced or otherwise. The common shares shown were tendered to the Company in payment of the exercise price of outstanding options.

Item 3. Defaults Upon Senior Securities.

None.

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

None.

Item 5. Other information.

None.

Item 6. Exhibits.

The exhibit index can be found below.

<b>Exhibit Number</b>	<b>Description</b>
3.1	Amended and Restated Articles of Incorporation of the Company. (Incorporated herein by reference to Exhibit 3.1 to the Registrant's Form 10-K for the year ended December 31, 2007.)
3.2	Amended and Restated By-Laws. (Incorporated herein by reference to Exhibit 3.4 to the Registrant's Current Report on Form 8-K filed August 1, 2007.)
4.1	Form of Certificate for the Company's Common Stock. (Incorporated by reference to Exhibit 4.2 to the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 1997.)
10.1**	Credit Agreement by and among CryoLife, Inc. and certain of its subsidiaries, as borrowers, General Electric Capital Corporation, as lender, letter of credit issuer, and agent for all lenders, and GE Capital Markets, Inc. as sole lead arranger and bookrunner.
10.2*	Form of Grant pursuant to the CryoLife, Inc. 2007 Executive Incentive Plan.
10.3*	Summary of Revised Salaries for Named Executive Officers.
10.4	Form of Incentive Employee Stock Option Agreement and Grant pursuant to the CryoLife, Inc. 2004 Employee Stock Incentive Plan. (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed February 25, 2008.)
10.5	Form of Non-Qualified Employee Stock Option Agreement and Grant pursuant to the CryoLife, Inc. 2004 Employee Stock Incentive Plan. (Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed February 25, 2008.)
31.1*	Certification by Steven G. Anderson pursuant to section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification by D. Ashley Lee pursuant to section 302 of the Sarbanes-Oxley Act of 2002.
32*	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\* Filed herewith.

† The Registrant has requested confidential treatment for certain portions of this Exhibit pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

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SIGNATURES

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

CRYOLIFE, INC.  
(Registrant)

/s/ STEVEN G. ANDERSON

STEVEN G. ANDERSON  
Chairman, President, and Chief Executive Officer  
(Principal Executive Officer)

/s/ D. ASHLEY LEE

D. ASHLEY LEE  
Executive Vice President,  
Chief Operating Officer, and Chief Financial Officer  
(Principal Financial and Accounting Officer)

April 30, 2008  
DATE

**CONFIDENTIAL TREATMENT REQUESTED**

**[\*\*\*] – CONFIDENTIAL PORTIONS OF THIS AGREEMENT WHICH HAVE BEEN REDACTED ARE MARKED WITH BRACKETS (“[\*\*\*]”). THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.**

**\$15,000,000 CREDIT FACILITY**

**CREDIT AGREEMENT**

**Dated as of March 27, 2008**

**by and among**

**CRYOLIFE, INC. and each of its Subsidiaries signatory hereto,**

**as the Borrowers,**

**THE OTHER PERSONS PARTY HERETO THAT ARE  
DESIGNATED AS CREDIT PARTIES**

**GENERAL ELECTRIC CAPITAL CORPORATION  
for itself, as a Lender, as L/C Issuer and as the Agent for all Lenders,**

**THE OTHER FINANCIAL INSTITUTIONS FROM TIME TO TIME PARTY HERETO**

**as Lenders,**

**and**

**GE CAPITAL MARKETS, INC.,  
as Sole Lead Arranger and Bookrunner**



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## EXHIBITS

Exhibit 1.1(b)	Form of L/C Request
Exhibit 1.6	Form of Notice of Conversion/Continuation
Exhibit 2.1	Closing Checklist
Exhibit 4.2(b)	Compliance Certificate
Exhibit 11.1(a)	Form of Assignment
Exhibit 11.1(c)	Note
Exhibit 11.1(d)	Notice of Borrowing

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**CREDIT AGREEMENT**

This CREDIT AGREEMENT (including all exhibits and schedules hereto, as the same may be amended, modified and/or restated from time to time, this "Agreement") is entered into as of March 27, 2008, by and among CryoLife, Inc., a Florida corporation ("CryoLife"), CryoLife Acquisition Corporation, a Florida corporation ("Acquisition Corp"), AuraZyme Pharmaceuticals, Inc., a Florida corporation ("AuraZyme"), CryoLife International, Inc., a Florida corporation ("International") (CryoLife, Acquisition Corp, International and AuraZyme are sometimes referred to herein together as the "Borrowers" and individually as a "Borrower"), CryoLife, as Borrower Representative, the other Persons party hereto that are designated as a "Credit Party", General Electric Capital Corporation, a Delaware corporation (in its individual capacity, "GE Capital"), as Agent for the several financial institutions from time to time party to this Agreement (collectively, the "Lenders" and individually each a "Lender") and for itself as a Lender and L/C Issuer, and such Lenders.

WITNESSETH:

WHEREAS, the Borrowers have requested, and the Lenders have agreed to make available to the Borrowers, a revolving credit facility (including a letter of credit subfacility) upon and subject to the terms and conditions set forth in this Agreement to (a) refinance Prior Indebtedness, (b) finance Permitted Acquisitions, (c) provide for working capital, capital expenditures and other general corporate purposes of the Borrowers and (d) fund certain fees and expenses associated with the funding of the Loans; and

WHEREAS, the Borrowers desire to secure all of their Obligations under the Loan Documents by granting to Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of its personal and real property;

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

ARTICLE I - THE CREDIT

1.1 Amounts and Terms of Commitments.

(a) The Revolving Credit. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Revolving Lender severally and not jointly agrees to make Loans to the Borrowers (each such Loan, a "Revolving Loan") from time to time on any Business Day during the period from the Closing Date to the Revolving Termination Date, in an aggregate amount not to exceed at any time outstanding the amount set forth opposite such Lender's name in Schedule 1.1 under the heading "Commitment" (such amount as the same may be reduced or increased from time to time pursuant to

subsection 1.8(d) and Section 1.13 or as a result of one or more assignments pursuant to Section 9.9, being referred to herein as such Lender's "Commitment"); provided, however, that, after giving effect to any Borrowing of Revolving Loans, the aggregate principal amount of all outstanding Revolving Loans shall not exceed the Maximum Revolving Loan Balance. Subject to the other terms and conditions hereof, amounts borrowed under this subsection 1.1(a) may be repaid and reborrowed from time to time. The "Maximum Revolving Loan Balance" from time to time will be the lesser of:

(i) (x) the product obtained by multiplying (A) Adjusted EBITDA for the most recent twelve month period ending on or prior to such date for which financial statements have been delivered pursuant to subsection 4.1 (and prior to delivery of financial statements for January 2008, the December 2007 financial statements delivered prior to the Closing Date), times (B) the Leverage Multiple then in effect, minus (y) outstanding total Indebtedness of the Credit Parties and their Subsidiaries (excluding the Revolving Loan and Letter of Credit Obligations), or

(ii) the Aggregate Revolving Loan Commitment then in effect;

less, in either case, the aggregate amount of Letter of Credit Obligations.

If at any time the then outstanding principal balance of Revolving Loans exceeds the Maximum Revolving Loan Balance, then the Borrowers shall immediately prepay outstanding Revolving Loans in an amount sufficient to eliminate such excess.

(b) Letters of Credit. (i) Commitment and Conditions. On the terms and subject to the conditions contained herein, each L/C Issuer agrees to Issue, at the request of the Borrower Representative, in accordance with such L/C Issuer's usual and customary business practices, and for the account of the Borrowers (or, as long as the Borrowers remain responsible for the payment in full of all amounts drawn thereunder and related fees, costs and expenses, for the account of any Subsidiary of a Borrower), Letters of Credit (denominated in Dollars) from time to time on any Business Day during the period from the Closing Date through the earlier of the Revolving Termination Date and 7 days prior to the date specified in clause (a) of the definition of Revolving Termination Date; provided, however, that such L/C Issuer shall not be under any obligation to Issue any Letter of Credit upon the occurrence of any of the following, after giving effect to such Issuance:

(A)(i) the aggregate outstanding principal balance of Revolving Loans would exceed the Maximum Revolving Loan Balance or (ii) the Letter of Credit Obligations for all Letters of Credit would exceed \$1,500,000 (the "L/C Sublimit");

(B) the expiration date of such Letter of Credit (i) is not a Business Day, (ii) is more than one year after the date of issuance thereof or (iii) is later than 7 days prior to the date specified in clause (a) of the definition of Revolving Termination Date; provided, however, that any Letter of Credit with a term not

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exceeding one year may provide for its renewal for additional periods not exceeding one year as long as (x) each of each Borrower and such L/C Issuer have the option to prevent such renewal before the expiration of such term or any such period and (y) neither such L/C Issuer nor any Borrower shall permit any such renewal to extend such expiration date beyond the date set forth in clause (iii) above; or

(C) (i) any fee due in connection with, and on or prior to, such Issuance has not been paid, (ii) such Letter of Credit is requested to be issued in a form that is not acceptable to such L/C Issuer or (iii) such L/C Issuer shall not have received, each in form and substance reasonably acceptable to it and duly executed by the Borrowers or the Borrower Representative on their behalf (and, if such Letter of Credit is issued for the account of any Subsidiary of a Borrower, such Person), the documents that such L/C Issuer generally uses in the ordinary course of its business for the Issuance of letters of credit of the type of such Letter of Credit (collectively, the "L/C Reimbursement Agreement").

For each such Issuance, the applicable L/C Issuer may, but shall not be required to, determine that, or take notice whether, the conditions precedent set forth in Section 2.2 have been satisfied or waived in connection with the Issuance of any Letter of Credit; provided, however, that no Letter of Credit shall be Issued during the period starting on the first Business Day after the receipt by such L/C Issuer of notice from the Agent or the Required Lenders that any condition precedent contained in Section 2.2 is not satisfied and ending on the date all such conditions are satisfied or duly waived.

(ii) Notice of Issuance. The Borrower Representative shall give the relevant L/C Issuer and the Agent a notice of any requested Issuance of any Letter of Credit, which shall be effective only if received by such L/C Issuer and the Agent not later than 11:00 a.m. on the third Business Day prior to the date of such requested Issuance. Such notice may be made in a writing substantially in the form of Exhibit 1.1(b) duly completed or in a writing in any other form acceptable to such L/C Issuer (an "L/C Request") or by telephone if confirmed promptly, but in any event within one Business Day and prior to such Issuance, with such an L/C Request.

(iii) Reporting Obligations of L/C Issuers. Each L/C Issuer agrees to provide the Agent (which, after receipt, the Agent shall provide to each Revolving Lender), in form and substance satisfactory to the Agent, each of the following on the following dates: (A) (i) on or prior to any Issuance of any Letter of Credit by such L/C Issuer, (ii) immediately after any drawing under any such Letter of Credit or (iii) immediately after any payment (or failure to pay when due) by the Borrowers of any related L/C Reimbursement Obligation, notice thereof, which shall contain a reasonably detailed description of such Issuance, drawing or payment; (B) upon the request of the Agent (or any Revolving Lender through the Agent), copies of any Letter of Credit Issued by such L/C Issuer and any related L/C Reimbursement Agreement and such other documents and information as may reasonably be requested by the Agent; and (C) on the first



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Business Day of each calendar week, a schedule of the Letters of Credit Issued by such L/C Issuer, in form and substance reasonably satisfactory to the Agent, setting forth the Letter of Credit Obligations for such Letters of Credit outstanding on the last Business Day of the previous calendar week.

(iv) Acquisition of Participations. Upon any Issuance of a Letter of Credit in accordance with the terms of this Agreement resulting in any increase in the Letter of Credit Obligations, each Revolving Lender shall be deemed to have acquired, without recourse or warranty, an undivided interest and participation in such Letter of Credit and the related Letter of Credit Obligations in an amount equal to its Commitment Percentage of such Letter of Credit Obligations.

(v) Reimbursement Obligations of the Borrowers. The Borrowers agree to pay to the L/C Issuer of any Letter of Credit each L/C Reimbursement Obligation owing with respect to such Letter of Credit no later than the first Business Day after the Borrowers or the Borrower Representative receive notice from such L/C Issuer that payment has been made under such Letter of Credit or that such L/C Reimbursement Obligation is otherwise due (the "L/C Reimbursement Date") with interest thereon computed as set forth in clause (A) below. In the event that any L/C Issuer incurs any L/C Reimbursement Obligation not repaid by the Borrowers as provided in this clause (v) (or any such payment by the Borrowers is rescinded or set aside for any reason), such L/C Issuer shall promptly notify the Agent of such failure (and, upon receipt of such notice, the Agent shall forward a copy to each Revolving Lender) and, irrespective of whether such notice is given, such L/C Reimbursement Obligation shall be payable on demand by the Borrowers with interest thereon computed (A) from the date on which such L/C Reimbursement Obligation arose to the L/C Reimbursement Date, at the interest rate applicable during such period to Revolving Loans that are Base Rate Loans and (B) thereafter until payment in full, at the interest rate applicable during such period to past due Revolving Loans that are Base Rate Loans.

(vi) Reimbursement Obligations of the Revolving Credit Lenders. Upon receipt of the notice described in clause (v) above from the Agent, each Revolving Lender shall pay to the Agent for the account of such L/C Issuer its Commitment Percentage of such L/C Reimbursement Obligation. By making such payment (other than during the continuation of an Event of Default under subsection 7.1(f) or 7.1(g)), such Lender shall be deemed to have made a Revolving Loan to the Borrowers, which, upon receipt thereof by such L/C Issuer, the Borrowers shall be deemed to have used in whole to repay such L/C Reimbursement Obligation. Any such payment that is not deemed a Revolving Loan shall be deemed a funding by such Lender of its participation in the applicable Letter of Credit and the related Letter of Credit Obligations. Such participation shall not otherwise be required to be funded. Upon receipt by any L/C Issuer of any payment from any Lender pursuant to this clause (vi) with respect to any portion of any L/C Reimbursement Obligation, such L/C Issuer shall promptly pay over to such Lender all payments received by such L/C Issuer after such payment by such Lender with respect to such portion.

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(vii) Obligations Absolute. The obligations of the Borrowers and the Revolving Lenders pursuant to clauses (iv), (v) and (vi) above shall be absolute, unconditional and irrevocable and performed strictly in accordance with the terms of this Agreement irrespective of (A) (i) the invalidity or unenforceability of any term or provision in any Letter of Credit, any document transferring or purporting to transfer a Letter of Credit, any Loan Document (including the sufficiency of any such instrument), or any modification to any provision of any of the foregoing, (ii) any document presented under a Letter of Credit being forged, fraudulent, invalid, insufficient or inaccurate in any respect or failing to comply with the terms of such Letter of Credit or (iii) any loss or delay, including in the transmission of any document, (B) the existence of any setoff, claim, abatement, recoupment, defense or other right that any Person (including any Credit Party) may have against the beneficiary of any Letter of Credit or any other Person, whether in connection with any Loan Document or any other Contractual Obligation or transaction, or the existence of any other withholding, abatement or reduction, (C) in the case of the obligations of any Revolving Lender, (i) the failure of any condition precedent set forth in Section 2.2 to be satisfied (each of which conditions precedent the Revolving Lenders hereby irrevocably waive) or (ii) any adverse change in the condition (financial or otherwise) of any Credit Party and (D) any other act or omission to act or delay of any kind of Agent, any Lender or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this subsection 1.1(c)(vii), constitute a legal or equitable discharge of any obligation of the Borrowers or any Revolving Lender hereunder.

1.2 Notes. The Revolving Loans made by each Revolving Lender shall be evidenced by this Agreement and, if requested by such Lender, a Note payable to the order of such Lender in an amount equal to such Lender's Commitment.

1.3 Interest.

(a) Subject to subsections 1.3(c) and 1.3(d), each Loan shall bear interest on the outstanding principal amount thereof from the date when made at a rate per annum equal to the LIBOR or the Base Rate, as the case may be, plus the Applicable Margin. Each determination of an interest rate by the Agent shall be conclusive and binding on each Borrower and the Lenders in the absence of demonstrable error. All computations of fees and interest payable under this Agreement shall be made on the basis of a 360-day year and actual days elapsed. Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to the last day thereof.

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(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date. Interest shall also be paid on the date of any payment or prepayment of Loans in full.

(c) At the election of the Agent or the Required Lenders while any Event of Default exists (or automatically while any Event of Default under subsection 7.1(f) or 7.1(g) exists), the Borrowers shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the Obligations under the Loan Documents from and after the date of occurrence of such Event of Default, at a rate per annum which is determined by adding two percent (2.0%) per annum to the Applicable Margin then in effect for such Loans (plus the LIBOR or Base Rate, as the case may be) and, in the case of Obligations under the Loan Documents not subject to an Applicable Margin (other than the fees described in subsection 1.9(c)), at a rate per annum equal to the rate per annum applicable to Revolving Loans which are Base Rate Loans (including the Applicable Margin with respect thereto) plus two percent (2.0%). All such interest shall be payable on demand of the Agent or the Required Lenders.

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrowers hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Borrowers shall pay such Lender interest at the highest rate permitted by applicable law ("Maximum Lawful Rate"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, Borrowers shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Agent, on behalf of Lenders, is equal to the total interest that would have been received had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement.

#### 1.4 Loan Accounts.

(a) The Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. The Agent shall deliver to the Borrower Representative on a monthly basis a loan statement setting forth such record for the immediately preceding month. Such record shall, absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against the Agent.

(b) The Agent, acting as agent of the Borrowers solely for tax purposes and solely with respect to the actions described in this subsection 1.4(b), shall establish and maintain at its address referred to in Section 9.2 (or at such other address as the Agent may notify the Borrower Representative) (A) a record of ownership (the "Register") in which the Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of the Agent, each Lender and each L/C Issuer in the Revolving Loans and Letter of Credit Obligations, each of their obligations under this Agreement to participate in each Loan, Letter of Credit and L/C Reimbursement Obligations, and any assignment of any such interest, obligation or right and (B) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders and the L/C Issuers (and each change thereto pursuant to Sections 9.9 and 9.22), (2) the Commitments of each Lender, (3) the amount of each Loan and each funding of any participation described in clause (A) above, for LIBOR Rate Loans, the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid, (5) the amount of the L/C Reimbursement Obligations due and payable or paid in respect of Letters of Credit and (6) any other payment received by the Agent from a Borrower and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans and the corresponding obligations to participate in Letter of Credit Obligations) and the L/C Reimbursement Obligations are registered obligations, the right, title and interest of the Lenders and the L/C Issuers and their assignees in and to such Loans or L/C Reimbursement Obligations, as the case may be, shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 1.4 and Section 9.9 shall be construed so that the Loans and L/C Reimbursement Obligations are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code.

(d) The Credit Parties, the Agent, the Lenders and the L/C Issuers shall treat each Person whose name is recorded in the Register as a Lender or L/C Issuer, as applicable, for all purposes of this Agreement. Information contained in the Register with respect to any Lender or any L/C Issuer shall be available for access by the Borrowers, the Borrower Representative, the Agent, such Lender or such L/C Issuer at any reasonable time and from time to time upon reasonable prior notice. No Lender or L/C Issuer shall, in such capacity, have access to or be otherwise permitted to review any information in the Register other than information with respect to such Lender or L/C Issuer unless otherwise agreed by the Agent.

#### 1.5 Procedure for Revolving Credit Borrowing.

(a) Each Borrowing of a Revolving Loan shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written notice delivered to the Agent in the form of a Notice of Borrowing, which notice must be received by the Agent prior to 1:00 p.m. (New York time) on the requested Borrowing date in the case of each Base Rate Loan and (ii) on the day which is three (3) Business Days prior to the requested Borrowing date in the case of each LIBOR Rate Loan. Such Notice of Borrowing shall specify:

(i) the amount of the Borrowing (which shall be in an aggregate minimum principal amount of \$100,000 and multiples of \$50,000 in excess thereof);

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- (ii) the requested Borrowing date, which shall be a Business Day;
  - (iii) whether the Borrowing is to be comprised of LIBOR Rate Loans or Base Rate Loans; and
  - (iv) if the Borrowing is to be LIBOR Rate Loans, the Interest Period applicable to such Loans.

(b) Upon receipt of a Notice of Borrowing, the Agent will promptly notify each Revolving Lender of such Notice of Borrowing and of the amount of such Lender's Commitment Percentage of the Borrowing.

(c) Unless the Agent is otherwise directed in writing by the Borrower Representative, the proceeds of each requested Borrowing after the Closing Date will be made available to the Borrowers by the Agent by wire transfer of such amount to the Borrowers pursuant to the wire transfer instructions specified on the signature page hereto.

#### 1.6 Conversion and Continuation Elections.

(a) Borrowers shall have the option to (i) request that any Revolving Loan be made as a LIBOR Rate Loan, (ii) convert at any time all or any part of outstanding Loans from Base Rate Loans to LIBOR Rate Loans, (iii) convert any LIBOR Rate Loan to a Base Rate Loan, subject to Section 10.4 if such conversion is made prior to the expiration of the Interest Period applicable thereto, or (iv) continue all or any portion of any Loan as a LIBOR Rate Loan upon the expiration of the applicable Interest Period. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a LIBOR Rate Loan must be in a minimum amount of \$1,000,000 and integral multiples of \$500,000 in excess of such amount. Any such election must be made by Borrower Representative by 1:00 p.m. (New York time) on the 3rd Business Day prior to (1) the date of any proposed Revolving Loan which is to bear interest at LIBOR, (2) the end of each Interest Period with respect to any LIBOR Rate Loans to be continued as such, or (3) the date on which Borrowers wish to convert any Base Rate Loan to a LIBOR Rate Loan for an Interest Period designated by Borrower Representative in such election. If no election is received with respect to a LIBOR Rate Loan by 1:00 p.m. (New York time) on the 3rd Business Day prior to the end of the Interest Period with respect thereto, that LIBOR Rate Loan shall be converted to a Base Rate Loan at the end of its Interest Period. Borrower Representative must make such election by notice to Agent in writing, by fax or overnight courier (or by telephone, to be confirmed in writing on such day). In the case of any conversion or continuation, such

election must be made pursuant to a written notice (a “Notice of Conversion/Continuation”) in the form of Exhibit 1.6. No Loan shall be made, converted into or continued as a LIBOR Rate Loan, if an Event of Default has occurred and is continuing and Agent or Required Lenders have determined not to make or continue any Loan as a LIBOR Rate Loan as a result thereof.

(b) Upon receipt of a Notice of Conversion/Continuation, the Agent will promptly notify each Lender thereof. In addition, the Agent will, with reasonable promptness, notify the Borrower Representative and the Lenders of each determination of LIBOR; provided that any failure to do so shall not relieve any Borrower of any liability hereunder or provide the basis for any claim against the Agent. All conversions and continuations shall be made pro rata according to the respective outstanding principal amounts of the Loans held by each Lender with respect to which the notice was given.

(c) Notwithstanding any other provision contained in this Agreement, after giving effect to any Borrowing, or to any continuation or conversion of any Loans, there shall not be more than seven (7) different Interest Periods in effect.

#### 1.7 Optional Prepayments.

(a) The Borrowers may at any time upon at least two (2) Business Days’ prior written notice by Borrower Representative to the Agent, prepay the Loans in whole or in part in an amount greater than or equal to \$100,000, in each instance, without penalty or premium except as provided in Section 10.4.

(b) The notice of any prepayment shall not thereafter be revocable by the Borrowers or Borrower Representative and the Agent will promptly notify each Lender thereof and of such Lender’s Commitment Percentage of such prepayment. The payment amount specified in such notice shall be due and payable on the date specified therein. Together with each prepayment under this Section 1.7, the Borrowers shall pay any amounts required pursuant to Section 10.4.

#### 1.8 Mandatory Prepayments of Loans and Commitment Reductions.

(a) Revolving Loan. The Borrowers shall repay to the Lenders in full on the date specified in clause (a) of the definition of “Revolving Termination Date” the aggregate principal amount of the Revolving Loans outstanding on the Revolving Termination Date.

(b) Asset Dispositions. If a Borrower or any Subsidiaries of a Borrower shall at any time or from time to time after an Event of Default has occurred and is continuing:

- (i) make or agree to make a Disposition; or
- (ii) suffer an Event of Loss;

and the aggregate amount of the Net Proceeds received by the Borrowers and their Subsidiaries in connection with such Disposition or Event of Loss and all other Dispositions and Events of Loss occurring during the fiscal year exceeds \$250,000, then (A) the Borrower Representative shall promptly notify the Agent of such proposed Disposition or Event of Loss (including the amount of the estimated Net Proceeds to be received by a Borrower and/or such Subsidiary in respect thereof) and (B) promptly upon receipt by a Borrower and/or such Subsidiary of the Net Proceeds of such Disposition or Event of Loss, the Borrowers shall deliver, or cause to be delivered, such excess Net Proceeds to the Agent for distribution to the Lenders as a prepayment of the Loans, which prepayment shall be applied in accordance with subsection 1.8(d) hereof. Notwithstanding the foregoing and provided no Default or Event of Default has occurred and is continuing, such prepayment shall not be required to the extent a Borrower or such Subsidiary reinvests the Net Proceeds of such Disposition or Event of Loss in productive assets (other than Inventory) of a kind then used or usable in the business of a Borrower or such Subsidiary, within one hundred eighty (180) days after the date of such Disposition or Event of Loss or enters into a binding commitment thereof within said one hundred eighty (180) day period and subsequently makes such reinvestment. Pending such reinvestment, the Net Proceeds shall be delivered to the Agent, for distribution to the Revolving Lenders, as a prepayment of the Revolving Loans (to the extent of Revolving Loans then outstanding), but not as a permanent reduction of the Commitment.

(c) Issuance of Securities. Immediately upon the receipt by any Credit Party or any Subsidiary of any Credit Party of the Net Issuance Proceeds of the issuance of Stock or Stock Equivalents (including any capital contribution) or debt securities (other than Net Issuance Proceeds from the issuance of (i) debt securities in respect of Indebtedness permitted hereunder, and (ii) Excluded Equity Issuances), at any time that an Event of Default has occurred and is continuing, the Borrowers shall deliver, or cause to be delivered, to the Agent an amount equal to such Net Issuance Proceeds, for application to the Loans in accordance with subsection 1.8(d).

(d) Application of Prepayments. Subject to subsection 1.10(c), any prepayments pursuant to subsection 1.8(b) or 1.8(c) shall be applied to prepay outstanding Revolving Loans, effective as of the earlier of the date that such prepayment is made or the date by which such prepayment is due and payable hereunder without permanent reduction of the Commitment. To the extent permitted by the foregoing sentence, amounts prepaid shall be applied first to any Base Rate Loans then outstanding and then to outstanding LIBOR Rate Loans with the shortest Interest Periods remaining. Together with each prepayment under this Section 1.8, the Borrowers shall pay any amounts required pursuant to Section 10.4 hereof.

#### 1.9 Fees.

(a) Annual Administration Fee. The Borrowers shall pay to the Agent for its account the fees set forth in the Fee Letter in the amounts and on the dates set forth therein, which fees shall be fully earned and non-refundable when paid.

(b) Unused Commitment Fee. The Borrowers shall pay to the Agent, for the ratable benefit of the Revolving Lenders, a fee (the "Unused Commitment Fee") in an amount equal to

- (i) the Aggregate Revolving Loan Commitment, less
- (ii) the sum of (x) the average daily balance of all Revolving Loans outstanding plus (y) the average daily amount of Letter of Credit Obligations, in each case, during the preceding month,

multiplied by (0.375%) per annum. Such fee shall be payable monthly in arrears on the first day of the month following the date hereof and the first day of each month thereafter. The Unused Commitment Fee provided in this subsection 1.9(b) shall accrue at all times from and after mutual execution and delivery of this Agreement.

(c) Letter of Credit Fee. The Borrowers agree to pay to Agent for the ratable benefit of the Revolving Lenders, as compensation to such Lenders for Letter of Credit Obligations incurred hereunder, (i) without duplication of costs and expenses otherwise payable to Agent or Lenders hereunder or fees otherwise paid by the Borrowers, all reasonable costs and expenses incurred by Agent or any Lender on account of such Letter of Credit Obligations, and (ii) for each month during which any Letter of Credit Obligation shall remain outstanding, a fee (the "Letter of Credit Fee") in an amount equal to the product of the average daily undrawn face amount of all Letters of Credit issued, guaranteed or supported by risk participation agreements multiplied by a per annum rate equal to the Applicable Margin with respect to Revolving Loans which are LIBOR Rate Loans; provided, however, at Agent's or Required Lenders' option, while an Event of Default exists (or automatically while an Event of Default under subsection 7.1(f) or 7.1(g) exists), such rate shall be increased by two percent (2.00%) per annum. Such fee shall be paid to Agent for the benefit of the Revolving Lenders in arrears, on the first day of each calendar month and on the Revolving Termination Date. In addition, the Borrowers shall pay to any L/C Issuer, on demand, such reasonable fees, without duplication of fees otherwise payable hereunder (including all per annum fees), charges and expenses of such L/C Issuer in respect of the issuance, negotiation, acceptance, amendment, transfer and payment of such Letter of Credit or otherwise payable pursuant to the application and related documentation under which such Letter of Credit is issued.

#### 1.10 Payments by the Borrowers.

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, recoupment, counterclaim or deduction of any kind, shall, except as otherwise expressly provided herein, be made to the Agent (for the ratable account of the Persons entitled thereto) at the address for payment specified in the signature page hereof in relation to the Agent (or such other address as the Agent may from time to time specify in accordance with Section 9.2), and shall be made in Dollars and in immediately available funds, no later than 2:00 p.m. (New York time) on the date due. Any payment



which is received by the Agent later than 2:00 p.m. (New York time) shall be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue. Each Borrower and each other Credit Party hereby irrevocably waives the right to direct the application during the continuance of an Event of Default of any and all payments in respect of any Obligation and any proceeds of Collateral. Each Borrower hereby authorizes the Agent and each Lender to make a Revolving Loan (which shall be a Base Rate Loan) to pay (i) interest, principal, agent fees, Unused Commitment Fees and Letter of Credit Fees, in each instance, on the date due, or (ii) after five (5) days prior notice to the Borrower Representative, other fees, costs or expenses payable by a Borrower or any of its Subsidiaries hereunder or under the other Loan Documents.

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, if any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or fees, as the case may be.

(c) During the continuance of an Event of Default, the Agent shall, unless otherwise directed in writing by Required Lenders, apply any and all payments in respect of any Obligation in accordance with clauses first through sixth below. Notwithstanding any provision herein to the contrary, all amounts collected or received by the Agent after any or all of the Obligations have been accelerated (so long as such acceleration has not been rescinded) and all proceeds received by the Agent as a result of the exercise of its remedies under the Collateral Documents after the occurrence and during the continuance of an Event of Default shall be applied as follows:

first, to payment of costs and expenses, including Attorney Costs, of the Agent payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of Attorney Costs of Lenders payable or reimbursable by the Borrowers under this Agreement;

third, to payment of all accrued unpaid interest on the Obligations and fees owed to the Agent, Lenders and L/C Issuers

fourth, to payment of principal of the Obligations including, without limitation, L/C Reimbursement Obligations then due and payable, any Obligations under any Secured Rate Contract and cash collateralization of L/C Reimbursement Obligations to the extent not then due and payable;

fifth, to payment of any other amounts owing constituting Obligations; and

sixth, any remainder shall be for the account of and paid to whoever may be lawfully entitled thereto.

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In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category and (ii) each of the Lenders or other Persons entitled to payment shall receive an amount equal to its pro rata share of amounts available to be applied pursuant to clauses third, fourth and fifth above.

**1.11 Payments by the Lenders to the Agent: Settlement.**

(a) Agent may, on behalf of Lenders, disburse funds to the Borrowers for Loans requested. Each Lender shall reimburse Agent on demand for all funds disbursed on its behalf by Agent, or if Agent so requests, each Lender will remit to Agent its Commitment Percentage of any Loan before Agent disburses same to the Borrowers. If Agent elects to require that each Lender make funds available to Agent prior to disbursement by Agent to the Borrowers, Agent shall advise each Lender by telephone or fax of the amount of such Lender's Commitment Percentage of the Loan requested by the Borrower Representative no later than 1:00 p.m. (New York time) on the scheduled Borrowing date applicable thereto, and each such Lender shall pay Agent such Lender's Commitment Percentage of such requested Loan, in same day funds, by wire transfer to Agent's account on such scheduled Borrowing date. If any Lender fails to pay its Commitment Percentage within one (1) Business Day after Agent's demand, Agent shall promptly notify the Borrower Representative, and the Borrowers shall immediately repay such amount to Agent. Any repayment required pursuant to this subsection 1.11(a) shall be without premium or penalty. Nothing in this subsection 1.11(a) or elsewhere in this Agreement or the other Loan Documents, including the remaining provisions of Section 1.11, shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Agent or Borrowers may have against any Lender as a result of any default by such Lender hereunder.

(b) At least once each calendar week or more frequently at Agent's election (each, a "Settlement Date"), Agent shall advise each Lender by telephone or fax of the amount of such Lender's Commitment Percentage of principal, interest and fees paid for the benefit of Lenders with respect to each applicable Loan. Provided that each Lender has funded all payments required to be made by it and funded all purchases of participations required to be funded by it under this Agreement and the other Loan Documents as of such Settlement Date, Agent shall pay to each Lender such Lender's Commitment Percentage of principal, interest and fees paid by the Borrowers since the previous Settlement Date for the benefit of such Lender on the Loans held by it. Such payments shall be made by wire transfer to such Lender not later than 2:00 p.m. (New York time) on the next Business Day following each Settlement Date. To the extent that any Lender (a "Non-Funding Lender") has failed to fund all such payments or failed to fund the purchase of all such participations required to be funded by such Lender pursuant to this Agreement, Agent shall be entitled to set off the funding shortfall against that Non-Funding Lender's Commitment Percentage of all payments received from the Borrowers.

(c) Availability of Lender's Commitment Percentage. Agent may assume that each Revolving Lender will make its Commitment Percentage of each Revolving Loan available to Agent on each Borrowing date. If such Commitment Percentage is not, in fact, paid to Agent by such Revolving Lender when due, Agent will be entitled to recover such amount on demand from such Revolving Lender without setoff, counterclaim or deduction of any kind. If any Revolving Lender fails to pay the amount of its Commitment Percentage forthwith upon Agent's demand, Agent shall promptly notify the Borrower Representative and the Borrowers shall immediately repay such amount to Agent. Nothing in this subsection 1.11(c) or elsewhere in this Agreement or the other Loan Documents shall be deemed to require Agent to advance funds on behalf of any Revolving Lender or to relieve any Revolving Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that the Borrowers may have against any Revolving Lender as a result of any default by such Revolving Lender hereunder. To the extent that Agent advances funds to the Borrowers on behalf of any Revolving Lender and is not reimbursed therefor on the same Business Day as such advance is made, Agent shall be entitled to retain for its account all interest accrued on such advance until reimbursed by the applicable Revolving Lender.

(d) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from the Borrowers and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to any Credit Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to any Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

(e) Non-Funding Lenders. The failure of any Non-Funding Lender to make any Revolving Loan or any payment required by it hereunder, or to fund any purchase of any participation to be made or funded by it on the date specified therefor shall not relieve any other Lender (each such other Revolving Lender, an "Other Lender") of its obligations to make such loan or fund the purchase of any such participation on such date, but neither any Other Lender nor Agent shall be responsible for the failure of any Non-Funding Lender to make a loan, fund the purchase of a participation or make any other payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Non-Funding Lender shall not have any voting or consent rights under or with respect to any Loan Document or constitute a "Lender" or a "Revolving Lender" (or be included in the calculation of "Required Lenders" hereunder) for any voting or consent rights under or with respect to any Loan Document.

1.12 Borrower Representative. Each Borrower hereby designates and appoints CryoLife as its representative and agent on its behalf (the "Borrower Representative") for the purposes of issuing Notices of Borrowings, Notices of Conversion/Continuation, L/C Requests, delivering certificates including Compliance Certificates, giving instructions with respect to the disbursement of the proceeds of the Loans, selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and taking all other actions (including in respect of compliance with covenants) on behalf of any Borrower or Borrowers under the Loan Documents. Borrower Representative hereby accepts such appointment. Agent and each Lender may regard any notice or other communication pursuant to any Loan Document from Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

1.13 Incremental Commitments.

(a) At any time after the consummation of the Asset Drop Down and compliance by the Borrower with its obligations under Section 4.14(b), Borrower may from time to time, upon written notice to the Agent (who shall promptly provide a copy of such notice to each Lender), propose to increase the Commitments by an aggregate amount not to exceed Fifteen Million Dollars (\$15,000,000) (the "Incremental Revolver"), such that the Aggregate Revolving Loan Commitments after giving effect to such increase are no greater than Thirty Million Dollars (\$30,000,000). Each Lender shall have the right for a period of fifteen (15) days following receipt of such notice, to elect by written notice to the Borrower and the Agent, to commit to establish all or a portion of such Incremental Revolver. Final allocations of the Incremental Revolver shall be determined by the Agent after consultation with Borrower. No Lender (or any successor thereto) shall have any obligation to establish all or any portion of such Incremental Revolver or to increase any other obligations under this Agreement and the other Loan Documents, and any decision by a Lender to establish all or any portion of such Incremental Revolver shall be made in its sole discretion independently from any other Lender.

(b) If the Lenders do not commit to establish the entire Incremental Revolver pursuant to subsection (a) of this Section 1.13, the Borrower may designate another bank or other financial institution (which may be, but need not be, one or more of the existing Lenders), provided, however that if such Person is not an existing Lender, such Person must be acceptable to the Agent and join this Agreement as a Lender (an "Additional Lender").

(c) In the event that the Borrower desires to increase the Commitments by the Incremental Revolver, the Borrower will enter into an amendment with the Agent, those Lenders providing the Incremental Revolver and Additional Lenders, if any (which shall upon execution thereof become Lenders hereunder if not theretofore Lenders) to provide for such Incremental Revolver, which amendment shall set forth any terms and

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conditions of the Incremental Revolver not covered by this Agreement as agreed by the Borrower, Agent and such Lenders, and shall provide for the issuance of promissory notes to evidence the Incremental Revolver if requested by such Lenders (which notes shall constitute Notes for purposes of this Agreement), such amendment to be in form and substance reasonably acceptable to Agent and consistent with the terms of this Section 1.13(c) and of the other provisions of this Agreement. No consent of any Lender not committing to the Incremental Revolver is required to permit the Incremental Revolver contemplated by and otherwise complying with this Section 1.13(c) or the aforesaid amendment to effectuate the Incremental Revolver. This clause (c) shall supersede any provisions contained in this Agreement, including, without limitation, Section 9.1.

(d) The increase of the Commitments by the Incremental Revolver will be subject to the satisfaction of the following conditions precedent: (i) after giving pro forma effect to such increase, no Default or Event of Default shall have occurred and be continuing and Borrowers will be in pro forma compliance with the covenants set forth in Sections 6.2 and 6.3, (ii) execution of the amendment hereto referenced in clause (c) above by Agent, the Lenders and Additional Lenders providing the Incremental Revolver and the Credit Parties, (iii) delivery to Agent of a certificate of the Secretary or an Assistant Secretary of each Credit Party, in form and substance satisfactory to Agent, certifying the resolutions of such Person's board of directors (or equivalent governing body) approving and authorizing the Incremental Revolver (if not previously delivered to Agent), and certifying that none of the organizational documents of such Credit Party delivered to the Agent prior thereto have been modified or altered in any way (or if modifications have occurred, certifying new copies of such organizational documents), (iv) delivery to Agent of an opinion of counsel to the Credit Parties in form and substance and from counsel reasonably satisfactory to the Agent, addressed to Agent and Lenders extending the Incremental Revolver and covering such matters as the Agent may reasonably request, (v) receipt by Agent of such new Notes and reaffirmations of guaranties, as Agent may reasonably request, together with amendments to any Mortgages reflecting that the Incremental Revolver is secured pari passu with the Revolving Loan, and such endorsements to title policies or additional title searches as the Agent may reasonably request and (vi) the Asset Drop Down has been consummated and the requirements of Section 4.14(a) have been satisfied.

## ARTICLE II - CONDITIONS PRECEDENT

2.1 Conditions of Initial Loans. The obligation of each Lender to make its initial Loans and of each L/C Issuer to Issue, or cause to be Issued, the initial Letters of Credit hereunder is subject to satisfaction of the following conditions:

(a) Loan Documents. The Agent shall have received on or before the Closing Date all of the agreements, documents, instruments and other items set forth on the Closing Checklist attached hereto as Exhibit 2.1, each in form and substance reasonably satisfactory to the Agent;

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(b) Availability. The Borrowers shall have delivered evidence to the satisfaction of the Agent demonstrating that, after giving effect to payment of all costs and expenses in connection therewith, funding of the initial Loans and issuance of the initial Letters of Credit, total Indebtedness of the Credit Parties and their Subsidiaries, measured on a consolidated basis, shall be not more than \$2,000,000; and

(c) EBITDA. The Borrowers shall have delivered evidence to the satisfaction of the Agent demonstrating that EBITDA of the Borrowers for the twelve month period ended December 31, 2007 shall be not less than \$10,000,000.

2.2 Conditions to All Borrowings. Except as otherwise expressly provided herein, no Lender or L/C Issuer shall be obligated to fund any Loan or incur any Letter of Credit Obligation, if, as of the date thereof:

(a) any representation or warranty by any Credit Party contained herein or in any other Loan Document is untrue or incorrect in any material respect (without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were untrue or incorrect as of such earlier date), and Agent or Required Lenders have determined not to make such Loan or incur such Letter of Credit Obligation as a result of the fact that such warranty or representation is untrue or incorrect;

(b) any Default or Event of Default has occurred and is continuing or would result after giving effect to any Loan (or the incurrence of any Letter of Credit Obligation), and Agent or Required Lenders shall have determined not to make any Loan or incur any Letter of Credit Obligation as a result of that Default or Event of Default;

(c) after giving effect to any Loan (or the incurrence of any Letter of Credit Obligations), the aggregate outstanding amount of the Revolving Loans would exceed the Maximum Revolving Loan Balance; and

(d) after giving effect to any Loan (or the incurrence of any Letter of Credit Obligations), the ratio of (i) all Indebtedness (which, for purposes hereof, shall include, without duplication, all Letter of Credit Obligations) as of the date of such Borrowing or incurrence, to (ii) Adjusted EBITDA for the most recent twelve month period ending on or prior to such date for which financial statements have been delivered pursuant to subsection 4.1 (and prior to delivery of financial statements for January 2008, the December 2007 financial statements delivered prior to the Closing Date), would exceed the maximum permitted Leverage Ratio pursuant to subsection 6.2 as of the last day of the most recent calendar quarter.

The request by Borrower Representative and acceptance by Borrowers of the proceeds of any Loan or the incurrence of any Letter of Credit Obligations shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by Borrowers that the

conditions in this Section 2.2 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Agent's Liens, on behalf of itself and Lenders, pursuant to the Collateral Documents.

### ARTICLE III - REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant to the Agent and each Lender that the following are true, correct and complete:

3.1 Corporate Existence and Power. Each Credit Party and each of their respective Subsidiaries:

(a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable;

(b) has the power and authority and all governmental licenses, authorizations, Permits, consents and approvals to own its assets, carry on its business and execute, deliver, and perform its obligations under, the Loan Documents to which it is a party;

(c) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and in good standing, under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all Requirements of Law;

except, in each case referred to in clause (c) or clause (d), to the extent that the failure to do so would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

3.2 Corporate Authorization; No Contravention.

(a) The execution, delivery and performance by each of the Credit Parties of this Agreement, and by each of the Credit Parties and each of their respective Subsidiaries of any other Loan Document to which such Person is party, have been duly authorized by all necessary action, and do not and will not:

(i) contravene the terms of any of that Person's Organization Documents;

(ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien under, any document evidencing any material Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject; or

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(iii) violate any material Requirement of Law in any material respect.

(b) Schedule 3.2 sets forth the authorized Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries are duly authorized and validly issued, fully paid, non-assessable, and free and clear of all Liens other than, with respect to the Stock and Stock Equivalents of Borrowers and Subsidiaries of the Borrowers, those in favor of the Agent, for the benefit of the Secured Parties. All such securities were issued in compliance with all applicable state and federal laws concerning the issuance of securities. All of the issued and outstanding Stock and Stock Equivalents of the other Subsidiaries of CryoLife is owned by the Persons and in the amounts set forth on Schedule 3.2. Except as set forth on Schedule 3.2, there are no pre-emptive or other outstanding rights, options, warrants, conversion rights or other similar agreements or understandings for the purchase or acquisition of any Stock and Stock Equivalents of any Credit Party.

3.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Agreement, any other Loan Document except (a) for recordings and filings in connection with the Liens granted to the Agent under the Collateral Documents and (b) those obtained or made on or prior to the Closing Date.

3.4 Binding Effect. This Agreement and each other Loan Document to which any Credit Party or any Subsidiary of any Credit Party is a party constitute the legal, valid and binding obligations of each such Person which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

3.5 Litigation. Except as specifically disclosed in Schedule 3.5, there are no actions, suits, proceedings, claims or disputes pending, or to the best knowledge of each Credit Party, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, against any Credit Party, any Subsidiary of any Credit Party or any of their respective Properties which:

(a) purport to affect or pertain to this Agreement, any other Loan Document or any of the transactions contemplated hereby or thereby; or

(b) would reasonably be expected to result in equitable relief or monetary judgment(s), individually or in the aggregate, having a Material Adverse Effect.



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No injunction, writ, temporary restraining order or any order of any nature has been issued by any court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of this Agreement or any other Loan Document, or directing that the transactions provided for herein or therein not be consummated as herein or therein provided. As of the Closing Date, no Credit Party or any Subsidiary of any Credit Party is the subject of an audit by the IRS or other Governmental Authority or, to each Credit Party's knowledge, any review or investigation by the IRS or other Governmental Authority concerning the violation or possible violation of any Requirement of Law.

3.6 No Default. No Default or Event of Default exists or would result from the incurring of any Obligations by any Credit Party or the grant or perfection of the Agent's Liens on the Collateral. No Credit Party and no Subsidiary of any Credit Party is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, would reasonably be expected to have a Material Adverse Effect.

3.7 ERISA Compliance. Schedule 3.7 sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans, (b) all Multiemployer Plans and (c) all material Benefit Plans. To the knowledge of the Credit Parties, each Benefit Plan, and each trust thereunder, intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Requirements of Law so qualifies. Except for any of the following that would not, in the aggregate, have a Material Adverse Effect, (x) each Benefit Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened) claims (other than routine claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigation involving any Benefit Plan to which any Credit Party incurs any obligation or any Liability or otherwise has or could have an obligation or any Liability and (z) no ERISA Event is reasonably expected to occur. On the Closing Date, no ERISA Event has occurred in connection with which obligations and liabilities (contingent or otherwise) remain outstanding. On the Closing Date, no ERISA Affiliate would have any Withdrawal Liability as a result of a complete withdrawal from any Multiemployer Plan on the date this representation is made.

3.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 4.10, and are intended to be and shall be used in compliance with Section 5.8. No Credit Party and no Subsidiary of any Credit Party is engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock.

3.9 Title to Properties. Each of the Credit Parties and each of their respective Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real Property, and good and valid title to all owned personal property and valid leasehold interests in all leased personal property, in each instance, necessary or

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used in the ordinary conduct of their respective businesses. The Property of the Credit Parties and its Subsidiaries is subject to no Liens, other than Permitted Liens. As of the Closing Date, none of the Credit Parties or their Subsidiaries own any Real Estate in fee simple.

3.10 Taxes. All federal, state, local and foreign income and franchise and other material tax returns, reports and statements (collectively, the "Tax Returns") required to be filed by any Tax Affiliate have been filed with the appropriate Governmental Authorities in all jurisdictions in which such Tax Returns are required to be filed, all such Tax Returns are true and correct in all material respects, and all taxes, charges and other impositions reflected therein or otherwise due and payable have been paid prior to the date on which any Liability may be added thereto for non-payment thereof except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. Except as set forth on Schedule 3.10, as of the Closing Date, no Tax Return is under audit or examination by any Governmental Authority and no notice of such an audit or examination or any assertion of any claim for Taxes has been given or made by any Governmental Authority. Proper and accurate amounts have been withheld by each Tax Affiliate from their respective employees for all periods in full and complete compliance in all material respects with the tax, social security and unemployment withholding provisions of applicable Requirements of Law and such withholdings have been timely paid to the respective Governmental Authorities. No Tax Affiliate has participated in a "reportable transaction" within the meaning of Treasury Regulation Section 1.6011-4(b) or has been a member of an affiliated, combined or unitary group other than the group of which a Tax Affiliate is the common parent.

3.11 Financial Condition.

(a) Each of the audited consolidated balance sheets of the Borrowers and their Subsidiaries dated December 31, 2005, December 31, 2006, and December 31, 2007 and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal years ended on such dates:

(x) were prepared in accordance with GAAP consistently applied throughout the respective periods covered thereby, except as otherwise expressly noted therein, subject to, in the case of the unaudited interim financial statements, normal year-end adjustments and the lack of footnote disclosures; and

(y) present fairly in all material respects the consolidated financial condition of the Borrowers and their Subsidiaries as of the dates thereof and results of operations for the periods covered thereby.

(b) Since December 31, 2007, there has been no Material Adverse Effect.

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(c) The Credit Parties and their Subsidiaries have no Indebtedness other than Indebtedness permitted pursuant to Section 5.5 and have no Contingent Obligations other than Contingent Obligations permitted pursuant to Section 5.9.

(d) All financial performance projections delivered to the Agent represent the Borrowers' best good faith estimate of future financial performance and are based on assumptions believed by the Borrowers to be fair and reasonable in light of current market conditions, it being acknowledged and agreed by the Agent and Lenders that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by such projections may differ from the projected results.

3.12 Environmental Matters. Except as set forth on Schedule 3.12, (a) the operations of each Credit Party and each Subsidiary of each Credit Party are and have been in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required by any applicable Environmental Law, other than non-compliances that, in the aggregate, would not have a reasonable likelihood of resulting in Material Environmental Liabilities to any Credit Party or any Subsidiary of any Credit Party, (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Credit Party and no Subsidiary of any Credit Party and no real property currently (or to the knowledge of any Credit Party previously) owned, leased, subleased, operated or otherwise occupied by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or, to the knowledge of any Credit Party, threatened) order, action, investigation, suit, proceeding, audit, claim, demand, dispute or notice of violation or of potential liability or similar notice relating in any manner to any Environmental Law other than those that, in the aggregate, are not reasonably likely to result in Material Environmental Liabilities to any Credit Party or any Subsidiary of any Credit Party, (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any property of any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that could reasonably be expected to result in any such Lien attaching to any such property, (d) no Credit Party and no Subsidiary of any Credit Party has caused or suffered to occur a Release of Hazardous Materials at, to or from any real property of any such Person and each such real property is free of contamination by any Hazardous Materials except for such Release or contamination that could not reasonably be expected to result, in the aggregate, in Material Environmental Liabilities to any Credit Party or any Subsidiary of any Credit Party, (e) no Credit Party and no Subsidiary of any Credit Party (i) is or has been engaged in, or has permitted any current or former tenant to engage in, operations or (ii) knows of any facts, circumstances or conditions, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws, that, in the aggregate, would have a reasonable likelihood of resulting in Material Environmental Liabilities to any Credit Party or any Subsidiary of any Credit Party and (f) each Credit Party has made available to Agent copies of all existing environmental reports, reviews and audits and all documents pertaining to actual or potential Environmental Liabilities, in each case to the extent such reports, reviews, audits and documents are in their possession, custody or control.

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3.13 Regulated Entities. None of any Credit Party, any Person controlling any Credit Party, or any Subsidiary of any Credit Party, is (a) an “investment company” within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other Federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its Obligations under the Loan Documents.

3.14 Solvency. Both before and after giving effect to (a) the Loans made and Letters of Credit Issued on or prior to the date this representation and warranty is made or remade, (b) the disbursement of the proceeds of such Loans, and (c) the payment and accrual of all transaction costs in connection with the foregoing, both the Credit Parties taken as a whole and each Borrower individually are Solvent.

3.15 Labor Relations. There are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened) against or involving any Credit Party or any Subsidiary of any Credit Party, except for those that would not, in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.15, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Subsidiary of any Credit Party and (c) no such representative has sought certification or recognition with respect to any employee of any Credit Party or any Subsidiary of any Credit Party.

3.16 Intellectual Property. Each Credit Party and each Subsidiary of each Credit Party owns, or is licensed to use, all Intellectual Property necessary to conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. To the knowledge of each Credit Party, (a) the conduct and operations of the businesses of each Credit Party and each Subsidiary of each Credit Party does not infringe, misappropriate, dilute, violate or otherwise impair any Intellectual Property owned by any other Person and (b) no other Person has contested any right, title or interest of any Credit Party or any Subsidiary of any Credit Party in, or relating to, any Intellectual Property, other than, in each case, as cannot reasonably be expected to affect the Loan Documents and the transactions contemplated therein and would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.17 Subsidiaries. As of the Closing Date, no Credit Party has any Subsidiaries or equity investments in any other corporation or entity other than those specifically disclosed in Schedule 3.2.

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3.18 Brokers' Fees; Transaction Fees. Except as disclosed on Schedule 3.18 and except for fees payable to the Agent and Lenders, none of the Credit Parties or any of their respective Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated hereby.

3.19 Insurance. Each of the Credit Parties and each of their respective Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of the Borrowers, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar Properties in localities where such Person operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, has been provided to the Agent.

3.20 Full Disclosure. None of the representations or warranties made by any Credit Party or any of their Subsidiaries in the Loan Documents as of the date such representations and warranties are made or deemed made, and none of the statements contained in each exhibit, report, statement or certificate furnished by or on behalf of any Credit Party or any of their Subsidiaries in connection with the Loan Documents (including the offering and disclosure materials, if any, delivered by or on behalf of any Credit Party to the Lenders prior to the Closing Date), contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered.

3.21 Foreign Assets Control Regulations and Anti-Money Laundering.

(a) OFAC. Neither any Credit Party nor any Subsidiary of any Credit Party (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

(b) Patriot Act. Each of the Credit Parties and each of their respective Subsidiaries are in compliance, in all material respects, with the Patriot Act. No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

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### 3.22 FDA Regulatory Compliance.

(a) Each of the Credit Parties and their Subsidiaries have all Registrations from FDA or other Governmental Authority required to conduct their respective businesses as currently conducted. Each of the Registrations is valid and subsisting in full force and effect. To the knowledge of the Credit Parties and their Subsidiaries, the FDA is not considering limiting, suspending, or revoking such Registrations or changing the marketing classification or labeling of the products of the Credit Parties and their Subsidiaries. To the knowledge of the Credit Parties and their Subsidiaries, there is no false or misleading information or significant omission in any product application or other submission to FDA or any comparable Governmental Authority. The Credit Parties and their Subsidiaries have fulfilled and performed their obligations under each Registration in all material respects, and no event has occurred or condition or state of facts exists which would constitute a breach or default or would cause revocation or termination of any such Registration that could reasonably be expected to result in a Material Adverse Effect. To the knowledge of the Credit Parties and their Subsidiaries, any third party that is a manufacturer or contractor for the Credit Parties and their Subsidiaries is in compliance with all Registrations from the FDA or comparable Governmental Authority insofar as they pertain to the manufacture of product components or products for the Credit Parties and their Subsidiaries.

(b) All products developed, manufactured, tested, distributed or marketed by or on behalf of the Credit Parties and their Subsidiaries that are subject to the jurisdiction of the FDA or comparable Governmental Authority have been and are being developed, tested, manufactured, distributed and marketed in compliance with the FDA Laws or any other applicable Requirement of Law, including, without limitation, pre-market notification, good manufacturing practices, labeling, advertising, record-keeping, and adverse event reporting, except where a failure to be in compliance could not reasonably be expected to result in a Material Adverse Effect, and have been and are being tested, investigated, distributed, marketed, and sold in compliance in all material respects with FDA Laws or any other applicable Requirement of Law, except where a failure to be in compliance could not reasonably be expected to result in a Material Adverse Effect.

(c) The Credit Parties and their Subsidiaries are not subject to any obligation arising under an administrative or regulatory action, FDA inspection, FDA warning letter, FDA notice of violation letter, or other notice, response or commitment made to or with the FDA or any comparable Governmental Authority. The Credit Parties and their Subsidiaries have made all notifications, submissions, and reports required by any such obligation, and all such notifications, submissions and reports were true, complete, and correct in all material respects as of the date of submission to FDA or any comparable Governmental Authority.

(d) Since December 31, 2004, no product has been seized, withdrawn, recalled, detained, or become subject to a suspension of manufacturing except as disclosed on Schedule 3.22, and there are no facts or circumstances reasonably likely to cause, (i) the seizure, denial, withdrawal, recall, detention, field correction, safety alert or suspension of manufacturing relating to any product; (ii) a change in the labeling of any product; or (iii) a termination, seizure or suspension of marketing of any product, which

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could reasonably be expected to result in a Material Adverse Effect. No proceedings in the United States or any other jurisdiction seeking the withdrawal, recall, suspension, import detention, or seizure of any product are pending or, to the knowledge of the Credit Parties and their Subsidiaries, threatened against the Credit Parties and their Subsidiaries.

### 3.23 Healthcare Regulatory Compliance.

(a) To the knowledge of the Credit Parties and their Subsidiaries, none of the Credit Parties, their Subsidiaries and their other Affiliates, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001) thereof, is a party to, or bound by, any order, individual integrity agreement, corporate integrity agreement or other formal or informal agreement with any Governmental Authority concerning compliance with Federal Health Care Program Laws.

(b) To the knowledge of the Credit Parties and their Subsidiaries, none of the Credit Parties, their Subsidiaries and their other Affiliates, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001) thereof: (i) has been charged with or convicted of any criminal offense relating to the delivery of an item or service under any Federal Health Care Program; (ii) has been debarred, excluded or suspended from participation in any Federal Health Care Program; (iii) has had a civil monetary penalty assessed against it, him or her under Section 1128A of the SSA; (iv) is currently listed on the General Services Administration published list of parties excluded from federal procurement programs and non-procurement programs; or (v) to the knowledge of the Borrowers, is the target or subject of any current or potential investigation relating to any Federal Health Care Program-related offense.

(c) None of the Credit Parties, their Subsidiaries and their other Affiliates, nor any officer, director, managing employee or agent (as those terms are defined in 42 C.F.R. § 1001.1001): has engaged in any activity that is in violation, to the extent such violation could reasonably be expected to result in a Material Adverse Effect to any Credit Party or their Subsidiaries, of the federal Medicare or federal or state Medicaid statutes, Sections 1128, 1128A, 1128B, 1128C or 1877 of the SSA (42 U.S.C. §§ 1320a-7, 1320a-7a, 1320a-7b, 1320a-7c and 1395nn), the federal TRICARE statute (10 U.S.C. § 1071 et seq.), the civil False Claims Act of 1863 (31 U.S.C. § 3729 et seq.), criminal false claims statutes (e.g., 18 U.S.C. §§ 287 and 1001), the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801 et seq.), the anti-fraud and related provisions of the Health Insurance Portability and Accountability Act of 1996 (e.g., 18 U.S.C. §§ 1035 and 1347), or related regulations or other federal or state laws and regulations relating to healthcare fraud or government healthcare programs (collectively, “Federal Health Care Program Laws”), including the following:

(i) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment;

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(ii) knowingly and willfully making or causing to be made a false statement or representation of a material fact for use in determining rights to any benefit or payment;

(iii) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or kind (1) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under any Federal Health Care Program; or (2) in return for purchasing, leasing, or ordering, or arranging, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part under any Federal Health Care Program;

(iv) knowingly and willfully offering or paying any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person (1) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal Health Care Program; or (2) to purchase, lease, order or arrange for or recommend purchasing, leasing or ordering any good, facility, service or item for which payment may be made in whole or in part under a Federal Health Care Program; or

(v) any other activity that violates any state or federal law relating to prohibiting fraudulent, abusive or unlawful practices connected in any way with the provision of health care items or services or the billing for such items or services provided to a beneficiary of any Federal Health Care Program.

(d) To the knowledge of the Borrowers, no person has filed or has threatened to file against any Credit Party, any of their Subsidiaries or other Affiliates an action under any federal or state whistleblower statute, including without limitation, under the False Claims Act of 1863 (31 U.S.C. § 3729 et seq.).

3.24 Reimbursement Coding. To the extent the Credit Parties or any of their Subsidiaries provide to their customers or any other Persons reimbursement coding or billing advice regarding products offered for sale by the Credit Parties and their Subsidiaries, such advice is complete and accurate in all material respects, conforms to the applicable American Medical Association's Current Procedural Terminology (CPT), the International Classification of Disease, Ninth Revision, Clinical Modification (ICD 9 CM), and other applicable coding systems, and the advice can be relied upon to create accurate claims for reimbursement by federal, state and commercial payors.

3.25 HIPAA. Each of the Credit Parties and their Subsidiaries is in compliance with the provisions of all business associate agreements (as such term is defined by HIPAA) to which it is a party except for the non-compliance of which would not have a Material Adverse Effect and to the knowledge of each of the Credit Parties and their Subsidiaries has implemented adequate policies, procedures and training designed to assure continued compliance and to detect non-compliance.



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#### ARTICLE IV - AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that, so long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied:

4.1 Financial Statements. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that monthly financial statements shall not be required to have footnote disclosures and are subject to normal year-end adjustments). The Borrowers shall deliver to the Agent and each Lender in electronic form and in detail reasonably satisfactory to the Agent and the Required Lenders:

(a) as soon as available, but not later than ninety (90) days after the end of each fiscal year, a copy of the audited consolidated balance sheets of the Borrowers and each of their Subsidiaries as at the end of such year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, and accompanied by the unqualified opinion of any "Big Four" or other nationally-recognized independent public accounting firm reasonably acceptable to the Agent which report shall state that such consolidated financial statements present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years; and

(b) as soon as available, but not later than thirty (30) days after the end of each fiscal month of each year ending on or prior to the Quarterly Reporting Trigger Date, a copy of the unaudited consolidated balance sheets and statements of income of the Borrowers and each of their Subsidiaries, and the related statements of shareholders' equity and cash flows as of the end of such month and for the portion of the fiscal year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrower Representative as being complete and correct and fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of the Borrowers and their Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures.

(c) as soon as available, but not later than forty-five (45) days after the end of each fiscal quarter of each year ending after the Quarterly Reporting Trigger Date, a copy of the unaudited consolidated balance sheets and statements of income of the Borrowers and each of their Subsidiaries, and the related statements of shareholders' equity and cash flows as of the end of such quarter and for the portion of the fiscal year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrower Representative as being complete and correct and fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of the Borrowers and their Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures.

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4.2 Certificates; Other Information. The Borrowers shall furnish in electronic form, to the Agent and each Lender:

(a) together with each delivery of financial statements pursuant to subsections 4.1(a) and (c), and with respect to the third month of each fiscal quarter of the Borrower Representative, pursuant to subsection 4.1(b), (i) a management report, in reasonable detail, signed by the chief financial officer of the Borrower Representative, describing the operations and financial condition of the Credit Parties and their Subsidiaries for the month and the portion of the fiscal year then ended (or for the fiscal year then ended in the case of annual financial statements), and (ii) a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous fiscal year and the corresponding figures from the most recent projections for the current fiscal year delivered pursuant to subsection 4.2(f) and discussing the reasons for any significant variations; provided, however, to the extent the Borrower Representative makes 10-Q and 10-K filings with the Securities and Exchange Commission with an MD&A report, such filings shall be deemed to satisfy this clause (a).

(b) together with each delivery of financial statements pursuant to subsections 4.1(a) and (c), and with respect to the third month of each fiscal quarter of the Borrower Representative, pursuant to subsection 4.1(b), a fully and properly completed certificate in the form of Exhibit 4.2(b) ("Compliance Certificate"), certified on behalf of the Borrowers by a Responsible Officer of the Borrower Representative;

(c) promptly after the same are sent, copies of all financial statements and reports which any Credit Party sends to its shareholders or other equity holders, as applicable, generally and promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which such Person may make to, or file with, the Securities and Exchange Commission or any successor or similar Governmental Authority;

(d) together with each delivery of financial statements pursuant to subsections 4.1(a) and (c), and with respect to the third month of each fiscal quarter of the Borrower Representative, pursuant to subsection 4.1(b), a list of any applications for the registration of any Patent, Trademark or Copyright filed by any Credit Party with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency during the most-recently ended fiscal month or fiscal quarter, as the case may be, or as at such other date as the Agent may reasonably require;

(e) as soon as available and in any event no later than the 30<sup>th</sup> day after last day of each fiscal year of the Borrowers, board-approved projections of the Credit Parties (and their Subsidiaries') consolidated financial performance for the forthcoming fiscal year on a quarter by quarter basis;

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(f) promptly upon receipt thereof, copies of any reports submitted by the certified public accountants in connection with each annual, interim or special audit or review of any type of the financial statements or internal control systems of any Credit Party made by such accountants, including any comment letters submitted by such accountants to management of any Credit Party in connection with their services;

(g) from time to time, if the Agent determines that obtaining appraisals is necessary in order for the Agent or any Lender to comply with applicable laws or regulations, and at any time if a Default or an Event of Default shall have occurred and be continuing, the Agent may, or may require the Borrowers to, in either case at the Borrowers' expense, obtain appraisals in form and substance and from appraisers reasonably satisfactory to the Agent stating the then current fair market value of all or any portion of the real or personal property of any Credit Party or any Subsidiary of any Credit Party; and

(h) promptly, such additional business, financial, corporate affairs, perfection certificates and other information as the Agent may from time to time reasonably request.

4.3 Notices. The Borrowers shall notify promptly the Agent and each Lender of each of the following (and in no event later than five (5) Business Days after a Responsible Officer becoming aware thereof):

(a) the occurrence or existence of any Default or Event of Default, or any event or circumstance that foreseeably will become a Default or Event of Default;

(b) any breach or non-performance of, or any default under, any Contractual Obligation of any Credit Party or any Subsidiary of any Credit Party, or any violation of, or non-compliance with, any Requirement of Law, which would reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect, including a description of such breach, non-performance, default, violation or non-compliance and the steps, if any, such Person has taken, is taking or proposes to take in respect thereof;

(c) the commencement of, or any material development in, any dispute, litigation, investigation, proceeding or suspension which may exist at any time between any Credit Party or any Subsidiary of any Credit Party and any Governmental Authority which would reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect;

(d) any notice that the FDA or other similar Governmental Authority is limiting, suspending or revoking any Registration, changing the market classification or labeling of the products of the Credit Parties and their Subsidiaries, or considering any of the foregoing;

(e) any Credit Party or any of its Subsidiaries becoming subject to any administrative or regulatory action; any Credit Party or any of its Subsidiaries receiving a Form FDA 483, FDA warning letter, FDA notice of violation letter, or any other written

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or verbal communication from FDA (other than informal verbal communications from FDA investigators during the course of an inspection that are not documented in a Form FDA 483) or any comparable Governmental Authority alleging noncompliance with any Requirement of Law; any product of any Credit Party or any of its Subsidiaries being seized, withdrawn, recalled, detained, or subject to a suspension of manufacturing; or the commencement of any proceedings in the United States or any other jurisdiction seeking the withdrawal, recall, suspension, import detention, or seizure of any product of the Credit Parties or their Subsidiaries, or any Credit Party or any Subsidiary of any Credit Party becoming aware that such proceedings are pending or threatened;

(f) the commencement of, or any material development in, any litigation or proceeding affecting any Credit Party or any Subsidiary of any Credit Party (i) in which the amount of damages claimed is \$750,000 (or its equivalent in another currency or currencies) or more, (ii) in which injunctive or similar relief is sought and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement or any Loan Document;

(g) (i) the receipt by any Credit Party of any notice of violation of or potential liability or similar notice under Environmental Law, (ii)(A) unpermitted Releases, (B) the existence of any condition that could reasonably be expected to result in violations of or liabilities under, any Environmental Law or (C) the commencement of, or any material change to, any action, investigation, suit, proceeding, audit, claim, demand, dispute alleging a violation of or liability under any Environmental Law, that, for each of clauses (i) and (ii)(A), (B) and (C) above (and, in the case of clause (C), if adversely determined), in the aggregate for each such clause, could reasonably be expected to result in Material Environmental Liabilities, (iii) the receipt by any Credit Party of notification that any property of any Credit Party is subject to any Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities and (iv) any proposed acquisition or lease of real property, if such acquisition or lease would have a reasonable likelihood of resulting in aggregate Material Environmental Liabilities.

(h) (i) on or prior to any filing by any ERISA Affiliate of any notice of intent to terminate any Title IV Plan, a copy of such notice and (ii) promptly, and in any event within 10 days, after any officer of any ERISA Affiliate knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan or Multiemployer Plan, a notice (which may be made by telephone if promptly confirmed in writing) describing such waiver request and any action that any ERISA Affiliate proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto;

(i) any Material Adverse Effect subsequent to the date of the most recent audited financial statements delivered to the Agent and Lenders pursuant to this Agreement;

(j) any material change in accounting policies or financial reporting practices by any Credit Party or any Subsidiary of any Credit Party;

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(k) any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other labor disruption against or involving any Credit Party or any Subsidiary of any Credit Party if the same would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

(l) the creation, establishment or acquisition of any Subsidiary or the issuance by or to any Credit Party of any Stock or Stock Equivalent other than options and stock grants pursuant to CryoLife's incentive plans, stock plans, stock option plan or employee stock purchase plan now existing or hereafter created; and

(m) (i) the creation, or filing with the IRS or any other Governmental Authority, of any Contractual Obligation or other document extending, or having the effect of extending, the period for assessment or collection of any taxes with respect to any Tax Affiliate and (ii) the creation of any Contractual Obligation of any Tax Affiliate, or the receipt of any request directed to any Tax Affiliate, to make any adjustment under Section 481(a) of the Code, by reason of a change in accounting method or otherwise, which would have a Material Adverse Effect.

Each notice pursuant to this Section shall be in electronic form accompanied by a statement by a Responsible Officer of the Borrower Representative, on behalf of the Borrowers, setting forth details of the occurrence referred to therein, and stating what action the Borrowers or other Person proposes to take with respect thereto and at what time. Each notice under subsection 4.3(a) shall describe with particularity any and all clauses or provisions of this Agreement or other Loan Document that have been breached or violated.

4.4 Preservation of Corporate Existence, Etc. Each Credit Party shall, and shall cause each of its Subsidiaries to:

(a) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, except, with respect to the Borrowers' Subsidiaries, in connection with transactions permitted by Section 5.3;

(b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except in connection with transactions permitted by Section 5.3 and sales of assets permitted by Section 5.2 and except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

(c) use its reasonable efforts, in the Ordinary Course of Business, to preserve its business organization and preserve the goodwill and business of the customers, suppliers and others having material business relations with it; and

(d) preserve or renew all of its registered trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

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4.5 Maintenance of Property. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, and preserve all its Property which is used or useful in its business in good working order and condition, ordinary wear and tear excepted and shall make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.6 Insurance.

(a) Each Credit Party shall, and shall cause each of its Subsidiaries to, (i) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the property and businesses of the Credit Parties and such Subsidiaries (including policies of life, fire, theft, product liability, public liability, property damage, other casualty, employee fidelity, workers' compensation, business interruption and employee health and welfare insurance) with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of Borrowers) of a nature and providing such coverage as is sufficient and as is customarily carried by businesses of the size and character of the business of the Credit Parties and (ii) cause all such insurance relating to any property or business of any Credit Party to name Agent as additional insured or loss payee, as appropriate. All policies of insurance on real and personal property of the Credit Parties will contain an endorsement, in form and substance acceptable to Agent, showing loss payable to Agent (Form 438 BFU or equivalent) and extra expense and business interruption endorsements. Such endorsement, or an independent instrument furnished to Agent, will provide that the insurance companies will give Agent at least 30 days' prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of Borrowers or any other Person shall affect the right of Agent to recover under such policy or policies of insurance in case of loss or damage. Each Credit Party shall direct all present and future insurers under its "All Risk" policies of insurance to pay all proceeds payable thereunder directly to Agent. If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Agent jointly, Agent may endorse such Credit Party's name thereon and do such other things as Agent may deem advisable to reduce the same to cash. Agent reserves the right at any time, after the occurrence of any event or circumstance that could reasonably be expected to have a Material Adverse Effect on any Credit Party's risk profile, to require additional forms and limits of insurance as Agent shall reasonably require.

(b) Unless the Borrowers provide the Agent with evidence of the insurance coverage required by this Agreement, the Agent may purchase insurance at the Credit Parties' expense to protect the Agent's and Lenders' interests in the Credit Parties' and their Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Subsidiaries' interests. The coverage that the Agent purchases may not pay any claim that any Credit Party or any Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Subsidiary in connection with said Property. The Borrowers may later cancel any insurance purchased by the Agent, but only after providing the Agent with evidence that there has been obtained insurance as required by this Agreement. If the Agent purchases insurance, the Credit Parties will be

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responsible for the costs of that insurance, including interest and any other charges the Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrowers may be able to obtain on their own.

4.7 Payment of Obligations. Such Credit Party shall, and shall cause each of its Subsidiaries to, pay, discharge and perform as the same shall become due and payable or required to be performed, all their respective obligations and liabilities, including:

(a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person;

(b) all lawful claims which, if unpaid, would by law become a Lien upon its Property unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the imposition or enforcement of the Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person;

(c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained herein and/or in any instrument or agreement evidencing such Indebtedness; and

(d) the performance of all obligations under any Contractual Obligation to such Credit Party or any of its Subsidiaries is bound, or to which it or any of its properties is subject, except where the failure to perform would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.8 Compliance with Laws.

(a) Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(b) Without limiting the generality of the foregoing, each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all applicable statutes, rules, regulations, standards, guidelines, policies and orders administered or issued by FDA ("FDA Laws") or any comparable Governmental Authority. All products developed, manufactured, tested, distributed or marketed by or on behalf of the Credit Parties and their Subsidiaries that are subject to the jurisdiction of the FDA or comparable Governmental Authority shall be developed, tested, manufactured, distributed and marketed in compliance with the Requirements of Law of the jurisdiction in which the applicable product is marketed or commercialized, including, without limitation, pre-market notification, good manufacturing practices, labeling, advertising, record-keeping, and adverse event reporting, and have been and are being tested, investigated, distributed, marketed, and sold in compliance with the Requirements of Law of such applicable jurisdiction.

(c) Without limiting the generality of the foregoing, each Credit Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its real property, whether owned, leased, subleased or otherwise operated or occupied, in compliance with, all applicable Environmental Laws (including by implementing any Remedial Action necessary to achieve such compliance or that is required by lawful orders and directives of any Governmental Authority) except for failures to comply that would not, in the aggregate, have a Material Adverse Effect. Without limiting the foregoing, if an Event of Default is continuing or if Agent at any time has a reasonable basis to believe that there exist violations of Environmental Laws by any Credit Party or any Subsidiary of any Credit Party or that there exist any Environmental Liabilities, in each case, that would have, in the aggregate, a Material Adverse Effect, then each Credit Party shall, promptly upon receipt of request from Agent, cause the performance of, and allow Agent and its Related Persons access to such real property for the purpose of conducting, such environmental audits and assessments, including subsurface sampling of soil and groundwater, and cause the preparation of such reports, in each case as Agent may from time to time reasonably request. Such audits, assessments and reports, to the extent not conducted by Agent or any of its Related Persons, shall be conducted and prepared by reputable environmental consulting firms reasonably acceptable to Agent and shall be in form and substance reasonably acceptable to Agent.

4.9 Inspection of Property and Books and Records. Each Credit Party shall maintain and shall cause each of its Subsidiaries to maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Person. Each Credit Party shall, and shall cause each of its Subsidiaries to, with respect to each owned, leased, or controlled property, during normal business hours and upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agent shall have access at any and all times during the continuance thereof): (a) provide access to such property to Agent and any of its Related Persons, as frequently as Agent determines to be appropriate; (b) permit Agent and any of its Related Persons to inspect, audit and make extracts and copies (or take originals if reasonably necessary) from all of such Credit Party's books and records; and (c) permit Agent to inspect, review, evaluate and make physical verifications and appraisals of the inventory and other Collateral in any manner and through any medium that Agent considers advisable, in each instance, at the Credit Parties' expense provided the Credit Parties shall not be responsible for costs and expenses more than one time per year at a cost of no more than \$15,000, unless an Event of Default has occurred and is continuing. Any Lender may accompany Agent in connection with any inspection at such Lender's expense.

4.10 Use of Proceeds. The Borrowers shall use the proceeds of the Loans solely as follows: (a) to refinance on the Closing Date, Prior Indebtedness, (b) to pay costs and expenses required to be paid pursuant to Section 2.1, (c) to finance Permitted Acquisitions and (d) for working capital and other general corporate purposes not in contravention of any Requirement of Law and not in violation of this Agreement.



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4.11 Cash Management Systems. Each Credit Party shall, and shall cause each Domestic Subsidiary of each Credit Party to, enter into, and cause each depository, securities intermediary or commodities intermediary to enter into, Control Agreements with respect to each deposit, securities, commodity or similar account maintained by such Person (other than any payroll account or other disbursement account to the extent such payroll account or disbursement account is a zero balance account and withholding tax and fiduciary accounts) as of or after the Closing Date.

4.12 Landlord Agreements. In addition to the landlord agreements and bailee waivers required to be delivered prior to the Closing Date, each Credit Party shall, and shall cause each of its Domestic Subsidiaries to, use commercially reasonable efforts to obtain a landlord agreement or bailee or mortgagee waivers, as applicable, from the lessor of each leased property, bailee in possession of any Collateral or mortgagee of any owned property with respect to each location where Collateral with an aggregate value of \$250,000 or more is stored or located, which agreement shall be reasonably satisfactory in form and substance to Agent.

4.13 Further Assurances.

(a) Each Credit Party shall ensure that all written information, exhibits and reports furnished to the Agent or the Lenders do not and will not contain any untrue statement of a material fact and do not and will not omit to state any material fact or any fact necessary to make the statements contained therein not misleading in light of the circumstances in which made, and will promptly disclose to the Agent and the Lenders and correct any defect or error that may be discovered therein or in any Loan Document or in the execution, acknowledgement or recordation thereof.

(b) Promptly upon request by the Agent, the Credit Parties shall (and, subject to the limitations hereinafter set forth, shall cause each of their Subsidiaries to) take such additional actions as the Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (iii) to perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other document executed in connection therewith. Without limiting the generality of the foregoing and except as otherwise approved in writing by Required Lenders, the Credit Parties shall cause each of their Domestic Subsidiaries to become a Borrower hereunder and to cross-guaranty the Obligations and to cause each such Subsidiary to grant to the Agent, for the benefit of the Secured Parties, a security interest in, subject to the limitations hereinafter set forth, all of such Subsidiary's Property to secure such guaranty. Furthermore and except as otherwise approved in

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writing by Required Lenders, each Credit Party shall, and shall cause each of its Domestic Subsidiaries to, pledge all of the Stock and Stock Equivalents of each of its Domestic Subsidiaries and First Tier Foreign Subsidiaries (provided that with respect to any First Tier Foreign Subsidiary, such pledge shall be limited to sixty-six percent (66%) of such Foreign Subsidiary's outstanding voting Stock and Stock Equivalents and one hundred percent (100%) of such Foreign Subsidiary's outstanding non-voting Stock and Stock Equivalents) to the Agent, for the benefit of the Secured Parties, to secure the Obligations. In connection with each pledge of Stock and Stock Equivalents, the Credit Parties shall deliver, or cause to be delivered, to the Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank. In the event any Credit Party or any Domestic Subsidiary of any Credit Party acquires any owned real Property, simultaneously with such acquisition, such Person shall execute and/or deliver, or cause to be executed and/or delivered, to the Agent, (x) a fully executed Mortgage, in form and substance reasonably satisfactory to the Agent together with an A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to the Agent, in form and substance and in an amount reasonably satisfactory to the Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens, (y) then current A.L.T.A. surveys, certified to the Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (z) an environmental site assessment prepared by a qualified firm reasonably acceptable to the Agent, in form and substance satisfactory to the Agent.

#### 4.14 Post-Closing Covenants.

(a) If the Board of Directors of CryoLife approves the Asset Drop Down by April 15, 2008, then no later than July 31, 2008 the Borrowers shall (1) consummate the Asset Drop Down, and deliver copies of all documents related thereto to the Agent and (2) comply with all obligations set forth in Section 4.13(b) with respect to any new Subsidiaries formed in connection with such Asset Drop Down; provided, however, that with respect to the transfer of Intellectual Property recorded in jurisdictions outside the United States, transfer of such Intellectual Property may occur by June 30, 2009 so long as all filings and other required action by the Credit Parties related to such transfer are made by July 31, 2008.

(b) No later than 30 days after the Closing Date, the Borrower shall use its reasonable efforts to obtain a landlord agreement in form and substance satisfactory to the Agent in respect of the warehouse located at 2145 Barrett Park Drive, Suite 102, Kennesaw, Georgia 30144.

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ARTICLE V - NEGATIVE COVENANTS

Each Credit Party covenants and agrees that, so long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied:

5.1 Limitation on Liens. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its Property, whether now owned or hereafter acquired, other than the following ("Permitted Liens"):

(a) any Lien existing on the Property of a Credit Party or a Subsidiary of a Credit Party on the Closing Date and set forth in Schedule 5.1 securing Indebtedness outstanding on such date and permitted by subsection 5.5(c), including replacement Liens on the Property currently subject to such Liens securing Indebtedness permitted by Section 5.5(c);

(b) any Lien created under any Loan Document;

(c) Liens for taxes, fees, assessments or other governmental charges (i) which are not delinquent or remain payable without penalty, or (ii) the non-payment of which is permitted by Section 4.7;

(d) carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar Liens arising in the Ordinary Course of Business which are not delinquent for more than ninety (90) days or remain payable without penalty or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(e) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the Ordinary Course of Business in connection with workers' compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money) or to secure liability to insurance carriers;

(f) Liens consisting of judgment or judicial attachment liens, provided that the enforcement of such Liens is effectively stayed and all such Liens secure claims in the aggregate at any time outstanding for the Credit Parties and their Subsidiaries not exceeding \$500,000;

(g) easements, rights-of-way, zoning and other restrictions, minor defects or other irregularities in title, and other similar encumbrances incurred in the Ordinary Course of Business which, either individually or in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the Property subject thereto or interfere in any material respect with the ordinary conduct of the businesses of any Credit Party or any Subsidiary of any Credit Party;

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(h) Liens on any Property acquired or held by any Credit Party or any Subsidiary of any Credit Party securing Indebtedness incurred or assumed for the purpose of financing (or refinancing) all or any part of the cost of acquiring such Property and permitted under subsection 5.5(d); provided that (i) any such Lien attaches to such Property concurrently with or within twenty (20) days after the acquisition thereof, (ii) such Lien attaches solely to the Property so acquired in such transaction, and (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such Property;

(i) Liens securing Capital Lease Obligations permitted under subsection 5.5(d);

(j) any interest or title of a lessor or sublessor under any lease permitted by this Agreement;

(k) Liens arising from precautionary uniform commercial code financing statements filed under any lease permitted by this Agreement;

(l) licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business not interfering with the business of the Credit Parties or any of their Subsidiaries, and permitted under Section 5.2;

(m) Liens in favor of collecting banks arising under Section 4-210 of the UCC;

(n) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits;

(o) Liens arising out of consignment or similar arrangements for the sale of goods entered into by a Borrower or any Subsidiary of a Borrower in the Ordinary Course of Business;

(p) Liens in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business;

(q) Liens on cash collateral securing the SunTrust Letter of Credit in an amount not to exceed the stated amount thereof until the SunTrust Letter of Credit expires by its terms as in effect on the date hereof; and

(r) Liens on cash collateral securing the Wells Fargo Letter of Credit in an amount not to exceed the stated amount thereof until the Wells Fargo Letter of Credit expires by its terms as in effect on the date hereof.

5.2 Disposition of Assets. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including accounts and notes receivable, with or without recourse) or enter into any agreement to do any of the foregoing, except:

(a) dispositions of inventory, or used, worn-out or surplus equipment, all in the Ordinary Course of Business;

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(b) dispositions not otherwise permitted hereunder which are made for fair market value and the mandatory prepayment in the amount of the Net Proceeds of such disposition is made if and to the extent required by Section 1.8; provided, that (i) at the time of any disposition, no Event of Default shall exist or shall result from such disposition, (ii) the aggregate fair market value of all assets so sold by the Credit Parties and their Subsidiaries, together, shall not exceed in any fiscal year \$500,000 and (iii) after giving effect to such disposition, the Credit Parties are in compliance on a pro forma basis with the covenants set forth in Article VI, recomputed for the most recent fiscal period for which financial statements have been delivered pursuant to Section 4.1(b) or (c);

(c) dispositions of Cash Equivalents;

(d) licenses, sublicenses, leases or subleases of Patents, Trademarks, Copyrights and other intellectual property rights granted to third parties in the Ordinary Course of Business not interfering with the business of the Credit Parties or any of their Subsidiaries, either on a non-exclusive basis or on an exclusive basis where exclusivity is restricted to a limited field of use that does not prohibit Borrowers and their Subsidiaries, or any of them, from commercializing the intellectual property rights so licensed or leased in applications outside the limited field of use or in an application presently commercialized by the Borrowers and their Subsidiaries; provided, however that (i) the Agent has a perfected first priority security interest in each such license, sublicense, lease or sublease and (ii) no Default or Event of Default shall exist at the time any Credit Party or any of its Subsidiaries enter into any such license, sublicense, lease or sublease; and

(e) licenses, sublicenses, leases or subleases of property other than intellectual property rights granted to third parties in the Ordinary Course of Business not interfering with the business of the Credit Parties or any of their Subsidiaries.

5.3 Consolidations and Mergers. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, merge, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except upon not less than five (5) Business Days prior written notice to the Agent, (a) any Subsidiary of CryoLife may merge with, or dissolve or liquidate into, a Borrower or a Wholly-Owned Subsidiary of a Borrower which is a Domestic Subsidiary, provided that a Borrower or such Wholly-Owned Subsidiary which is a Domestic Subsidiary shall be the continuing or surviving entity, (b) any Foreign Subsidiary may merge with or dissolve or liquidate into another Foreign Subsidiary provided if a First Tier Foreign Subsidiary is a constituent entity in such merger, dissolution or liquidation, such First Tier Foreign Subsidiary shall be the continuing or surviving entity, and (c) CryoLife or any Subsidiary of CryoLife may enter into a merger that is a Permitted Acquisition.

**[\*\*\*] – CONFIDENTIAL PORTIONS OF THIS AGREEMENT WHICH HAVE BEEN REDACTED ARE MARKED WITH BRACKETS (“[\*\*\*]”). THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.**

5.4 Loans and Investments. No Credit Party shall and no Credit Party shall suffer or permit any of its Subsidiaries to (i) purchase or acquire, or make any commitment to purchase or acquire any Stock or Stock Equivalents, or any obligations or other securities of, or any interest in, any Person, including the establishment or creation of a Subsidiary, or (ii) make or commit to make any Acquisitions, or any other acquisition of all or a substantial portion of the assets of another Person, or of any business or division of any Person, including without limitation, by way of merger, consolidation or other combination or (iii) make or commit to make any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including any Affiliate of a Borrower or any Subsidiary of a Borrower (the items described in clauses (i), (ii) and (iii) are referred to as “Investments”), except for:

(a) Investments in cash and Cash Equivalents;

(b) extensions of credit by (i) any Credit Party to any other Credit Party, (ii) a Borrower or any Domestic Subsidiary of a Borrower to Foreign Subsidiaries of a Borrower not to exceed \$1,000,000 in the aggregate at any time outstanding for all such extensions of credit (including intercompany accounts receivable owed by Foreign Subsidiaries) provided, if the extensions of credit described in foregoing clauses (i) and (ii) are evidenced by notes, such notes shall be pledged to the Agent, for the benefit of the Secured Parties, and have such terms as the Agent may reasonably require and (iii) a Foreign Subsidiary of a Borrower to another Foreign Subsidiary of a Borrower;

(c) loans and advances to employees in the Ordinary Course of Business not to exceed \$250,000 in the aggregate at any time outstanding;

(d) Investments received as the non-cash portion of consideration received in connection with transactions permitted pursuant to Section 5.2(b);

(e) Investments acquired in connection with the settlement of delinquent Accounts in the Ordinary Course of Business or in connection with the bankruptcy or reorganization of suppliers or customers; and

(f) Investments existing on the Closing Date and set forth on Schedule 5.4;

(g) Permitted Acquisitions; and

(h) other Investments in an aggregate amount not to exceed \$[\*\*\*].

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5.5 Limitation on Indebtedness. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume, permit to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

- (a) Indebtedness incurred pursuant to this Agreement;
- (b) Indebtedness consisting of Contingent Obligations described in clause (i) of the definition thereof and permitted pursuant to Section 5.9;
- (c) Indebtedness existing on the Closing Date and set forth in Schedule 5.5 including extensions and refinancings thereof which do not increase the principal amount of such Indebtedness as of the date of such extension or refinancing;
- (d) Indebtedness not to exceed \$3,000,000 in the aggregate at any time outstanding, consisting of Capital Lease Obligations or secured by Liens permitted by subsection 5.1(h);
- (e) unsecured intercompany Indebtedness permitted pursuant to subsection 5.4(b);
- (f) unsecured Indebtedness owed to insurance companies consisting of financed insurance premiums by such insurance companies so long as the aggregate principal amount of such Indebtedness does not exceed \$3,000,000 at any time outstanding and the term of any such notes payable does not exceed one year;
- (g) reimbursement obligations under the SunTrust Letter of Credit and the Wells Fargo Letter of Credit;
- (h) other unsecured Indebtedness not exceeding in the aggregate at any time outstanding \$250,000; and
- (i) other unsecured Indebtedness subordinated to the Obligations in amounts and on terms satisfactory to the Agent.

5.6 Transactions with Affiliates. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, enter into any transaction with any Affiliate of a Borrower or of any such Subsidiary, except:

- (a) as expressly permitted by this Agreement; or
- (b) in the Ordinary Course of Business and pursuant to the reasonable requirements of the business of such Credit Party or such Subsidiary provided that, in the case of this clause (b), upon fair and reasonable terms no less favorable to such Credit Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of a Borrower or such Subsidiary and which are disclosed in writing to the Agent.

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5.7 Management Fees and Compensation. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, pay any management, consulting or similar fees to any Affiliate of any Credit Party or to any officer, director or employee of any Credit Party or any Affiliate of any Credit Party except payment of reasonable compensation to officers and employees for actual services rendered to the Credit Parties and their Subsidiaries in the Ordinary Course of Business.

5.8 Use of Proceeds. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of any Credit Party or others incurred to purchase or carry Margin Stock, or otherwise in any manner which is in contravention of any Requirement of Law or in violation of this Agreement.

5.9 Contingent Obligations. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Contingent Obligations except in respect of the Obligations and except:

(a) endorsements for collection or deposit in the Ordinary Course of Business;

(b) Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation with the Agent's prior written consent;

(c) Contingent Obligations of the Credit Parties and their Subsidiaries existing as of the Closing Date and listed in Schedule 5.9, including extension and renewals thereof which do not increase the amount of such Contingent Obligations as of the date of such extension or renewal;

(d) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations;

(e) Contingent Obligations arising under indemnity agreements to title insurers to cause such title insurers to issue to the Agent title insurance policies;

(f) Contingent Obligations arising with respect to customary indemnification obligations in favor of (i) sellers in connection with Acquisitions permitted hereunder, (ii) purchasers in connection with dispositions permitted under subsection 5.2(b), and (iii) contracts and license agreements entered into in the Ordinary Course of Business;

(g) Contingent Obligations arising under Letters of Credit;

(h) Contingent Obligations arising under guarantees made in the Ordinary Course of Business of obligations of any Credit Party, which obligations are otherwise permitted hereunder; provided that if such obligation is subordinated to the Obligations, such guarantee shall be subordinated to the same extent;



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- (i) Contingent Obligations for earn-out payments pursuant to Permitted Acquisitions;
  - (j) Contingent Obligations for royalty obligations in connection with license, sublicense or royalty agreements entered into by a Credit Party pursuant to Section 5.2(d); and
  - (k) other Contingent Obligations not exceeding \$250,000 in the aggregate at any time outstanding.

5.10 Compliance with ERISA. No ERISA Affiliate shall cause or suffer to exist (a) any event that could result in the imposition of a Lien on any asset of a Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan or (b) any other ERISA Events, that would, in the aggregate, have a Material Adverse Effect. No Credit Party shall cause or suffer to exist any event that could result in the imposition of a Lien arising with respect to any Benefit Plan.

5.11 Restricted Payments. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (i) declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any Stock or Stock Equivalent, (ii) purchase, redeem or otherwise acquire for value any Stock or Stock Equivalent now or hereafter outstanding or (iii) make any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to, Subordinated Indebtedness (the items described in clauses (i), (ii) and (iii) above are referred to as "Restricted Payments"); except that

- (a) any Wholly-Owned Subsidiary of a Borrower may declare and pay dividends to a Borrower or any Wholly-Owned Subsidiary of a Borrower,
- (b) CryoLife may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalent; and
- (c) the Borrowers may redeem from officers, directors and employees Stock and Stock Equivalents provided all of the following conditions are satisfied:
  - (i) no Default or Event of Default has occurred and is continuing or would arise as a result of such Restricted Payment;
  - (ii) after giving effect to such Restricted Payment, the Credit Parties are in compliance on a pro forma basis with the covenants set forth in Article VI, recomputed for the most recent fiscal period for which financial statements have been delivered pursuant to Section 4.1(b) or 4.1(c); and

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(iii) the aggregate Restricted Payments permitted in any fiscal year of the Borrowers shall not exceed \$300,000.

5.12 Change in Business. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in any material line of business substantially different from those lines of business carried on by it on the date hereof. From and after the date, if any, that the Asset Drop Down is consummated, CryoLife shall not engage in any business activities other than (i) ownership of the Stock and Stock Equivalents of CryoLife and (ii) activities incidental to maintenance of its corporate existence.

5.13 Change in Structure. Except as expressly permitted under Section 5.3, no Credit Party (other than CryoLife) shall, and no Credit Party shall permit any of its Subsidiaries to, make any material changes in its equity capital structure (including in the terms of its outstanding Stock or Stock Equivalents), or amend any of its Organization Documents in any material respect or in any respect adverse to the Agent or Lenders.

5.14 Accounting Changes. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, make any significant change in accounting treatment or reporting practices, except as required by GAAP, or change the fiscal year or method for determining fiscal quarters of any Credit Party or of any consolidated Subsidiary of any Credit Party.

5.15 No Negative Pledges.

(a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any such Subsidiary to pay dividends or make any other distribution on any of such Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to a Borrower or any of its Subsidiaries. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, enter into, assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of the Agent, whether now owned or hereafter acquired except in connection with any document or instrument governing Liens permitted pursuant to subsections 5.1(h) and (i) provided that any such restriction contained therein relates only to the asset or assets subject to such permitted Liens.

(b) No Borrower shall issue any Stock or Stock Equivalents (i) if such issuance would result in an Event of Default under subsection 7.1(k) and (ii) unless such Stock and Stock Equivalents are pledged to the Agent, for the benefit of the Secured Parties, as security for the Obligations, on substantially the same terms and conditions as the Stock and Stock Equivalents of the Borrowers are pledged to the Agent as of the Closing Date.

5.16 OFAC. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to (i) become a person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001), (ii) engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such person in any manner violative of Section 2, or (iii) otherwise become a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other OFAC regulation or executive order.

5.17 Press Release and Related Matters. No Credit Party shall, and no Credit Party shall permit any of its Affiliates to, issue any press release or other public disclosure (other than any document filed with any Governmental Authority relating to a public offering of securities of any Credit Party) using the name, logo or otherwise referring to GE Capital or of any of its Affiliates, the Loan Documents or any transaction contemplated therein to which the Agent is party without the prior consent of GE Capital except to the extent required to do so under applicable Requirements of Law and then, only after consulting with GE Capital prior thereto.

5.18 Sale-Leasebacks. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets.

5.19 Hazardous Materials. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party that would violate any Environmental Law or form the basis for any Environmental Liabilities, other than such violations and Environmental Liabilities that would not, in the aggregate, have a Material Adverse Effect.

#### ARTICLE VI - FINANCIAL COVENANTS

Each Credit Party covenants and agrees that, so long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied:

6.1 Capital Expenditures. The Borrowers and their Subsidiaries shall not make or commit to make Capital Expenditures for any fiscal year (or shorter period) set forth below in excess of the amount set forth in the table below (the "Capital Expenditure Limitation") with respect to such fiscal year (or shorter period):

<u>Fiscal Period</u>	<u>Capital Expenditure Limitation</u>
Fiscal Year 2008	\$ 2,500,000
Fiscal Year 2009 and each Fiscal Year thereafter	\$ 3,000,000

; provided, however, in the event the Borrowers and their Subsidiaries do not expend the entire Capital Expenditure Limitation in any fiscal year, the Borrowers and their Subsidiaries may carry forward to the immediately succeeding fiscal year 50% of the unutilized portion. All Capital Expenditures shall first be applied to reduce the applicable Capital Expenditure Limitation and then to reduce the carry-forward from the previous fiscal year, if any. "Capital Expenditures" shall be calculated in the manner set forth in Exhibit 4.2(b).

6.2 Leverage Ratio. The Credit Parties shall not permit the Leverage Ratio for the twelve month period ending on any date set forth below to be greater than 2.0:1.0 at any time. "Leverage Ratio" shall be calculated in the manner set forth in Exhibit 4.2(b).

6.3 Minimum EBITDA. The Credit Parties shall not permit Adjusted EBITDA for the twelve month period ending on the last day of any date set forth below to be less than the minimum amount set forth in the table below opposite such date:

<u>Date</u>	<u>Minimum Adjusted EBITDA</u>
March 31, 2008	\$ 12,400,000
June 30, 2008	\$ 13,000,000
September 30, 2008	\$ 13,200,000
December 31, 2008	\$ 13,200,000
March 31, 2009	\$ 13,900,000
June 30, 2009	\$ 15,000,000
September 30, 2009	\$ 15,800,000
December 31, 2009	\$ 16,500,000
March 31, 2010	\$ 17,400,000
June 30, 2010	\$ 18,300,000
September 30, 2010	\$ 19,200,000
December 31, 2010 and the last day of each Fiscal Quarter thereafter	\$ 20,000,000

6.4 Minimum Liquidity. If the Board of Directors of CryoLife does not approve the Asset Drop Down on April 15, 2008, then from and after April 15, 2008, the Credit Parties shall maintain at all times cash and Cash Equivalents of at least \$5,000,000 in a deposit or securities account in which the Agent has a first priority perfected Lien.

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ARTICLE VII - EVENTS OF DEFAULT

7.1 Event of Default. Any of the following shall constitute an "Event of Default":

(a) Non-Payment. Any Credit Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan, including after maturity of the Loans, or to pay any L/C Reimbursement Obligation or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee or any other amount payable hereunder or pursuant to any other Loan Document; or

(b) Representation or Warranty. Any representation, warranty or certification by or on behalf of any Credit Party or any of its Subsidiaries made or deemed made herein, in any other Loan Document, or which is contained in any certificate, document or financial or other statement by any such Person, or their respective Responsible Officers, furnished at any time under this Agreement, or in or under any other Loan Document, shall prove to have been incorrect in any material respect on or as of the date made or deemed made; or

(c) Specific Defaults. Any Credit Party fails to perform or observe any term, covenant or agreement contained in any of Sections 4.1, 4.2(b), 4.3(a), 4.6, 4.9(a)-(c), Article V or Article VI hereof; or

(d) Other Defaults. Any Credit Party or Subsidiary of any Credit Party fails to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document, and such default shall continue unremedied for a period of thirty (30) days after the earlier to occur of (i) the date upon which a Responsible Officer of any Credit Party becomes aware of such default and (ii) the date upon which written notice thereof is given to the Borrower Representative by the Agent or Required Lenders; or

(e) Cross-Default. Any Credit Party or any Subsidiary of any Credit Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations) or Contingent Obligation having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than \$750,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure; or (ii) fails to perform or observe any other condition or covenant, or any other event shall occur or condition exist, under any agreement or instrument relating to any such Indebtedness or Contingent Obligation, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable prior to its stated maturity (without regard to any subordination terms with respect thereto), or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; or

(f) Insolvency; Voluntary Proceedings. A Borrower, individually, ceases or fails, or the Credit Parties and their Subsidiaries on a consolidated basis, cease or fail, to be Solvent, or any Credit Party or any Subsidiary of any Credit Party: (i) generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against any Credit Party or any Subsidiary of any Credit Party, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of any such Person's Properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within sixty (60) days after commencement, filing or levy; (ii) any Credit Party or any of its Subsidiary of any Credit Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) any Credit Party or any Subsidiary of any Credit Party acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its Property or business; or

(h) Monetary Judgments. One or more judgments, non-interlocutory orders, decrees or arbitration awards shall be entered against any one or more of the Credit Parties or any of their respective Subsidiaries involving in the aggregate a liability (to the extent not covered by independent third-party insurance) as to any single or related series of transactions, incidents or conditions, of \$750,000 or more, and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof; or

(i) Non-Monetary Judgments. One or more non-monetary judgments, orders or decrees shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries which has or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect, and there shall be any period of ten (10) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(j) Collateral. Any material provision of any Loan Document shall for any reason cease to be valid and binding on or enforceable against any Credit Party or any Subsidiary of any Credit Party party thereto or any Credit Party or any Subsidiary of any Credit Party shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Document shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in the Collateral purported to be covered thereby or such security interest shall for any reason (other than the failure of the Agent to take any action within its control) cease to be a perfected and first priority security interest subject only to Permitted Liens; or

(k) Ownership. The occurrence of one or more of the following events: (i) any sale, lease, exchange or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the assets of CryoLife to any Person or “group” (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder in effect on the date hereof), (ii) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or “group” (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof) of 25% or more of the outstanding shares of the voting stock of CryoLife, (iii) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (a) nominated by the current board of directors nor (b) appointed by directors so nominated or (iv) CryoLife ceasing to own and control, beneficially and of record, 100% of the other Borrowers.

(l) Government Authorities. FDA or any other Governmental Authority initiates enforcement action against any Credit Party or any Subsidiary of any Credit Party that causes such Credit Party or Subsidiary to discontinue marketing any of its products; or any Credit Party or any Subsidiary of any Credit Party conducts a recall which could reasonably be expected to have a Material Adverse Effect; or any Credit Party or any of its Subsidiaries enters into a settlement agreement with a Governmental Authority that results in aggregate liability as to any single or related series of transactions, incidents or conditions, of \$750,000 or more, or could reasonably be expected to have a Material Adverse Effect.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, the Agent may, and shall at the request of the Required Lenders:

(a) declare all or any portion of the Commitment of each Lender to make Loans or of the L/C Issuer to issue Letters of Credit to be terminated, whereupon such Commitments shall forthwith be terminated;

(b) declare all or any portion of the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable; without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Credit Party; and/or

(c) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided, however, that upon the occurrence of any event specified in subsections 7.1(f) or 7.1(g) above (in the case of clause (i) of subsection 7.1(g) upon the expiration of the sixty (60) day period mentioned therein), the obligation of each Lender to make Loans and the obligation of the L/C Issuer to issue Letters of Credit shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the Agent, any Lender or the L/C Issuer.

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7.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

7.4 Cash Collateral for Letters of Credit. If an Event of Default has occurred and is continuing or this Agreement (or the Commitment) shall be terminated for any reason, then the Agent may, and upon request of Required Lenders, shall, demand (which demand shall be deemed to have been delivered automatically upon any acceleration of the Loans and other obligations hereunder pursuant to Section 7.2 hereof), and the Borrowers shall thereupon deliver to the Agent, to be held for the benefit of the L/C Issuer, Agent and the Lenders entitled thereto, an amount of cash equal to 105% of the amount of Letter of Credit Obligations as additional collateral security for Obligations in respect of any outstanding Letter of Credit. The Agent may at any time apply any or all of such cash and cash collateral to the payment of any or all of the Credit Parties' Obligations in respect of any Letters of Credit. Pending such application, the Agent may (but shall not be obligated to) invest the same in an interest bearing account in the Agent's name, for the benefit of the L/C Issuers, Agent and the Lenders entitled thereto, under which deposits are available for immediate withdrawal, at such bank or financial institution as the L/C Issuer and Agent may, in their discretion, select.

#### ARTICLE VIII - THE AGENT

##### 8.1 Appointment and Duties.

(a) Appointment of Agent. Each Lender and each L/C Issuer hereby appoints GE Capital (together with any successor Agent pursuant to Section 8.9) as the Agent hereunder and authorizes the Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to the Agent under such Loan Documents and (iii) exercise such powers as are reasonably incidental thereto.

(b) Duties as Collateral and Disbursing Agent. Without limiting the generality of clause (a) above, the Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders and L/C Issuers), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders and the L/C Issuers with respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in subsection 7.1(g) or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to the Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Obligation in any proceeding described in subsection 7.1(g) or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Person), (iii) act as



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collateral agent for each Secured Party for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (vi) except as may be otherwise specified in any Loan Document, exercise all remedies given to the Agent and the other Secured Parties with respect to the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise and (vii) execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that the Agent hereby appoints, authorizes and directs each Lender and L/C Issuer to act as collateral sub-agent for the Agent, the Lenders and the L/C Issuers for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and Cash Equivalents held by, such Lender or L/C Issuer, and may further authorize and direct the Lenders and the L/C Issuers to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to the Agent, and each Lender and L/C Issuer hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) Limited Duties. Under the Loan Documents, the Agent (i) is acting solely on behalf of the Lenders and the L/C Issuers (except to the limited extent provided in subsection 1.4(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term “Agent”, the terms “agent”, “Agent” and “collateral agent” and similar terms in any Loan Document to refer to the Agent, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender, L/C Issuer or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Lender and L/C Issuer hereby waives and agrees not to assert any claim against the Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

8.2 Binding Effect. Each Lender and each L/C Issuer agrees that (i) any action taken by the Agent or the Required Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken by the Agent in reliance upon the instructions of Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by the Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

### 8.3 Use of Discretion.

(a) No Action without Instructions. The Agent shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

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(b) Right Not to Follow Certain Instructions. Notwithstanding clause (a) above, the Agent shall not be required to take, or to omit to take, any action (i) unless, upon demand, the Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to the Agent, any other Person) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against the Agent or any Related Person thereof or (ii) that is, in the opinion of the Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

8.4 Delegation of Rights and Duties. The Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Secured Party). Any such Person shall benefit from this Article VIII to the extent provided by the Agent.

8.5 Reliance and Liability.

(a) The Agent may, without incurring any liability hereunder, (i) treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 9.9, (ii) rely on the Register to the extent set forth in Section 1.4, (iii) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, any Credit Party) and (iv) rely and act upon any document and information (including those transmitted by Electronic Transmission) and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) None of the Agent and its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Lender, L/C Issuer, each Borrower and each other Credit Party hereby waive and shall not assert (and each of the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the gross negligence or willful misconduct of the Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, the Agent:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of the Agent, when acting on behalf of the Agent);

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(ii) shall not be responsible to any Lender, L/C Issuer or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Lender, L/C Issuer or other Person for any statement, document, information, representation or warranty made or furnished by or on behalf of any Credit Party or any Related Person of any Credit Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Credit Party, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by the Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by the Agent in connection with the Loan Documents; and

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Credit Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower Representative, any Lender or L/C Issuer describing such Default or Event of Default clearly labeled "notice of default" (in which case the Agent shall promptly give notice of such receipt to all Lenders);

and, for each of the items set forth in clauses (i) through (iv) above, each Lender, L/C Issuer and each Borrower hereby waives and agrees not to assert (and each of the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action it might have against the Agent based thereon.

**8.6 Agent Individually.** The Agent and its Affiliates may make loans and other extensions of credit to, acquire Stock and Stock Equivalents of, engage in any kind of business with, any Credit Party or Affiliate thereof as though it were not acting as Agent and may receive separate fees and other payments therefor. To the extent the Agent or any of its Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "Lender", "Revolving Lender", "Required Lender" and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, the Agent or such Affiliate, as the case may be, in its individual capacity as Lender, Revolving Lender or as one of the Required Lenders.

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8.7 Lender Credit Decision. Each Lender and each L/C Issuer acknowledges that it shall, independently and without reliance upon the Agent, any Lender or L/C Issuer or any of their Related Persons or upon any document (including any offering and disclosure materials in connection with the syndication of the Loans) solely or in part because such document was transmitted by the Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of each Credit Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by the Agent to the Lenders or L/C Issuers, the Agent shall not have any duty or responsibility to provide any Lender or L/C Issuer with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Credit Party or any Affiliate of any Credit Party that may come in to the possession of the Agent or any of its Related Persons.

8.8 Expenses; Indemnities.

(a) Each Lender agrees to reimburse the Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party) promptly upon demand, severably and ratably, of any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Credit Party) that may be incurred by the Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding or otherwise) of, or legal advice in respect of its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify the Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party), severably and ratably, from and against Liabilities (including taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to on or for the account of any Lender) that may be imposed on, incurred by or asserted against the Agent or any of its Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any Related Document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by the Agent or any of its Related Persons under or with respect to any of the foregoing; provided, however, that no Lender shall be liable to the Agent or any of its Related Persons to the extent such liability has resulted primarily from the gross negligence or willful misconduct of the Agent or, as the case may be, such Related Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

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8.9 Resignation of Agent or L/C Issuer.

(a) The Agent may resign at any time by delivering notice of such resignation to the Lenders and the Borrower Representative, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall be effective. If the Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Agent. If, within 30 days after the retiring Agent having given notice of resignation, no successor Agent has been appointed by the Required Lenders that has accepted such appointment, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent from among the Lenders. Each appointment under this clause (a) shall be subject to the prior consent of the Borrowers, which may not be unreasonably withheld but shall not be required during the continuance of an Event of Default.

(b) Effective immediately upon its resignation, (i) the retiring Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Lenders shall assume and perform all of the duties of the Agent until a successor Agent shall have accepted a valid appointment hereunder, (iii) the retiring Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Agent was, or because such Agent had been, validly acting as Agent under the Loan Documents and (iv) subject to its rights under Section 8.3, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its rights as Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Agent, a successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent under the Loan Documents.

(c) Any L/C Issuer may resign at any time by delivering notice of such resignation to the Agent, effective on the date set forth in such notice or, if no such date is set forth therein, on the date such notice shall be effective. Upon such resignation, the L/C Issuer shall remain an L/C Issuer and shall retain its rights and obligations in its capacity as such (other than any obligation to Issue Letters of Credit but including the right to receive fees or to have Lenders participate in any L/C Reimbursement Obligation thereof) with respect to Letters of Credit issued by such L/C Issuer prior to the date of such resignation and shall otherwise be discharged from all other duties and obligations under the Loan Documents.

8.10 Release of Collateral or Guarantors. Each Lender and L/C Issuer hereby consents to the release and hereby directs the Agent to release (or, in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Subsidiary of a Borrower from its guaranty of any Obligation if all of the Stock and Stock Equivalents of such Subsidiary owned by any Credit Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent), to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Obligations pursuant to Section 4.13; and

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(b) any Lien held by the Agent for the benefit of the Secured Parties against (i) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Credit Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), to the extent all Liens required to be granted in such Collateral pursuant to Section 4.13 after giving effect to such transaction have been granted, (ii) any property subject to a Lien permitted hereunder in reliance upon subsection 5.1(h) or (i) and (iii) all of the Collateral and all Credit Parties, upon (A) termination of the Commitments, (B) payment and satisfaction in full of all Loans, all L/C Reimbursement Obligations and all other Obligations under the Loan Documents and all Obligations arising under Secured Rate Contracts, that the Agent has been notified in writing are then due and payable, (C) deposit of cash collateral with respect to all contingent Obligations (or, in the case of any Letter of Credit Obligation, receipt by Agent of a back-up letter of credit), in amounts and on terms and conditions and with parties satisfactory to the Agent and each Indemnitee that is, or may be, owed such Obligations and (D) to the extent requested by the Agent, receipt by Agent and the Secured Parties of liability releases from the Credit Parties each in form and substance acceptable to the Agent.

Each Lender and L/C Issuer hereby directs the Agent, and the Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower Representative, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this Section 8.10.

8.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender or L/C Issuer party hereto as long as, by accepting such benefits, such Secured Party agrees, as among the Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by the Agent, shall confirm such agreement in a writing in form and substance acceptable to the Agent) this Article VIII, Section 9.3, Section 9.9, Section 9.10, Section 9.11, Section 9.17, Section 9.24 and Section 10.1 and the decisions and actions of the Agent and the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing, (a) such Secured Party shall be bound by Section 8.8 only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (b) each of the Agent, the Lenders and the L/C Issuers party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Obligation and (c) except as otherwise set forth herein, such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

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ARTICLE IX - MISCELLANEOUS

9.1 Amendments and Waivers.

(a) No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by any Credit Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agent with the consent of the Required Lenders), the Borrowers and acknowledged by the Agent, and then such waiver shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such waiver, amendment, or consent shall, unless in writing and signed by all the Lenders directly affected thereby (or by the Agent with the consent of all the Lenders directly affected thereby), in addition to the Required Lenders (or by the Agent with the consent of the Required Lenders), the Borrowers and acknowledged by the Agent, do any of the following:

- (i) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to subsection 7.2(a));
- (ii) postpone or delay any date fixed for, or waive, any scheduled installment of principal or any payment of interest, fees or other amounts due to the Lenders (or any of them) or L/C Issuer hereunder or under any other Loan Document;
- (iii) reduce the principal of, or the rate of interest specified herein or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Loan Document, including L/C Reimbursement Obligations;
- (iv) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;
- (v) amend this Section 9.1 or the definition of Required Lenders or any provision providing for consent or other action by all Lenders; or
- (vi) discharge any Credit Party from its respective payment Obligations under the Loan Documents, or release all or substantially all of the Collateral, except as otherwise may be provided in this Agreement or the other Loan Documents;

it being agreed that all Lenders shall be deemed to be directly affected by an amendment or waiver of the type described in the preceding clauses (iv), (v) and (vi).

(b) No amendment, waiver or consent shall, unless in writing and signed by the Agent or the L/C Issuer, as the case may be, in addition to the Required

Lenders or all Lenders directly affected thereby or all the Lenders, as the case may be (or by the Agent with the consent of the Required Lenders or all the Lenders directly affected thereby, as the case may be), affect the rights or duties of the Agent or the L/C Issuer, as applicable, under this Agreement or any other Loan Document. No Amendment, modification or waiver of this Agreement or any Loan Document altering the ratable treatment of Obligations arising under Secured Rate Contracts resulting in such Obligations being junior in right of payment to principal on the Loans or resulting in Obligations owing to any Secured Swap Provider becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof), in each case in a manner adverse to any Secured Swap Provider, shall be effective without the written consent of such Secured Swap Provider or, in the case of a Secured Rate Contract provided or arranged by GE Capital or an Affiliate of GE Capital, GE Capital.

## 9.2 Notices.

(a) Addresses. All notices, demands, requests, directions and other communications required or expressly authorized to be made by this Agreement shall, whether or not specified to be in writing but unless otherwise expressly specified to be given by any other means, be given in writing and (i) addressed to the address set forth on the applicable signature page hereto, (ii) posted to Intralinks® (to the extent such system is available and set up by or at the direction of the Agent prior to posting) in an appropriate location by uploading such notice, demand, request, direction or other communication to www.intralinks.com, faxing it to 866-545-6600 with an appropriate bar-code fax coversheet or using such other means of posting to Intralinks® as may be available and reasonably acceptable to the Agent prior to such posting, (iii) posted to any other E-System set up by or at the direction of Agent or (iv) addressed to such other address as shall be notified in writing (A) in the case of the Borrowers and the Agent, to the other parties hereto and (B) in the case of all other parties, to the Borrower Representative and the Agent. Transmission by electronic mail (including E-Fax, even if transmitted to the fax numbers set forth above) shall not be sufficient or effective to transmit any such notice under this clause (a) unless such transmission is an available means to post to any E-System.

(b) Effectiveness. All communications described in clause (a) above and all other notices, demands, requests and other communications made in connection with this Agreement shall be effective and be deemed to have been received (i) if delivered by hand, upon personal delivery, (ii) if delivered by overnight courier service, 1 Business Day after delivery to such courier service, (iii) if delivered by mail, when deposited in the mails, (iv) if delivered by facsimile (other than to post to an E-System pursuant to clause (a)(ii) or (a)(iii) above), upon sender's receipt of confirmation of proper transmission, and (v) if delivered by posting to any E-System, on the later of the date of such posting and the date access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to such E-System; provided, however, that no communications to Agent pursuant to Article I shall be effective until received by Agent.



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(c) Each Lender shall notify the Agent in writing of any changes in the address to which notices to such Lender should be directed, of addresses of its Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as the Agent shall reasonably request.

### 9.3 Electronic Transmissions.

(a) Authorization. Subject to the provisions of Section 9.2(a), each of Agent, Lenders, each Credit Party and each of their Related Persons, is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. Each Credit Party and each Secured Party hereto acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) Signatures. Subject to the provisions of Section 9.2(a), (i)(A) no posting to any E-System shall be denied legal effect merely because it is made electronically, (B) each E-Signature on any such posting shall be deemed sufficient to satisfy any requirement for a “signature” and (C) each such posting shall be deemed sufficient to satisfy any requirement for a “writing”, in each case including pursuant to any Loan Document, any applicable provision of any UCC, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural Requirement of Law governing such subject matter, (ii) each such posting that is not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such posting, an E-Signature, upon which Agent, each Secured Party and each Credit Party may rely and assume the authenticity thereof, (iii) each such posting containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original and (iv) each party hereto or beneficiary hereto agrees not to contest the validity or enforceability of any posting on any E-System or E-Signature on any such posting under the provisions of any applicable Requirement of Law requiring certain documents to be in writing or signed; provided, however, that nothing herein shall limit such party’s or beneficiary’s right to contest whether any posting to any E-System or E-Signature has been altered after transmission.

(c) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to Section 9.2 and this Section 9.3, separate terms and conditions posted or referenced in such E-System and related Contractual Obligations executed by Agent and Credit Parties in connection with the use of such E-System.

(d) LIMITATION OF LIABILITY. ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED “AS IS” AND “AS AVAILABLE”. NONE OF AGENT, ANY LENDER OR ANY OF THEIR RELATED PERSONS WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF

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ANY E-SYSTEMS OR ELECTRONIC TRANSMISSION AND DISCLAIMS ALL LIABILITY FOR ERRORS OR OMISSIONS THEREIN. NO WARRANTY OF ANY KIND IS MADE BY AGENT, ANY LENDER OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E-SYSTEMS OR ELECTRONIC COMMUNICATION, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS. Each of each Borrower, each other Credit Party executing this Agreement and each Secured Party agrees that Agent has no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

9.4 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Agent or any Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. No course of dealing between any Credit Party, any Affiliate of any Credit Party, the Agent or any Lender shall be effective to amend, modify or discharge any provision of this Agreement or any of the other Loan Documents.

9.5 Costs and Expenses. Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of Agent or Required Lenders, shall be at the expense of such Credit Party, and neither Agent nor any other Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, the Borrowers agree to pay or reimburse upon demand (a) the Agent for all reasonable out-of-pocket costs and expenses incurred by it or any of its Related Persons (but only to the extent Agent or its Affiliates are required to reimburse such Related Persons), in connection with the investigation, development, preparation, negotiation, syndication in connection with the Incremental Facilities, execution, interpretation or administration of, any modification of any term of or termination of, any Loan Document, any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein, in each case including Attorney Costs to the Agent, (b) the Agent for all reasonable costs and expenses incurred by it or any of its Related Persons in connection with internal audit reviews, field examinations and Collateral examinations (which shall be reimbursed, in addition to the out-of-pocket costs and expenses of such examiners, at the per diem rate per individual charged by the Agent for its examiners), (c) each of the Agent, its Related Persons, and L/C Issuer for all costs and expenses incurred in connection with (i) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out", (ii) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or (iii) the commencement, defense, conduct of, intervention in, or the taking of any other action with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document

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or Obligation (or the response to and preparation for any subpoena or request for document production relating thereto), including Attorney Costs and (d) fees and disbursements of Attorney Costs of one law firm on behalf of all Lenders (other than Agent) incurred in connection with any of the matters referred to in clause (c) above.

9.6 Indemnity.

(a) Each Credit Party agrees to indemnify, hold harmless and defend Agent, each Lender, each L/C Issuer and each of their respective Related Persons (each such Person being an "Indemnitee") from and against all Liabilities (including brokerage commissions, fees and other compensation) that may be imposed on, incurred by or asserted against any such Indemnitee in any matter relating to or arising out of, in connection with or as a result of (i) any Loan Document, any Obligation (or the repayment thereof), any Letter of Credit, the use or intended use of the proceeds of any Loan or the use of any Letter of Credit or any securities filing of, or with respect to, any Credit Party, (ii) any commitment letter, proposal letter or term sheet with any Person or any Contractual Obligation, arrangement or understanding with any broker, finder or consultant, in each case entered into by or on behalf of any Credit Party or any Affiliate of any of them in connection with any of the foregoing and any Contractual Obligation entered into in connection with any E-Systems or other Electronic Transmissions, (iii) any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnitee or any of its Related Persons, any holders of securities or creditors (and including attorneys' fees in any case), whether or not any such Indemnitee, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirement of Law or theory thereof, including common law, equity, contract, tort or otherwise or (iv) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (collectively, the "Indemnified Matters"); provided, however, that no Credit Party shall have any liability under this Section 9.6 to any Indemnitee with respect to any Indemnified Matter, and no Indemnitee shall have any liability with respect to any Indemnified Matter other than (to the extent otherwise liable), to the extent such liability has resulted primarily from the gross negligence or willful misconduct of such Indemnitee, as determined by a court of competent jurisdiction in a final non-appealable judgment or order. Furthermore, each of each Borrower and each other Credit Party executing this Agreement waives and agrees not to assert against any Indemnitee, and shall cause each other Credit Party to waive and not assert against any Indemnitee, any right of contribution with respect to any Liabilities that may be imposed on, incurred by or asserted against any Related Person.

(b) Without limiting the foregoing, "Indemnified Matters" includes all Environmental Liabilities, including those arising from, or otherwise involving, any property of any Credit Party or any Related Person of any Credit Party or any actual, alleged or prospective damage to property or natural resources or harm or injury alleged to have resulted from any Release of Hazardous Materials on, upon or into such property or natural resource or any property on or contiguous to any real property of any Credit Party or any Related Person or any Credit Party, whether or not, with respect to any such Environmental Liabilities, any Indemnitee is a mortgagee pursuant to any leasehold

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mortgage, a mortgagee in possession, the successor-in-interest to any Credit Party or any Related Person of any Credit Party or the owner, lessee or operator of any property of any Related Person through any foreclosure action, in each case except to the extent such Environmental Liabilities (i) are incurred solely following foreclosure by Agent or following Agent or any Lender having become the successor-in-interest to any Credit Party or any Related Person of any Credit Party and (ii) are attributable solely to acts of such Indemnitee.

9.7 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any property in favor of any Credit Party or any other Person or against or in payment of any Obligation. To the extent that the Secured Party receives a payment from a Borrower, from any other Credit Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

9.8 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that any assignment by any Lender shall be subject to the provisions of Section 9.9 hereof, and provided further that no Borrower may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Agent and each Lender.

9.9 Assignments and Participations; Binding Effect.

(a) This Agreement shall become effective when it shall have been executed by the Borrowers, the other Credit Parties signatory hereto and the Agent and when the Agent shall have been notified by each Lender and the initial L/C Issuer that such Lender or L/C Issuer has executed it. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, the Borrowers, the other Credit Parties hereto (in each case except for Article VIII), the Agent, each Lender and L/C Issuer party hereto and, to the extent provided in Section 8.11, each other Secured Party and, in each case, their respective successors and permitted assigns. Except as expressly provided in any Loan Document (including in Section 8.9), none of any Borrower, any other Credit Party, any L/C Issuer or the Agent shall have the right to assign any rights or obligations hereunder or any interest herein.

(b) Each Lender may sell, transfer, negotiate or assign (a "Sale") all or a portion of its rights and obligations hereunder (including all or a portion of its Commitments and its rights and obligations with respect to Loans and Letters of Credit) to (i) any existing Lender, (ii) any Affiliate or Approved Fund of any existing Lender or (iii) any other Person acceptable (which acceptance shall not be unreasonably withheld or delayed) to the Agent and, as long as no Event of Default is continuing, the Borrower Representative; provided, however, that (x) such Sales must be ratable among the

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obligations owing to and owed by such Lender with respect to the Revolving Loans and (y) for each Loan, the aggregate outstanding principal amount (determined as of the effective date of the applicable Assignment) of the Loans, Commitments and Letter of Credit Obligations subject to any such Sale shall be in a minimum amount of \$500,000, unless such Sale is made to an existing Lender or an Affiliate or Approved Fund of any existing Lender, is of the assignor's (together with its Affiliates and Approved Funds) entire interest in such Facility or is made with the prior consent of the Borrower Representative and the Agent.

(c) The parties to each Sale made in reliance on clause (b) above (other than those described in clause (e) or (f) below) shall execute and deliver to the Agent an Assignment via an electronic settlement system designated by the Agent (or, if previously agreed with the Agent, via a manual execution and delivery of the Assignment) evidencing such Sale, together with any existing Note subject to such Sale (or any affidavit of loss therefor acceptable to the Agent), any tax forms required to be delivered pursuant to Section 10.1 and payment of an assignment fee in the amount of \$3,500, provided that (1) if a Sale by a Lender is made to an Affiliate or an Approved Fund of such assigning Lender, then no assignment fee shall be due in connection with such Sale, and (2) if a Sale by a Lender is made to an assignee that is not an Affiliate or Approved Fund of such assignor Lender, and concurrently to one or more Affiliates or Approved Funds of such Assignee, then only one assignment fee of \$3,500 shall be due in connection with such Sale. Upon receipt of all the foregoing, and conditioned upon such receipt and, if such Assignment is made in accordance with Section 9.9(b)(iii), upon the Agent (and the Borrower, if applicable) consenting to such Assignment (if required), from and after the effective date specified in such Assignment, the Agent shall record or cause to be recorded in the Register the information contained in such Assignment.

(d) Subject to the recording of an Assignment by the Agent in the Register pursuant to Section 1.4(b), (i) the assignee thereunder shall become a party hereto and, to the extent that rights and obligations under the Loan Documents have been assigned to such assignee pursuant to such Assignment, shall have the rights and obligations of a Lender; (ii) any applicable Note shall be transferred to such assignee through such entry and (iii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment, relinquish its rights (except for those surviving the termination of the Commitments and the payment in full of the Obligations) and be released from its obligations under the Loan Documents, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto).

(e) In addition to the other rights provided in this Section 9.9, each Lender may grant a security interest in, or otherwise assign as collateral, any of its rights under this Agreement, whether now owned or hereafter acquired (including rights to payments of principal or interest on the Loans), to (A) any federal reserve bank (pursuant to Regulation A of the Federal Reserve Board), without notice to the Agent or (B) any holder of, or trustee for the benefit of the holders of, such Lender's Indebtedness or

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equity securities, by notice to the Agent; provided, however, that no such holder or trustee, whether because of such grant or assignment or any foreclosure thereon (unless such foreclosure is made through an assignment in accordance with clause (b) above), shall be entitled to any rights of such Lender hereunder and no such Lender shall be relieved of any of its obligations hereunder.

(f) In addition to the other rights provided in this Section 9.9, each Lender may, (x) with notice to the Agent, grant to an SPV the option to make all or any part of any Loan that such Lender would otherwise be required to make hereunder (and the exercise of such option by such SPV and the making of Loans pursuant thereto shall satisfy the obligation of such Lender to make such Loans hereunder) and such SPV may assign to such Lender the right to receive payment with respect to any Obligation and (y) without notice to or consent from the Agent or the Borrowers, sell participations to one or more Persons in or to all or a portion of its rights and obligations under the Loan Documents (including all its rights and obligations with respect to the Revolving Loans and Letters of Credit); provided, however, that, whether as a result of any term of any Loan Document or of such grant or participation, (i) no such SPV or participant shall have a commitment, or be deemed to have made an offer to commit, to make Loans hereunder, and, except as provided in the applicable option agreement, none shall be liable for any obligation of such Lender hereunder, (ii) such Lender's rights and obligations, and the rights and obligations of the Credit Parties and the Secured Parties towards such Lender, under any Loan Document shall remain unchanged and each other party hereto shall continue to deal solely with such Lender, which shall remain the holder of the Obligations in the Register, except that (A) each such participant and SPV shall be entitled to the benefit of Article X, but, with respect to Section 10.1, only to the extent such participant or SPV delivers the tax forms such Lender is required to collect pursuant to subsection 10.1(f) and then only to the extent of any amount to which such Lender would be entitled in the absence of any such grant or participation and (B) each such SPV may receive other payments that would otherwise be made to such Lender with respect to Loans funded by such SPV to the extent provided in the applicable option agreement and set forth in a notice provided to the Agent by such SPV and such Lender, provided, however, that in no case (including pursuant to clause (A) or (B) above) shall an SPV or participant have the right to enforce any of the terms of any Loan Document, and (iii) the consent of such SPV or participant shall not be required (either directly, as a restraint on such Lender's ability to consent hereunder or otherwise) for any amendments, waivers or consents with respect to any Loan Document or to exercise or refrain from exercising any powers or rights such Lender may have under or in respect of the Loan Documents (including the right to enforce or direct enforcement of the Obligations), except for those described in clauses (ii) and (iii) of subsection 9.1(a) with respect to amounts, or dates fixed for payment of amounts, to which such participant or SPV would otherwise be entitled and, in the case of participants, except for those described in clause (vi) of subsection 9.1(a). No party hereto shall institute (and each Borrower shall cause each other Credit Party not to institute) against any SPV grantee of an option pursuant to this clause (f) any bankruptcy, reorganization, insolvency, liquidation or similar proceeding, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper of such SPV; provided, however, that each Lender having designated an SPV as such agrees to indemnify each Indemnitee against any Liability that may be

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incurred by, or asserted against, such Indemnitee as a result of failing to institute such proceeding (including a failure to get reimbursed by such SPV for any such Liability). The agreement in the preceding sentence shall survive the termination of the Commitments and the payment in full of the Obligations.

9.10 Confidentiality. Each Lender, L/C Issuer and the Agent agrees to use all reasonable efforts to maintain, in accordance with its customary practices, the confidentiality of information obtained by it pursuant to any Loan Document and designated in writing by any Credit Party as confidential for a period of two (2) years following the date on which this Agreement terminates in accordance with the terms hereof, except that such information may be disclosed (i) with the Borrower Representative's consent, (ii) to Related Persons of such Lender, L/C Issuer or the Agent, as the case may be, or to any Person that any L/C Issuer causes to issue Letters of Credit hereunder, that are advised of the confidential nature of such information and are instructed to keep such information confidential, (iii) to the extent such information presently is or hereafter becomes available to such Lender, L/C Issuer or the Agent, as the case may be, on a non-confidential basis from a source other than any Credit Party, (iv) to the extent disclosure is required by applicable Requirements of Law or other legal process or requested or demanded by any Governmental Authority, (v) to the extent necessary or customary for inclusion in league table measurements or in any tombstone or other advertising materials (and the Credit Parties consent to the publication of such tombstone or other advertising materials by the Agent, any Lender, any L/C Issuer or any of their Related Persons), (vi) (A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify borrowers, (vii) to current or prospective assignees, SPVs (including the investors therein) or participants, direct or contractual counterparties to any Secured Rate Contracts and to their respective Related Persons, in each case to the extent such assignees, investors, participants, counterparties or Related Persons agree to be bound by provisions substantially similar to the provisions of this Section 9.10 and (viii) in connection with the exercise of any remedy under any Loan Document. In the event of any conflict between the terms of this Section 9.10 and those of any other Contractual Obligation entered into with any Credit Party (whether or not a Loan Document), the terms of this Section 9.10 shall govern. Each Credit Party consents to the publication by Agent or any Lender of advertising material relating to the financing transactions contemplated by this Agreement using a Borrower's or any other Credit Party's name, product photographs, logo or trademark. Agent or such Lender shall provide a draft of any advertising material to Borrower Representative for review and comment prior to the publication thereof.

9.11 Set-off; Sharing of Payments.

(a) Right of Setoff. Each of the Agent, each Lender, each L/C Issuer and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by each Credit Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and

apply any and all deposits (whether general or special, time or demand, provisional or final) at any time held and other Indebtedness, claims or other obligations at any time owing by the Agent, such Lender, such L/C Issuer or any of their respective Affiliates to or for the credit or the account of the Borrowers or any other Credit Party against any Obligation of any Credit Party now or hereafter existing, whether or not any demand was made under any Loan Document with respect to such Obligation and even though such Obligation may be unmatured. Each of the Agent, each Lender and each L/C Issuer agrees promptly to notify the Borrower Representative and the Agent after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 9.11 are in addition to any other rights and remedies (including other rights of setoff) that the Agent, the Lenders, the L/C Issuer, their Affiliates and the other Secured Parties, may have.

(b) Sharing of Payments, Etc. If any Lender, directly or through an Affiliate or branch office thereof, obtains any payment of any Obligation of any Credit Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or "proceeds" (as defined under the applicable UCC) of Collateral) other than pursuant to Article X and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, the Agent in accordance with the provisions of the Loan Documents, such Lender shall purchase for cash from other Lenders such participations in their Obligations as necessary for such Lender to share such excess payment with such Lenders to ensure such payment is applied as though it had been received by the Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of the Borrowers, applied to repay the Obligations in accordance herewith); provided, however, that (a) if such payment is rescinded or otherwise recovered from such Lender or L/C Issuer in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender or L/C Issuer without interest and (b) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of the applicable Credit Party in the amount of such participation.

9.12 Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or Electronic Transmission shall be as effective as delivery of a manually executed counterpart hereof.

9.13 Severability; Facsimile Signature. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder. Any Loan Document, or other agreement, document or instrument, delivered by facsimile transmission shall have the same force and effect as if the original thereof had been delivered.



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9.14 Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9.15 Independence of Provisions. The parties hereto acknowledge that this Agreement and other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

9.16 Interpretation. This Agreement is the result of negotiations among and has been reviewed by counsel to the Agent, each Lender and other parties hereto, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Lenders or the Agent merely because of the Agent's or Lenders' involvement in the preparation of such documents and agreements.

9.17 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Borrowers, the Lenders, the L/C Issuer, the Agent and, subject to the provisions of Section 8.11 hereof, each other Secured Party, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither the Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

9.18 Governing Law and Jurisdiction.

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance and enforcement.

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to any Loan Document may be brought in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York and, by execution and delivery of this Agreement, each Borrower and each other Credit Party executing this Agreement hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that any of them may now or hereafter have to the bringing of any such action or proceeding in such jurisdictions.

(c) Service of Process. Each Credit Party hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and

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other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States of America with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of Borrowers specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each Credit Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) Non-Exclusive Jurisdiction. Nothing contained in this Section 9.18 shall affect the right of Agent or any Lender to serve process in any other manner permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

9.19 Waiver of Jury Trial. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE.

9.20 Entire Agreement; Release; Survival.

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR LETTER OF INTEREST, COMMITMENT LETTER, CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY OF LENDER OR ANY L/C ISSUER OR ANY OF THEIR RESPECTIVE AFFILIATES RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) Execution of this Agreement by the Credit Parties constitutes a full, complete and irrevocable release of any and all claims which each Credit Party may have at law or in equity in respect of all prior discussions and understandings, oral or written, relating to the subject matter of this Agreement and the other Loan Documents. In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). Each of each Borrower and each other Credit Party signatory hereto

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hereby waives, releases and agrees (and shall cause each other Credit Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) (i) Any indemnification or other protection provided to any Indemnitee pursuant to Article VIII (The Agent), Section 9.5 (Costs and Expenses), Section 9.6 (Indemnity), this Section 9.20, and Article X (Taxes, Yield Protection and Illegality) of this Agreement, (ii) solely for the two (2) year time period specified therein, the provisions of Section 9.10 of this Agreement and (iii) the provisions of Section 8.1 of the Guaranty and Security Agreement, in each case, shall (x) survive the termination of the Commitments and the payment in full of all other Obligations and (y) with respect to clause (i) hereof, inure to the benefit of any Person that at any time held a right thereunder (as an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns.

9.21 Patriot Act. Each Lender that is subject to the Patriot Act hereby notifies the Borrowers that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow such Lender to identify each Borrower in accordance with the Patriot Act.

9.22 Replacement of Lender. Within forty-five days after: (i) receipt by the Borrower Representative of written notice and demand from any Lender (an "Affected Lender") for payment of additional costs as provided in Sections 10.1, 10.3 and/or 10.6; (ii) any default by a Lender in its obligation to make Loans hereunder after all conditions thereto have been satisfied or waived in accordance with the terms hereof, provided such default shall not have been cured; or (iii) any failure by any Lender to consent to a requested amendment, waiver or modification to any Loan Document in which Required Lenders have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, the Borrowers may, at their option, notify the Agent and such Affected Lender (or such defaulting or non-consenting Lender, as the case may be) of the Borrowers' intention to obtain, at the Borrowers' expense, a replacement Lender ("Replacement Lender") for such Affected Lender (or such defaulting or non-consenting Lender, as the case may be), which Replacement Lender shall be reasonably satisfactory to the Agent. In the event the Borrowers obtain a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Affected Lender (or defaulting or non-consenting Lender, as the case may be) shall sell and assign its Loans and Commitments to such Replacement Lender, at par, provided that the Borrowers have reimbursed such Affected Lender for its increased costs for which it is entitled to reimbursement under this Agreement through the date of such sale and assignment. In the event that a replaced Lender does not execute an Assignment and Acceptance pursuant to Section 9.9 within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 9.22 and presentation to such replaced Lender of an Assignment evidencing an assignment pursuant to this Section 9.22, the Borrowers shall be entitled (but not obligated) to execute such an Assignment

on behalf of such replaced Lender, and any such Assignment so executed by the Borrowers, the Replacement Lender and the Agent, shall be effective for purposes of this Section 9.22 and Section 9.9. Upon any such assignment and payment and compliance with the other provisions of Section 9.9, such replaced Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive as to such replaced Lender.

9.23 Joint and Several. The obligations of the Credit Parties hereunder and under the other Loan Documents are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article II of the Guaranty and Security Agreement, to which the obligations of Borrower and the other Credit Parties are subject.

9.24 Creditor-Debtor Relationship. The relationship between Agent, each Lender and the L/C Issuer, on the one hand, and the Credit Parties, on the other hand, is solely that of creditor and debtor. No Secured Party has any fiduciary relationship or duty to any Credit Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and the Credit Parties by virtue of, any Loan Document or any transaction contemplated therein.

9.25 Location of Closing. Each Lender acknowledges and agrees that it has delivered, with the intent to be bound, its executed counterparts of this Agreement to the Agent, c/o King & Spalding LLP, 1185 Avenue of the Americas, New York, New York 10036. Each Borrower acknowledges and agrees that it has delivered, with the intent to be bound, its executed counterparts of this Agreement and each other Loan Document, together with all other documents, instruments, opinions, certificates and other items required under Section 2.1, to the Agent, c/o King & Spalding LLP, 1185 Avenue of the Americas, New York, New York 10036. All parties agree that closing of the transactions contemplated by this Credit Agreement has occurred in New York.

#### ARTICLE X - TAXES, YIELD PROTECTION AND ILLEGALITY

##### 10.1 Taxes.

(a) Except as otherwise provided in this Section 10.1, each payment by any Credit Party under any Loan Document shall be made free and clear of all present or future taxes, levies, imposts, deductions, charges or withholdings and all liabilities with respect thereto (and without deduction for any of them) (collectively, but excluding the taxes set forth in clauses (i) and (ii) below, the "Taxes") other than for (i) taxes measured by net income (including branch profits taxes) and franchise taxes imposed in lieu of net income taxes, in each case imposed on any Secured Party as a result of a present or former connection between such Person and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than such connection arising solely from any Secured Party having executed, delivered or performed its obligations or received a payment under, or enforced, any Loan Document) or (ii) taxes that are directly attributable to the failure (other than as a result of a change in any Requirement of Law) by Agent or any Lender to deliver the documentation required to be delivered pursuant to clause (f) below.

(b) If any Taxes shall be required by law to be deducted from or in respect of any amount payable under any Loan Document to any Secured Party (i) such amount shall be increased as necessary to ensure that, after all required deductions for Taxes are made (including deductions applicable to any increases to any amount under this Section 10.1), such Secured Party receives the amount it would have received had no such deductions been made, (ii) the relevant Credit Party shall make such deductions, (iii) the relevant Credit Party shall timely pay the full amount deducted to the relevant taxing authority or other authority in accordance with applicable Requirements of Law and (iv) within 30 days after such payment is made, the relevant Credit Party shall deliver to the Agent an original or certified copy of a receipt evidencing such payment; provided, however, that no such increase shall be made with respect to, and no Credit Party shall be required to indemnify any Secured Party pursuant to clause (d) below for, withholding taxes to the extent that the obligation to withhold amounts existed on the date that such Person became a "Secured Party" under this Agreement in the capacity under which such Person makes a claim under this clause (b), except in each case to the extent such Person is a direct or indirect assignee (other than pursuant to Section 9.22) of any other Secured Party that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under this clause (b).

(c) In addition, the Borrowers agree to pay, and authorize the Agent to pay in their name, any stamp, documentary, excise or property tax, charges or similar levies imposed by any applicable Requirement of Law or Governmental Authority and all Liabilities with respect thereto (including by reason of any delay in payment thereof), in each case arising from the execution, delivery or registration of, or otherwise with respect to, any Loan Document or any transaction contemplated therein (collectively, "Other Taxes"). Within 30 days after the date of any payment of Taxes or Other Taxes by any Credit Party, the Borrowers shall furnish to the Agent, at its address referred to in Section 9.2, the original or a certified copy of a receipt evidencing payment thereof.

(d) The Borrowers shall reimburse and indemnify, within 30 days after receipt of demand therefor (with copy to the Agent), each Secured Party for all Taxes and Other Taxes (including any Taxes and Other Taxes imposed by any jurisdiction on amounts payable under this Section 10.1) paid by such Secured Party and any Liabilities arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. A certificate of the Secured Party (or of the Agent on behalf of such Secured Party) claiming any compensation under this clause (d), setting forth the amounts to be paid thereunder and delivered to the Borrower Representative with copy to the Agent, shall be conclusive, binding and final for all purposes, absent manifest error. In determining such amount, the Agent and such Secured Party may use any reasonable averaging and attribution methods.

(e) Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies and Requirements of Law) to change the jurisdiction of its lending office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

(f) (i) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States withholding tax or, after a change in any Requirement of Law, is subject to such withholding tax at a reduced rate under an applicable tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a “Non-U.S. Lender Party” hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (i) and (z) from time to time if requested by the Borrower Representative or the Agent (or, in the case of a participant or SPV, the relevant Lender), provide the Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed originals of each of the following, as applicable: (A) Forms W-8ECI (claiming exemption from U.S. withholding tax because the income is effectively connected with a U.S. trade or business), W-8BEN (claiming exemption from, or a reduction of, U.S. withholding tax under an income tax treaty) and/or W-8IMY or any successor forms, (B) in the case of a Non-U.S. Lender Party claiming exemption under Sections 871(h) or 881(c) of the Code, Form W-8BEN (claiming exemption from U.S. withholding tax under the portfolio interest exemption) or any successor form and a certificate in form and substance acceptable to the Agent that such Non-U.S. Lender Party is not (1) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (2) a “10 percent shareholder” of the Borrowers within the meaning of Section 881(c)(3)(B) of the Code or (3) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code or (C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States withholding tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless the Borrower Representative and the Agent have received forms or other documents satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, the Credit Parties and the Agent shall withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(ii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a “U.S. Lender Party” hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (f) and (D) from time to time if requested by the Borrower Representative or the Agent (or, in the case of a participant or SPV, the relevant Lender), provide the Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding tax) or any successor form.

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(iii) Each Lender having sold a participation in any of its Obligations or identified an SPV as such to the Agent shall collect from such participant or SPV the documents described in this clause (f) and provide them to the Agent.

10.2 Illegality. If after the date hereof any Lender shall determine that the introduction of any Requirement of Law, or any change in any Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make LIBOR Rate Loans, then, on notice thereof by such Lender to the Borrowers through the Agent, the obligation of that Lender to make LIBOR Rate Loans shall be suspended until such Lender shall have notified the Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exists.

(a) Subject to clause (c) below, if any Lender shall determine that it is unlawful to maintain any LIBOR Rate Loan, the Borrowers shall prepay in full all LIBOR Rate Loans of such Lender then outstanding, together with interest accrued thereon, either on the last day of the Interest Period thereof if such Lender may lawfully continue to maintain such LIBOR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Rate Loans, together with any amounts required to be paid in connection therewith pursuant to Section 10.4.

(b) If the obligation of any Lender to make or maintain LIBOR Rate Loans has been terminated, the Borrower Representative may elect, by giving notice to such Lender through the Agent that all Loans which would otherwise be made by any such Lender as LIBOR Rate Loans shall be instead Base Rate Loans.

(c) Before giving any notice to the Agent pursuant to this Section 10.2, the affected Lender shall designate a different Lending Office with respect to its LIBOR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

10.3 Increased Costs and Reduction of Return.

(a) If any Lender or L/C Issuer shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any law or regulation or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, there shall be any increase in the cost to such Lender or L/C Issuer of agreeing to make or making, funding or maintaining any LIBOR Rate Loans or of issuing or maintain any Letter of Credit, then the Borrowers shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender or L/C Issuer (with a copy of such demand to the Agent), pay to the Agent for the account of such Lender or L/C Issuer, additional amounts as are sufficient to compensate such Lender or L/C Issuer for such increased costs; provided, that the Borrowers shall not be required to compensate any Lender or L/C Issuer pursuant to this Section for any increased costs incurred more than 180 days prior to the date that such Lender or L/C Issuer notifies the Borrower Representative, in writing of the increased costs and of such Lender's or L/C Issuer's intention to claim compensation thereof; provided, further, that if the circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

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(b) If any Lender or L/C Issuer shall have determined that:

- (i) the introduction of any Capital Adequacy Regulation;
- (ii) any change in any Capital Adequacy Regulation;
- (iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or
- (iv) compliance by such Lender or L/C Issuer (or its Lending Office) or any entity controlling the Lender or L/C Issuer, with any Capital Adequacy Regulation;

affects the amount of capital required or expected to be maintained by such Lender or L/C Issuer or any entity controlling such Lender or L/C Issuer and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy and such Lender's or L/C Issuer's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans, credits or obligations under this Agreement, then, within thirty (30) days of demand of such Lender or L/C Issuer (with a copy to the Agent), the Borrowers shall pay to such Lender or L/C Issuer, from time to time as specified by such Lender or L/C Issuer, additional amounts sufficient to compensate such Lender or L/C Issuer (or the entity controlling the Lender or L/C Issuer) for such increase; provided, that the Borrowers shall not be required to compensate any Lender or L/C Issuer pursuant to this Section for any amounts incurred more than 180 days prior to the date that such Lender or L/C Issuer notifies the Borrower Representative, in writing of the amounts and of such Lender's or L/C Issuer's intention to claim compensation thereof; provided, further, that if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

10.4 Funding Losses. The Borrowers agree to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

- (a) the failure of the Borrowers to make any payment or mandatory prepayment of principal of any LIBOR Rate Loan (including payments made after any acceleration thereof);



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(b) the failure of the Borrowers to borrow, continue or convert a Loan after the Borrower Representative has given (or is deemed to have given) a Notice of Borrowing or a Notice of Conversion/Continuation;

(c) the failure of the Borrowers to make any prepayment after the Borrowers have given a notice in accordance with Section 1.7;

(d) the prepayment (including pursuant to Section 1.8) of a LIBOR Rate Loan on a day which is not the last day of the Interest Period with respect thereto; or

(e) the conversion pursuant to Section 1.6 of any LIBOR Rate Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBOR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained. Solely for purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 10.4 and under subsection 10.3(a): each LIBOR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the LIBOR used in determining the interest rate for such LIBOR Rate Loan by a matching deposit or other borrowing in the interbank eurodollar market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan is in fact so funded.

**10.5 Inability to Determine Rates.** If the Agent shall have determined in good faith that for any reason adequate and reasonable means do not exist for ascertaining the LIBOR for any requested Interest Period with respect to a proposed LIBOR Rate Loan, the Agent will forthwith give notice of such determination to the Borrower Representative and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBOR Rate Loans hereunder shall be suspended until the Agent revokes such notice in writing. Upon receipt of such notice, the Borrower Representative may revoke any Notice of Borrowing or Notice of Conversion/Continuation then submitted by it. If the Borrower Representative does not revoke such notice, the Lenders shall make, convert or continue the Loans, as proposed by the Borrower Representative, in the amount specified in the applicable notice submitted by the Borrower Representative, but such Loans shall be made, converted or continued as Base Rate Loans.

**10.6 Reserves on LIBOR Rate Loans.** The Borrowers shall pay to each Lender, as long as such Lender shall be required under regulations of the Federal Reserve Board to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional costs on the unpaid principal amount of each LIBOR Rate Loan equal to actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent demonstrable error), payable on each date on which interest is payable on such Loan provided the Borrower Representative shall have received at least fifteen (15) days' prior written notice (with a copy to the Agent) of such additional interest from the Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest shall be payable fifteen (15) days from receipt of such notice.

10.7 Certificates of Lenders. Any Lender claiming reimbursement or compensation pursuant to this Article X shall deliver to the Borrower Representative (with a copy to the Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

ARTICLE XI - DEFINITIONS

11.1 Defined Terms. The following terms are defined in the Sections or subsections referenced opposite such terms:

“Acquisition Corp”	Preamble
“Additional Lender”	1.13(b)
“Affected Lender”	9.22
“Agreement”	Preamble
“AuraZyme”	Preamble
“Borrower” and “Borrowers”	Preamble
“Borrower Representative”	1.12
“Commitment”	1.1(a)
“Compliance Certificate”	4.2(b)
“EBITDA”	Exhibit 4.2(b)
“Event of Default”	7.1
“GE Capital”	Preamble
“Incremental Revolver”	1.13(a)
“Indemnified Matters”	9.6
“Indemnitees”	9.6
“International”	Preamble
“L/C Reimbursement Agreement”	1.1(b)
“L/C Reimbursement Date”	1.1(b)
“L/C Request”	1.1(b)
“L/C Sublimit”	1.1(b)
“Lender”	Preamble
“Letter of Credit Fee”	1.9(c)
“Leverage Ratio”	Exhibit 4.2(b)
“Maximum Lawful Rate”	1.3(d)
“Maximum Revolving Loan Balance”	1.1(a)
“Non-Funding Lender”	1.11(b)
“Notice of Conversion/Continuation”	1.6(a)
“Other Lender”	1.11(e)
“Other Taxes”	10.1(c)

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“Permitted Liens”	5.1
“Register”	1.4(b)
“Restricted Payments”	5.11
“Replacement Lender”	9.22
“Revolving Loan”	1.1(a)
“Sale”	9.9(b)
“Settlement Date”	1.11(b)
“Taxes”	10.1(a)
“Unused Commitment Fee”	1.9(b)

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

“Account” means, as at any date of determination, all “accounts” (as such term is defined in the UCC) of the Borrowers and their Subsidiaries, including, without limitation, the unpaid portion of the obligation of a customer of a Borrower or any of its Subsidiaries in respect of Inventory purchased by and shipped to such customer and/or the rendition of services by a Borrower or such Subsidiary, as stated on the respective invoice of a Borrower or such Subsidiary, net of any credits, rebates or offsets owed to such customer.

“Account Debtor” means the customer of a Borrower or any of its Subsidiaries who is obligated on or under an Account.

“Acquisition” means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business, product line or division of a Person, (b) the acquisition of in excess of fifty percent (50%) of the Stock and Stock Equivalents of any Person or otherwise causing any Person to become a Subsidiary of a Borrower, or (c) a merger or consolidation or any other combination with another Person.

“Adjusted EBITDA” means, as of any determination date, without duplication, the sum of

(a) EBITDA of the Borrowers and their Subsidiaries for the period in question for which the Agent has received financial statements, plus

(b) the sum of the following:

(i) with respect to Targets owned by the Borrowers for which the Agent has not received financial statements pursuant to subsection 4.1(b) for at least three (3) full months, the sum of Pro Forma EBITDA for all such Targets; plus

(ii) with respect to Targets owned by the Borrowers for which the Agent has received financial statements pursuant to subsection 4.1(b) for not less than three (3) months but less than twelve (12) months, the product obtained by multiplying Pro Forma EBITDA by a fraction, the numerator of which is

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twelve (12) minus the number of full months that the Target has been owned by the Borrowers for which the Agent has received such financial statements, and the denominator of which is twelve (12); minus

(c) with respect to any Disposition consummated within the period in question, EBITDA attributable to the subsidiary, profit centers, publication or other asset which is the subject of such Disposition from the beginning of such period until the date of consummation of such Disposition.

“Affiliate” means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise. Without limitation, any director, executive officer or beneficial owner of five percent (5%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for the purposes of this Agreement, be deemed to control the other Person. Notwithstanding the foregoing, neither the Agent nor any Lender shall be deemed an “Affiliate” of any Credit Party or of any Subsidiary of any Credit Party.

“Agent” means GE Capital in its capacity as administrative agent for the Lenders hereunder, and any successor administrative agent.

“Aggregate Revolving Loan Commitment” means the combined Commitments of the Lenders, which shall initially be in the amount of \$15,000,000, as such amount may be reduced or increased from time to time pursuant to this Agreement.

“Applicable Margin” means (i) with respect to Base Rate Loans, two and one quarter percent (2.25%) per annum and (ii) LIBOR Rate Loans, three and one quarter percent (3.25%) per annum.

“Approved Fund” means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) is or will be engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

“Asset Drop Down” shall mean the formation by CryoLife of one or more new wholly owned Subsidiaries organized in the United States and the subsequent contribution of all assets of CryoLife (other than Stock of its Subsidiaries) to such new Subsidiaries in exchange for the issuance of equity to CryoLife.

“Assignment” means an assignment agreement entered into by a Lender, as assignor, and any Person, as assignee, pursuant to the terms and provisions of Section 9.9 (with Consent of any party whose consent is required by Section 9.9), accepted by the Agent, in substantially the form of Exhibit 11.1(a) or any other form approved by the Agent.

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“Attorney Costs” means and includes all reasonable fees and disbursements of any law firm or other external counsel.

“Availability” means, as of any date of determination, the amount by which (a) the Maximum Revolving Loan Balance, exceeds (b) the aggregate outstanding principal balance of Revolving Loans.

“Bankruptcy Code” means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101, et seq.), as amended and in effect from time to time and the regulations issued from time to time thereunder.

“Base Rate” means, at any time, a rate per annum equal to the higher of (a) the rate last quoted by The Wall Street Journal as the “base rate on corporate loans posted by at least 75% of the nation’s largest banks” in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Agent) or any similar release by the Federal Reserve Board (as determined by Agent) and (b) the sum of 0.5% per annum and the Federal Funds Rate. Any change in the Base Rate due to a change in any of the foregoing shall be effective on the effective date of such change in the “bank prime loan” rate or the Federal Funds Rate.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Benefit Plan” means any employee benefit plan as defined in Section 3(3) of ERISA (whether governed by the laws of the United States or otherwise) to which any Credit Party incurs or otherwise has any obligation or liability, contingent or otherwise.

“Borrowing” means a borrowing hereunder consisting of Loans made to or for the benefit of the Borrowers on the same day by the Lenders pursuant to Article I.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close and, if the applicable Business Day relates to any LIBOR Rate Loan, a day on which dealings are carried on in the London interbank market.

“Capital Adequacy Regulation” means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any Lender or of any corporation controlling a Lender.

“Capital Lease” means any leasing or similar arrangement which, in accordance with GAAP, is classified as a capital lease.

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“Capital Lease Obligations” means all monetary obligations of any Credit Party or any Subsidiary of any Credit Party under any Capital Leases.

“Cash Equivalents” means: (a) securities issued or fully guaranteed or insured by the United States Government or any agency thereof having maturities of not more than six (6) months from the date of acquisition; (b) certificates of deposit, time deposits, repurchase agreements, reverse repurchase agreements, or bankers’ acceptances, having in each case a tenor of not more than six (6) months, issued by any Lender, or by any U.S. commercial bank or any branch or agency of a non-U.S. bank licensed to conduct business in the U.S. having combined capital and surplus of not less than \$250,000,000; (c) commercial paper of an issuer rated at least A-1 by Standard & Poor’s Corporation or P-1 by Moody’s Investors Service Inc. and in either case having a tenor of not more than three (3) months and (d) money market funds provided that substantially all of the assets of such fund are comprised of securities of the type described in clauses (a) through (c).

“Closing Date” means the date on which all conditions precedent set forth in Section 2.1 are satisfied or waived by the Agent and all Lenders.

“Code” means the Internal Revenue Code of 1986, and regulations promulgated thereunder.

“Collateral” means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party, any of their respective Subsidiaries and any other Person who has granted a Lien to the Agent, in or upon which a Lien now or hereafter exists in favor of any Lender or the Agent for the benefit of the Agent, Lenders and other Secured Parties, whether under this Agreement or under any other documents executed by any such Persons and delivered to the Agent.

“Collateral Documents” means, collectively, the Guaranty and Security Agreement, the Mortgages, each Control Agreement and all other security agreements, pledge agreements, patent and trademark security agreements, lease assignments, guarantees and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of any Credit Party, any of their respective Subsidiaries or any other Person pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or the Agent for the benefit of the Agent, the Lenders and other Secured Parties now or hereafter delivered to the Lenders or the Agent pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or comparable law) against any such Person as debtor in favor of any Lender or the Agent for the benefit of the Agent, the Lenders and the other Secured Parties, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

“Commitment Percentage” means, as to any Lender, the percentage equivalent of such Lender’s Commitment, divided by the Aggregate Revolving Loan Commitment, as applicable.

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“Contingent Obligation” means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (i) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (ii) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (iii) under any Rate Contracts; (iv) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (v) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported.

“Contractual Obligations” means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement to which such Person is a party or by which it or any of its Property is bound.

“Control Agreement” means a tri-party deposit account, securities account or commodities account control agreement by and among the applicable Credit Party, Agent and the depository, securities intermediary or commodities intermediary, and each in form and substance reasonably satisfactory in all respects to Agent and in any event providing to Agent “control” of such deposit account, securities or commodities account within the meaning of Articles 8 and 9 of the UCC.

“Conversion Date” means any date on which the Borrowers convert a Base Rate Loan to a LIBOR Rate Loan or a LIBOR Rate Loan to a Base Rate Loan.

“Copyrights” means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

“Credit Parties” means each Borrower and each other Person (i) which executes this Agreement as a “Credit Party,” (ii) which executes a guaranty of the Obligations, (iii) which grants a Lien on all or substantially all of its assets to secure payment of the Obligations and (iv) all of the Stock of which is pledged to Agent for the benefit of the Secured Parties.

“CryoLife” means CryoLife, Inc., a Florida corporation.

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“Default” means any event or circumstance which, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default.

“Disposition” means (a) the sale, lease, conveyance or other disposition of Property, other than sales or other dispositions expressly permitted under subsection 5.2(a), 5.2(c) and 5.2(d), and (b) the sale or transfer by a Borrower or any Subsidiary of a Borrower of any Stock or Stock Equivalent issued by any Subsidiary of a Borrower and held by such transferor Person.

“Dollars”, “dollars” and “\$” each mean lawful money of the United States of America.

“Domestic Subsidiary” means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is incorporated or otherwise organized under the laws of a state of the United States of America.

“Electronic Transmission” means each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System or other equivalent service.

“Environmental Laws” means all present and future Requirements of Law and Permits imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the environment and natural resources, and including public notification requirements and environmental transfer of ownership, notification or approval statutes.

“Environmental Liabilities” means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, any claim, suit, action, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law or in connection with any environmental, health or safety condition or with any Release and resulting from the ownership, lease, sublease or other operation or occupation of property by any Credit Party or any Subsidiary of any Credit Party, whether on, prior or after the date hereof.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means, collectively, any Credit Party and any Person under common control or treated as a single employer with, any Credit Party, within the meaning of Section 414(b), (c), (m) or (o) of the Code.

“ERISA Event” means any of the following: (a) a reportable event described in Section 4043(b) of ERISA (or, unless the 30-day notice requirement has been duly waived under the applicable regulations, Section 4043(c) of ERISA) with respect to a



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Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) the complete or partial withdrawal of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of reorganization, insolvency or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure to make any required contribution to any Title IV Plan or Multiemployer Plan when due; (h) the imposition of a lien under Section 412 or 430(k) of the Code or Section 302, 303(k) or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate or a violation of Section 436 of the Code with respect to a Title IV Plan; (i) the failure of a Benefit Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Requirements of Law to qualify thereunder; and (j) any other event or condition that might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent.

“Event of Loss” means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property; (b) any pending or threatened institution of any proceedings for the condemnation or seizure of such Property or for the exercise of any right of eminent domain; or (c) any actual condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

“Excluded Equity Issuance” means Net Issuance Proceeds resulting from the issuance of (a) Stock or Stock Equivalents by CryoLife to management or employees of a Credit Party under any employee stock option or stock purchase plan or other employee benefits plan in existence from time to time, (b) Stock or Stock Equivalents by a Wholly-Owned Subsidiary of a Borrower to a Borrower or another Wholly-Owned subsidiary of a Borrower constituting an Investment permitted hereunder, (c) Stock or Stock Equivalents by a Wholly-Owned Subsidiary of CryoLife to CryoLife or another Wholly-Owned subsidiary of CryoLife constituting an Investment permitted hereunder, and (d) Stock or Stock Equivalents by a Foreign Subsidiary of such Foreign Subsidiary to qualify directors where required pursuant to a Requirement of Law or to satisfy other requirements of applicable law, in each instance, with respect to the ownership of Stock of Foreign Subsidiaries.

“E-Fax” means any system used to receive or transmit faxes electronically.

“E-Signature” means the process of attaching to or logically associating with an Electronic Transmission an electronic symbol, encryption, digital signature or process (including the name or an abbreviation of the name of the party transmitting the Electronic Transmission) with the intent to sign, authenticate or accept such Electronic Transmission.

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“E-System” means any electronic system, including Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Agent, any of its Related Persons or any other Person, providing for access to data protected by passcodes or other security system.

“FDA” means the United States Food and Drug Administration and any successor thereto.

“FDA Laws” has the meaning set forth in [Section 4.8](#).

“Federal Funds Rate” means, for any day, the rate per annum (rounded upward to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Agent on such day on such transactions as determined by the Agent in a commercially reasonable manner.

“Federal Health Care Program” has the meaning specified in Section 1128B(f) of the SSA and includes the Medicare, Medicaid and TRICARE programs.

“Federal Health Care Program Laws” has the meaning specified in Section 3.23(c).

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

“Fee Letter” means that certain letter agreement, dated as of March 27, 2008, by and between the Borrowers and the Agent.

“First Tier Foreign Subsidiary” means a Foreign Subsidiary more than fifty percent (50%) of the voting Stock (directly or through ownership of Stock Equivalents) of which are held directly by a Borrower or indirectly by a Borrower through one or more Domestic Subsidiaries.

“Foreign Subsidiary” means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the accounting profession), which are applicable to the circumstances as of the date of determination.

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“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“Guaranty and Security Agreement” means that certain Guaranty and Security Agreement, dated as of even date herewith, in form and substance reasonably acceptable to the Agent and Borrowers, made by the Credit Parties in favor of the Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

“Hazardous Materials” means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“Indebtedness” of any Person means, without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services (other than trade payables entered into in the Ordinary Course of Business); (c) the face amount of all letters of credit issued for the account of such Person and without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by the Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such Property); (f) all Capital Lease Obligations; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product; (h) all obligations, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value any of its own Stock or Stock Equivalents (or any Stock or Stock Equivalent of a direct or indirect parent entity thereof) prior to the date that is 180 days after the date set forth in clause (a) of the definition of Revolving Termination Date, valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends; (i) all indebtedness referred to in clauses (a) through (h) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; and (j) all Contingent Obligations described in clause (i) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (i) above.

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“Insolvency Proceeding” means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (a) and (b) above, undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

“Intellectual Property” means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Trademarks, Internet domain names, Trade Secrets and IP Licenses.

“Interest Payment Date” means, (a) with respect to any LIBOR Rate Loan (other than a LIBOR Rate Loan having an Interest Period of six (6) months) the last day of each Interest Period applicable to such Loan, (b) with respect to any LIBOR Rate Loan having an Interest Period of six (6) months, the last day of each three (3) month interval and, without duplication, the last day of such Interest Period, and (c) with respect to Base Rate Loans the first day of each calendar month.

“Interest Period” means, with respect to any LIBOR Rate Loan, the period commencing on the Business Day such Loan is disbursed or continued or on the Conversion Date on which a Base Rate Loan is converted to the LIBOR Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrower Representative in its Notice of Borrowing or Notice of Conversion/Continuation; provided that:

(a) if any Interest Period pertaining to a LIBOR Rate Loan would otherwise end on a day which is not a Business Day, that Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day;

(b) any Interest Period pertaining to a LIBOR Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period for any Revolving Loan shall extend beyond the Revolving Termination Date.

“Inventory” means all of the “inventory” (as such term is defined in the UCC) of the Borrowers and their Subsidiaries, including, but not limited to, all merchandise, raw materials, parts, supplies, work-in-process and finished goods intended for sale, together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of a Borrower’s or such Subsidiary’s custody or possession, including inventory on the premises of others and items in transit.

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“IP Ancillary Rights” means, with respect to any other Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right.

“IP License” means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

“IRS” means the Internal Revenue Service of the United States and any successor thereto.

“Issue” means, with respect to any Letter of Credit, to issue, extend the expiration date of, renew (including by failure to object to any automatic renewal on the last day such objection is permitted), increase the face amount of, or reduce or eliminate any scheduled decrease in the face amount of, such Letter of Credit, or to cause any Person to do any of the foregoing. The terms “Issued” and “Issuance” have correlative meanings.

“L/C Issuer” means GE Capital or a Subsidiary thereof or a bank or other legally authorized Person selected by or acceptable to Agent in its sole discretion, in such Person’s capacity as an issuer of Letters of Credit hereunder.

“L/C Reimbursement Obligation” means, for any Letter of Credit, the obligation of the Borrowers to the L/C Issuer thereof, as and when matured, to pay all amounts drawn under such Letter of Credit.

“Lending Office” means, with respect to any Lender, the office or offices of such Lender specified as its “Lending Office” beneath its name on the applicable signature page hereto, or such other office or offices of such Lender as it may from time to time notify the Borrower Representative and the Agent.

“Letter of Credit” means documentary or standby letters of credit issued for the account of the Borrowers by L/C Issuers, and bankers’ acceptances issued by a Borrower, for which Agent and Lenders have incurred Letter of Credit Obligations.

“Letter of Credit Obligations” means all outstanding obligations incurred by Agent and Lenders at the request of the Borrowers or the Borrower Representative, whether direct or indirect, contingent or otherwise, due or not due, in connection with the issuance of Letters of Credit by L/C Issuers or the purchase of a participation as set forth in Section 1.1(c) with respect to any Letter of Credit. The amount of such Letter of Credit Obligations shall equal the maximum amount that may be payable by Agent and Lenders thereupon or pursuant thereto.

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“Leverage Multiple” means 2.0.

“Liabilities” means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, taxes, commissions, charges, disbursements and expenses, in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

“LIBOR” means, for each Interest Period, the offered rate per annum for deposits of Dollars for the applicable Interest Period that appears on Reuters Screen LIBOR01 as of 11:00 A.M. (London, England time) two (2) Business Days prior to the first day in such Interest Period. If no such offered rate exists, such rate will be the rate of interest per annum, as determined by the Agent (rounded upwards, if necessary, to the nearest 1/100 of 1%) at which deposits of Dollars in immediately available funds are offered at 11:00 A.M. (London, England time) two (2) Business Days prior to the first day in such Interest Period by major financial institutions reasonably satisfactory to the Agent in the London interbank market for such Interest Period for the applicable principal amount on such date of determination.

“LIBOR Rate Loan” means a Loan that bears interest based on LIBOR.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or otherwise) or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a Capital Lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the UCC or any comparable law) and any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under a lease which is not a Capital Lease.

“Loan” means an extension of credit by a Lender to the Borrowers pursuant to Article I hereof, and may be a Base Rate Loan or a LIBOR Rate Loan.

“Loan Documents” means this Agreement, the Notes, the Fee Letter, the Collateral Documents and all documents delivered to the Agent and/or any Lender in connection with any of the foregoing.

“Margin Stock” means “margin stock” as such term is defined in Regulation T, U or X of the Federal Reserve Board.

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“Material Adverse Effect” means: (a) a material adverse change in, or a material adverse effect upon, the operations, business, Properties, condition (financial or otherwise) or prospects of any Credit Party or the Credit Parties and the Subsidiaries taken as a whole; (b) a material impairment of the ability of any Credit Party, any Subsidiary of any Credit Party or any other Person (other than the Agent or Lenders) to perform in any material respect its obligations under any Loan Document; or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability of any Loan Document, or (ii) the perfection or priority of any Lien granted to the Lenders or to the Agent for the benefit of the Secured Parties under any of the Collateral Documents.

“Material Environmental Liabilities” means Environmental Liabilities exceeding \$500,000 in the aggregate.

“Mortgage” means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on real Property or any interest in real Property.

“Multiemployer Plan” means any multiemployer plan, as defined in Section 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

“Net Issuance Proceeds” means, in respect of any issuance of debt or equity, cash proceeds (including cash proceeds as and when received in respect of non-cash proceeds received or receivable in connection with such issuance), net of underwriting discounts and reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of a Borrower.

“Net Proceeds” means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition and insurance proceeds received on account of an Event of Loss, net of: (a) in the event of a Disposition (i) the direct costs relating to such Disposition excluding amounts payable to a Borrower or any Affiliate of a Borrower, (ii) sale, use or other transaction taxes paid or payable as a result thereof, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a Lien on the asset which is the subject of such Disposition and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged Property or Property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, and (iii) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments.

“Non-U.S. Lender Party” means each of the Agent, each Lender, each L/C Issuer, each SPV and each participant, in each case that is not a United States person under and as defined in Section 7701(a)(30) of the Code.

“Note” means a promissory note of the Borrowers payable to the order of a Lender in substantially the form of Exhibit 11.1(c) hereto, evidencing Indebtedness of the Borrowers under the Commitment of such Lender, and “Notes” means all such Notes.

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“Notice of Borrowing” means a notice given by the Borrower Representative to the Agent pursuant to Section 1.5, in substantially the form of Exhibit 11.1(d) hereto.

“Obligations” means all Loans, and other Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Lender, the Agent, any L/C Issuer, any Secured Swap Provider or any other Person required to be indemnified, that arises under any Loan Document or any Secured Rate Contract, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired.

“Ordinary Course of Business” means, in respect of any transaction involving any Credit Party or any Subsidiary of any Credit Party, the ordinary course of such Person’s business, as conducted by any such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

“Organization Documents” means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement and articles or certificate of formation or (d) any other document setting forth the manner of election or duties of the officers, directors, managers or other similar persons, or the designation, amount or relative rights, limitations and preference of the Stock of a Person.

“Patents” means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56, as amended.

“PBGC” means the United States Pension Benefit Guaranty Corporation or any successor thereto.

“Permits” means, with respect to any Person, any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from, and any other Contractual Obligations with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Permitted Acquisition” means any Acquisition by (i) a Borrower or any Wholly-Owned Subsidiary of a Borrower which is a Domestic Subsidiary of substantially all of the assets of a Target, which assets are located in the United States or (ii) a Borrower or



**[\*\*\*] – CONFIDENTIAL PORTIONS OF THIS AGREEMENT WHICH HAVE BEEN REDACTED ARE MARKED WITH BRACKETS (“[\*\*\*]”). THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.**

any Wholly-Owned Subsidiary of a Borrower which is a Domestic Subsidiary of 100% of the Stock and Stock Equivalents of a Target incorporated under the laws of any State in the United States or the District of Columbia to the extent that each of the following conditions shall have been satisfied:

(a) to the extent the Acquisition will be financed in whole or in part with the proceeds of any Loan, the conditions set forth in Section 2.2 shall have been satisfied;

(b) the Borrowers shall have furnished to the Agent and Lenders at least ten (10) Business Days prior to the consummation of such Acquisition (1) an executed term sheet and/or commitment letter (setting forth in reasonable detail the terms and conditions of such Acquisition) and, at the request of the Agent, such other information and documents that the Agent may request, including, without limitation, executed counterparts of the respective agreements, documents or instruments pursuant to which such Acquisition is to be consummated (including, without limitation, any related management, non-compete, employment, option or other material agreements), any schedules to such agreements, documents or instruments and all other material ancillary agreements, instruments and documents to be executed or delivered in connection therewith, (2) pro forma financial statements of CryoLife and its Subsidiaries after giving effect to the consummation of such Acquisition, (3) a certificate of a Responsible Officer of the Borrower Representative demonstrating on a pro forma basis compliance with the covenants set forth in Sections 6.2 and 6.3 hereof after giving effect to the consummation of such Acquisition and (4) a copy of such other agreements, instruments and other documents (including, without limitation, the Loan Documents required by Section 4.13) as the Agent reasonably shall request;

(c) the Borrowers and their Subsidiaries (including any new Subsidiary) shall execute and deliver the agreements, instruments and other documents required by Section 4.13 and the Agent shall have received, for the benefit of the Secured Parties, a collateral assignment of the seller's representations, warranties and indemnities to the Borrowers or any of their Subsidiaries under the acquisition documents;

(d) such Acquisition shall not be hostile and shall have been approved by the board of directors (or other similar body) and/or the stockholders or other equity holders of the Target;

(e) no Default or Event of Default shall then exist or would exist after giving effect thereto;

(f) after giving effect to such Acquisition, Availability shall be not less than \$1,500,000; and

(g) the total consideration paid or payable (including without limitation, any deferred payment, but excluding royalties and earn-out payments that are performance based) for all Acquisitions consummated during the term of this Agreement, less the portion of any such consideration funded by the issuance of common or preferred stock of Borrower, shall not exceed \$[\*\*\*] in the aggregate for all such Acquisitions.

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“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or Governmental Authority.

“Pledged Collateral” has the meaning specified in the Guaranty and Security Agreement and shall include any other Collateral required to be delivered to Agent pursuant to the terms of any Collateral Document.

“Prior Indebtedness” means the Indebtedness and obligations specified on Schedule 11.1 hereto.

“Pro Forma EBITDA” means, with respect to any Target, EBITDA for such Target for the most recent twelve (12) month period for which financial statements are available at the time of determination thereof, adjusted by verifiable expense reductions, including excess owner compensation, if any, which are expected to be realized, in each case calculated by the Borrowers and approved by the Agent.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

“Quarterly Reporting Trigger Date” means the date that the Borrowers shall have delivered to the Lenders its financial statements demonstrating that Adjusted EBITDA for the trailing twelve month period is greater than \$15,000,000.

“Rate Contracts” means swap agreements (as such term is defined in Section 101 of the Bankruptcy Code) and any other agreements or arrangements designed to provide protection against fluctuations in interest or currency exchange rates

“Registrations” means authorizations, approvals, licenses, permits, certificates, or exemptions issued by any Governmental Authority (including pre-market approval applications, pre-market notifications, investigational device exemptions, product recertifications, manufacturing approvals and authorizations, CE Marks, pricing and reimbursement approvals, labeling approvals or their foreign equivalent) held by the Credit Parties or their Subsidiaries immediately prior to the Closing Date, that are required for the research, development, manufacture, distribution, marketing, storage, transportation, use and sale of the products of the Credit Parties and their Subsidiaries.

“Related Persons” means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor (including those retained in connection with the satisfaction or attempted satisfaction of any condition set forth in Article II) and other consultants and agents of or to such Person or any of its Affiliates.

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“Releases” means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Material into or through the environment.

“Remedial Action” means all actions required to (a) clean up, remove, treat or in any other way address any Hazardous Material in the indoor or outdoor environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment or (c) perform pre remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material.

“Required Lenders” means at any time (a) Lenders then holding at least more than fifty percent (50%) of the Aggregate Revolving Loan Commitment then in effect, or (b) if the Aggregate Revolving Loan Commitments have been terminated, Lenders then having at least more than fifty percent (50%) of the aggregate unpaid principal amount of Loans then outstanding plus outstanding Letter of Credit Obligations.

“Requirement of Law” means, as to any Person, any law (statutory or common), ordinance, treaty, rule, regulation, order, policy, other legal requirement or determination of an arbitrator or of a Governmental Authority, in each case applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject, including without limitation the FDA Laws and the Federal Health Care Program Laws.

“Responsible Officer” means the chief executive officer or the president of a Borrower or Borrower Representative, as applicable, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of a Borrower or Borrower Representative, as applicable, or any other officer having substantially the same authority and responsibility.

“Revolving Lender” means each Lender with a Commitment (or if the Commitments have terminated, who hold Revolving Loans).

“Revolving Termination Date” means the earlier to occur of: (a) March 27, 2011; and (b) the date on which the Aggregate Revolving Loan Commitment shall terminate in accordance with the provisions of this Agreement.

“Secured Party” means the Agent, each Lender, each L/C Issuer, each other Indemnitee and each other holder of any Obligation of a Credit Party including each Secured Swap Provider.

“Secured Rate Contract” means any Rate Contract between a Borrower and the counterparty thereto, which (i) has been provided or arranged by GE Capital or an Affiliate of GE Capital, or (ii) the Agent has acknowledged in writing constitutes a “Secured Rate Contract” hereunder.

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“Secured Swap Provider” means (i) a Lender or an Affiliate of a Lender (or a Person who was a Lender or an Affiliate of a Lender at the time of execution and delivery of a Rate Contract) who has entered into a Secured Rate Contract with a Borrower, or (ii) a Person with whom Borrower has entered into a Secured Rate Contract provided or arranged by GE Capital or an Affiliate of GE Capital, and any assignee thereof.

“Solvent” means, with respect to any Person as of any date of determination, that, as of such date, (a) the value of the assets of such Person (both at fair value and present fair saleable value) is greater than the total amount of liabilities (including contingent and unliquidated liabilities) of such Person, (b) such Person is able to pay all liabilities of such Person as such liabilities mature and (c) such Person does not have unreasonably small capital. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“SPV” means any special purpose funding vehicle identified as such in a writing by any Lender to the Agent.

“SSA” means the Social Security Act of 1935, codified at Title 42, Chapter 7, of the United States Code.

“Stock” means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

“Stock Equivalents” means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

“Subsidiary” of a Person means any corporation, association, limited liability company, partnership, joint venture or other business entity of which more than fifty percent (50%) of the voting Stock (in the case of Persons other than corporations), is owned or controlled directly or indirectly by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof.

“SunTrust Letter of Credit” shall mean that certain SunTrust Irrevocable Letter of Credit No. F851910, dated as of March 13, 2008, in the stated amount of \$500,000, as in effect on the date hereof and not as extended or renewed.

“Target” means any other Person or business unit or asset group of any other Person acquired or proposed to be acquired in an Acquisition.

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“Tax Affiliate” means, (a) each Borrower and its Subsidiaries and (b) any Affiliate of a Borrower with which such Borrower files or is eligible to file consolidated, combined or unitary tax returns.

“Title IV Plan” means a pension plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

“Trade Secrets” means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

“Trademark” means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York.

“United States” and “U.S.” each means the United States of America.

“U.S. Lender Party” means each of the Agent, each Lender, each L/C Issuer, each SPV and each participant, in each case that is a United States person under and as defined in Section 7701(a)(30) of the Code.

“Wells Fargo Letter of Credit” shall mean that certain Wells Fargo Irrevocable Letter of Credit No. NZS591671, dated as of March 20, 2007, in the stated amount of \$500,000, as in effect on the date hereof and not as extended or renewed.

“Wholly-Owned Subsidiary” means any Subsidiary in which (other than directors’ qualifying shares required by law) one hundred percent (100%) of the Stock and Stock Equivalents, at the time as of which any determination is being made, is owned, beneficially and of record, by any Credit Party, or by one or more of the other Wholly-Owned Subsidiaries, or both.

“Withdrawal Liabilities” means, at any time, any liability incurred (whether or not assessed) by any ERISA Affiliate and not yet satisfied or paid in full at such time with respect to any Multiemployer Plan pursuant to Section 4201 of ERISA.

#### 11.2 Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement or in any other Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

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(b) The Agreement. The words “hereof”, “herein”, “hereunder” and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document; and subsection, section, schedule and exhibit references are to this Agreement or such other Loan Documents unless otherwise specified.

(c) Certain Common Terms. The term “documents” includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term “including” is not limiting and means “including without limitation.” Whenever any provision refers to the “knowledge” (or an analogous phrase) of any Credit Party, such words are intended to signify that a Responsible Officer or other member of management of such Credit Party has actual knowledge or awareness of a particular fact or circumstance or that a Responsible Officer or other member of management of such Credit Party, if such Person had exercised reasonable diligence, would have known or been aware of such fact or circumstance.

(d) Performance: Time. Whenever any performance obligation hereunder or under any other Loan Document (other than a payment obligation) shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”, and the word “through” means “to and including.” If any provision of this Agreement or any other Loan Document refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein or in any other Loan Document, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, shall be deemed to include all subsequent amendments thereto, restatements and substitutions thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

11.3 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. No change in the accounting principles used in the preparation

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of any financial statement hereafter adopted by CryoLife shall be given effect for purposes of measuring compliance with any provision of Article V or VI unless the Borrowers, the Agent and the Required Lenders agree to modify such provisions to reflect such changes in GAAP and, unless such provisions are modified, all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP.

11.4 Payments. The Agent may set up standards and procedures to determine or redetermine the equivalent in Dollars of any amount expressed in any currency other than Dollars and otherwise may, but shall not be obligated to, rely on any determination made by any Credit Party or any L/C Issuer. Any such determination or redetermination by the Agent shall be conclusive and binding for all purposes, absent manifest error. No determination or redetermination by any Secured Party or any Credit Party and no other currency conversion shall change or release any obligation of any Credit Party or of any Secured Party (other than the Agent and its Related Persons) under any Loan Document, each of which agrees to pay separately for any shortfall remaining after any conversion and payment of the amount as converted. The Agent may round up or down, and may set up appropriate mechanisms to round up or down, any amount hereunder to nearest higher or lower amounts and may determine reasonable de minimis payment thresholds.

**[Balance of page intentionally left blank; signature page follows.]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

BORROWERS:

CRYOLIFE, INC.

By: /s/ D.A Lee  
Title: EVP, COO & CFO  
FEIN: 59-2417093

CRYOLIFE ACQUISITION CORPORATION

By: /s/ D.A Lee  
Title: VP, Finance & Treasurer  
FEIN: 58-2291265

AURAZYME PHARMACEUTICALS, INC.

By: /s/ D.A Lee  
Title: VP, Finance, CFO & Treasurer  
FEIN: 58-2627289

CRYOLIFE INTERNATIONAL, INC.

By: /s/ D.A Lee  
Title: VP, CFO & Treasurer  
FEIN: 58-2053258



**[\*\*\*] – CONFIDENTIAL PORTIONS OF THIS AGREEMENT WHICH HAVE BEEN REDACTED ARE MARKED WITH BRACKETS (“[\*\*\*]”). THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.**

BORROWER REPRESENTATIVE:

CRYOLIFE, INC.

By: /s/ D.A Lee

Title: EVP, COO & CFO

FEIN: 59-2417093

Address for notices:

1655 Roberts Blvd., NW

Kennesaw, GA 30144

Attn: D. Ashley Lee

Facsimile: [\*\*\*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

GENERAL ELECTRIC CAPITAL CORPORATION,  
as the Agent, L/C Issuer and as a Lender

By: /s/ Ryan Guenin  
Title: Its Duly Authorized Signatory

Address for Notices:

General Electric Capital Corporation  
2 Bethesda Metro Center  
Bethesda, Maryland 20814  
Attn: CryoLife Account Officer  
Facsimile: (866) 673-0624

With a copy to:

General Electric Capital Corporation  
2 Bethesda Metro Center  
Bethesda, Maryland 20814  
Attn: General Counsel-Healthcare Financial Services  
Facsimile: (866) 261-9396

Address for payments:

ABA No. 021-001-033  
Account Number 50271079  
Deutsche Bank Trust Company Americas  
New York, New York  
Account Name: HH CASH FLOW COLLECTIONS  
Reference: CFN \_\_\_\_\_/CryoLife

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SCHEDULE 1.1  
COMMITMENTS

General Electric Capital Corporation	\$15,000,000
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CREDIT AGREEMENT  
SCHEDULE 3.2  
CAPITALIZATION

	Preferred Stock	Common Stock		
	Authorized	Authorized	Outstanding	
CryoLife, Inc.	5,000,000	75,000,000		
AuraZyme Pharmaceuticals, Inc.	N/A	75,000,000	5,000,000	100% owned by CryoLife, Inc.
CryoLife Acquisition Corporation	N/A	1,000	100	100% owned by CryoLife, Inc.
CryoLife International, Inc.	5,000,000	20,000,000	1,000	100% owned by CryoLife, Inc.
CryoLife Europa Ltd.	N/A	100,000	50,000	100% owned by CryoLife, Inc.

Outstanding Stock Options for CryoLife, Inc. (as of 3/19/08): 2,066,667

Certain of CryoLife's employees are participating in CryoLife's 1996 Employee Stock Purchase Plan and therefore have rights to purchase shares pursuant to that plan.

CryoLife, Inc., pursuant to its Articles of Incorporation and a Rights Agreement, as amended, has granted its shareholders certain rights to receive shares of CryoLife, Inc. when certain conditions are met as set forth therein.

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CREDIT AGREEMENT  
SCHEDULE 3.5  
LITIGATION

Michael Hohenbery v. CryoLife, Inc., John Does 1 – 5, and John Does, Inc. 1 – 5 Civil Action No. 2008 A 546-7 (Georgia, Cobb County).

Ann Douthitt, by and through her Parents and Next Friends, Michael and Tonya Douthitt v. CryoLife, Inc. and John Does, I – IV, Cause No. CV-05-189-M-LBE (Montana, Silver Bow County).

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CREDIT AGREEMENT  
SCHEDULE 3.7  
ERISA

(a) all Title IV Plans – none

(b) all Multiemployer Plans – none

(c) all material Benefit Plans –

1. CryoLife, Inc. Profit Sharing 401(k) Plan

2. CryoLife, Inc. Cafeteria Plan

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CREDIT AGREEMENT  
SCHEDULE 3.10  
TAX AUDITS

The State of North Carolina Department of Revenue has given CryoLife, Inc. notice that a corporate and franchise tax audit for returns filed 1/1/2004 to 12/31/2006 will begin in May. In addition, the State of North Carolina Department of Revenue conducted an audit of Cryolife, Inc.'s sales and use tax in November 2007 for the periods of 10/1/2004 through 9/30/2007. The audit is complete, but CryoLife expects to receive an invoice for back payments.

The Department of Revenue has give CryoLife, Inc. notice that it was unable to locate an amended Missouri corporate Income Tax return for 1999 and has asked for further information. CryoLife has responded to this request. Cryolife, Inc. is waiting on the State of Missouri's response. In addition, the Missouri Department of Revenue is currently conducting an audit of Cryolife, Inc.'s sales tax returns from 1/1/2005 to 12/31/2007, its use tax returns from 1/1/2003 to 12/31/2007, and its withholding tax from 2/1/2005 to 1/31/2008.

The New York State Department of Taxation and Finance conducted an audit of Cryolife, Inc. in 2007 for the years 2001-2006 pursuant to which Cryolife, Inc. paid additional amounts. The New York State Department of Taxation and Finance has requested interest payments on such amounts and Cryolife, Inc. is waiting for additional information to determine what will be claimed to be owed.

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CREDIT AGREEMENT  
SCHEDULE 3.12  
ENVIRONMENTAL MATTERS

None



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CREDIT AGREEMENT  
SCHEDULE 3.15  
LABOR RELATIONS

None

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CREDIT AGREEMENT  
SCHEDULE 3.18  
BROKERS' AND TRANSACTION FEES

None

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CREDIT AGREEMENT  
SCHEDULE 5.1  
LIENS

<u>Debtor</u>	<u>Secured Party</u>	<u>Collateral</u>	<u>UCC Financing Statement Number</u>
CryoLife, Inc.	US Bancorp	1 Copier Accessory ARFN7 61100190	007-2007-12228 (Georgia)
CryoLife, Inc.	CIT Communications Finance Corporation	Equipment now or hereafter acquired, which is sold to Debtor by Secured Party pursuant to Lease No. X164200, including, but not limited to AVAYA DEFINITY, and all attachments, accessions, additions, substitutions, products, replacements, and rentals and a right to use license for any software related to any of the foregoing, and proceeds therefrom (including insurance proceeds). Equipment location includes, but is not limited to: 1655 Roberts Blvd NW Kennesaw, GA 30144.	200406754762 (Florida)

CryoLife, Inc. is also a party to various equipment leases as described in the UCC search report provided to the Agent. These are true lease transactions and the concomitant UCC Financing Statements were filed for notification purposes only.

CryoLife, Inc. has financed the purchase of a 2008 GMC truck (model number W4500 EZSPEC, Serial number: 4KDB4B1088J800363) in the amount of \$37,109.98 from GMAC F.

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CREDIT AGREEMENT  
SCHEDULE 5.4  
INVESTMENTS

None

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CREDIT AGREEMENT  
SCHEDULE 5.5  
INDEBTEDNESS

<u>Company</u>	<u>Payee</u>	<u>Obligation</u>	<u>Amount Outstanding</u>	<u>Lease Term End Date</u>
CryoLife, Inc.	Avaya Financial Services	Phone Switch Lease	\$ 124,419	8/31/2010

CryoLife, Inc. has financed the purchase of a vehicle, a 2008 GMC TW4SO42 in the amount of \$37,109.98 from GMAC F.

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CREDIT AGREEMENT  
SCHEDULE 5.9  
CONTINGENT OBLIGATIONS

CryoLife has certain contingent obligation related to its Letter of Credit with SunTrust and the related Deductible Security Agreement with Columbia Casualty Company (CryoLife's Insurance company).

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CREDIT AGREEMENT  
SCHEDULE 11.1  
PRIOR INDEBTEDNESS

None

EXHIBIT 1.1(b)  
TO  
CREDIT AGREEMENT

FORM OF LETTER OF CREDIT REQUEST

[NAME OF L/C ISSUER], as L/C Issuer  
under the Credit Agreement referred to below  
Attention:

\_\_\_\_\_, 20\_\_

Re: CryoLife, Inc. and certain of its Subsidiaries (the "Borrowers")

Reference is made to the Credit Agreement, dated as of March 27, 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrowers, CryoLife, Inc., as the Borrower Representative, the other Credit Parties party thereto, the Lenders and L/C Issuers party thereto and General Electric Capital Corporation, as administrative agent for the Lenders and L/C Issuers. Capitalized terms used herein without definition are used as defined in the Credit Agreement.

The Borrower Representative, on behalf of the Borrowers, hereby gives you notice, irrevocably, pursuant to Section 1.1(b) of the Credit Agreement, of its request for your Issuance of a Letter of Credit, in the form attached hereto, for the benefit of [Name of Beneficiary], in the amount of \$ \_\_\_\_\_, to be issued on \_\_\_\_\_, \_\_\_\_\_ (the "Issue Date") with an expiration date of \_\_\_\_\_, \_\_\_\_.

The undersigned hereby certifies that, except as set forth on Schedule A attached hereto, the following statements are true on the date hereof and will be true on the Issue Date, both before and after giving effect to the Issuance of the Letter of Credit requested above and any Loan to be made or any other Letter of Credit to be Issued on or before the Issue Date:

- (a) the representations and warranties set forth in Article III of the Credit Agreement and elsewhere in the Loan Documents are true and correct in all material respects (without duplication of any materiality qualifier contained therein), except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such date;
- (b) no Default or Event of Default has occurred and is continuing; and
- (c) the aggregate outstanding amount of Revolving Loans does not exceed the Maximum Revolving Loan Balance.



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CRYOLIFE, INC., as the Borrower Representative

By:

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

EXHIBIT 1.6  
TO  
CREDIT AGREEMENT

FORM OF NOTICE OF CONVERSION OR CONTINUATION

GENERAL ELECTRIC CAPITAL CORPORATION  
as Agent under the Credit Agreement referred to below

Attention:

Re: CryoLife, Inc. and its Subsidiaries (the "Borrowers")

Reference is made to the Credit Agreement, dated as of \_\_\_\_\_, 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrowers, CryoLife, Inc., as Borrower Representative, the other Credit Parties party thereto, the Lenders and L/C Issuers party thereto and General Electric Capital Corporation, as administrative agent for the Lenders and L/C Issuers. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower Representative, on behalf of Borrowers, hereby gives you irrevocable notice, pursuant to Section 1.6 of the Credit Agreement of its request for the following:

(a) a continuation, on \_\_\_\_\_, \_\_\_\_\_, as LIBOR Rate Loans having an Interest Period of \_\_\_\_\_ months of Revolving Loans in an aggregate outstanding principal amount of \$\_\_\_\_\_ having an Interest Period ending on the proposed date for such continuation;

(b) a conversion, on \_\_\_\_\_, \_\_\_\_\_, to LIBOR Rate Loans having an Interest Period of \_\_\_\_\_ months of Revolving Loans in an aggregate outstanding principal amount of \$\_\_\_\_\_; and

(c) a conversion, on \_\_\_\_\_, \_\_\_\_\_, to Base Rate Loans, of Revolving Loans in an aggregate outstanding principal amount of \$\_\_\_\_\_.

In connection herewith, the undersigned hereby certifies that, except as set forth on Schedule A attached hereto, no Default or Event of Default has occurred and is continuing on the date hereof, both before and after giving effect to any Loan to be made or Letter of Credit to be Issued on or before any date for any proposed conversion or continuation set forth above.

CRYOLIFE, INC., as the Borrower Representative

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

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EXHIBIT 2.1  
TO  
CREDIT AGREEMENT  
CLOSING CHECKLIST

(a) Documents. The Administrative Agent shall have received on or prior to the Closing Date each of the following, each dated the Closing Date unless otherwise agreed by the Agent, in form and substance satisfactory to the Agent and each Lender:

- (i) this Agreement duly executed by the Borrowers and a Note for each Lender conforming to the requirements set forth in Section 1.2;
- (ii) the Guaranty and Security Agreement, duly executed by each Credit Party, together with (A) copies of UCC, Patent, Trademark, Copyright and other appropriate search reports and of all effective prior filings listed therein, together with evidence of the termination of such prior filings and other documents with respect to the priority of the security interest of the Agent in the Collateral, in each case as may be reasonably requested by the Agent, (B) all documents representing all securities being pledged pursuant to such Guaranty and Security Agreement and related undated powers or endorsements duly executed in blank, (C) a perfection certificate from Borrowers, (D) Control Agreements that, in the reasonable judgment of the Agent, are required for the Credit Parties to comply with the Loan Documents as of the Closing Date, each duly executed by, in addition to the applicable Credit Party, the applicable financial institution and (E) a duly executed landlord waiver for the property located at 1655 Roberts Blvd, Kennesaw, Georgia 30144 and any other location in the United States at which the Credit Parties have any tangible property;
- (iii) a Share Charge, duly executed by CryoLife, pursuant to which it shall pledge 66% of the voting stock, and 10% of any non-voting stock, of CryoLife Europa, Ltd., together with such search reports and filings as Agent shall request;
- (iv) the Fee Letter, duly executed by the Borrowers;
- (v) duly executed favorable opinions of counsel to the Credit Parties, addressed to the Agent, the L/C Issuer and the Lenders and addressing such matters as the Agent may reasonably request;
- (vi) a copy of each Organization Document of each Credit Party that is on file with any Governmental Authority in any jurisdiction, certified as of a recent date by such Governmental Authority, together with, if applicable, certificates attesting to the good standing of such Credit Party in such jurisdiction and each other jurisdiction where such Credit Party is qualified to do business as a foreign entity or where such qualification is necessary (and, if appropriate in any such jurisdiction, related tax certificates);

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(vii) a certificate of the secretary or other officer of each Credit Party in charge of maintaining books and records of such Credit Party certifying as to (A) the names and signatures of each officer of such Credit Party authorized to execute and deliver any Loan Document, (B) the Organization Documents of such Credit Party attached to such certificate are complete and correct copies of such Organization Documents as in effect on the date of such certification (or, for any such Organization Document delivered pursuant to clause (v) above, that there have been no changes from such Organization Document so delivered) and (C) the resolutions of such Credit Party's board of directors or other appropriate governing body approving and authorizing the execution, delivery and performance of each Loan Document to which such Credit Party is a party;

(viii) a certificate of a Responsible Officer of the Borrower to the effect that (A) each condition set forth in Section 2.2 has been satisfied, and (B) each Credit Party is Solvent after giving effect to the initial Loans and Letters of Credit, the application of the proceeds thereof in accordance with Section 4.1 and the payment of all estimated legal, accounting and other fees and expenses related hereto and thereto;

(ix) insurance certificates in form and substance satisfactory to the Administrative Agent demonstrating that the insurance policies required by Section 4.6 are in full force and effect and have all endorsements required by such Section 4.6;

(x) duly executed originals of Trademark Security Agreements, Copyright Security Agreements and Patent Security Agreements, each dated the Closing Date and signed by each Credit Party which owns Trademarks, Copyrights and/or Patents, as applicable, all in form and substance reasonably satisfactory to Agent;

(xi) duly executed originals of a letter of direction from Borrower addressed to Agent, on behalf of itself and Lenders, with respect to the disbursement on the Closing Date of the proceeds of the Revolving Loan;

(xii) payoff letter regarding the payment in full of all Prior Indebtedness, together with releases and terminations of all Liens covering the Collateral other than Permitted Liens;

(xiii) unaudited financial statements for Borrower and its Subsidiaries for the fiscal year ending December 31, 2007, along with such projections as are requested by Agent;

(xiv) such other documents and information as any Lender may reasonably request.

(b) Fee and Expenses. There shall have been paid to the Agent, for the account of the Agent, its Related Persons, the L/C Issuer or any Lender, as the case may

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be, all fees and all reimbursements of costs or expenses, in each case due and payable under any Loan Document on or before the Closing Date.

(c) Consents. Each Credit Party shall have received all consents and authorizations required pursuant to any material Contractual Obligation with any other Person and shall have obtained all Permits of, and effected all notices to and filings with, any Governmental Authority, in each case, as may be necessary in connection with the consummation of the transactions contemplated in any Loan Document.

**EXHIBIT 4.2(b)**  
**COMPLIANCE CERTIFICATE**  
CryoLife, Inc.

Date: \_\_\_\_\_, 200\_

This Compliance Certificate (this "Certificate") is given by CryoLife, Inc., a Florida corporation (the "Borrower Representative"), pursuant to subsection 4.2(b) of that certain Credit Agreement dated as of \_\_\_\_\_, 2008 among Borrower Representative, CryoLife International, Inc. ("International"), CryoLife Acquisition Corporation ("Acquisition Corp"), AuraZyme Pharmaceuticals, Inc. ("AuraZyme") and together with Borrower Representative, International and Acquisition Corp, the "Borrowers"), the other Credit Parties party thereto, General Electric Capital Corporation, as administrative agent (in such capacity, "Agent"), as L/C Issuer and as a Lender, and the additional Lenders party thereto (as such agreement may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"). Capitalized terms used herein without definition shall have the meanings set forth in the Credit Agreement.

The officer executing this Certificate is a Responsible Officer of the Borrower Representative and as such is duly authorized to execute and deliver this Certificate on behalf of Borrowers. By executing this Certificate, such officer hereby certifies to Agent, Lenders and L/C Issuer, on behalf of Borrowers, that:

(a) the financial statements delivered with this Certificate in accordance with subsection 4.1(a), 4.1(b) and/or 4.1(c) of the Credit Agreement are correct and complete and fairly present, in all material respects, in accordance with GAAP the financial position and the results of operations of Borrowers and their Subsidiaries as of the dates of and for the periods covered by such financial statements (subject, in the case of interim financial statements, to normal year-end adjustments and the absence of footnote disclosure);

(b) to the best of such officer's knowledge, each Credit Party and each of their Subsidiaries, during the period covered by such financial statements, has observed and performed all of their respective covenants and other agreements in the Credit Agreement and the other Loan Documents to be observed, performed or satisfied by them, and such officer had not obtained knowledge of any Default or Event of Default **[except as specified on the written attachment hereto]**;

(c) Exhibit A hereto is a correct calculation of each of the financial covenants contained in Article VI of the Credit Agreement; and

(d) since the Closing Date and except as disclosed in prior Compliance Certificates delivered to Agent, no Credit Party and no Subsidiary of any Credit Party has:

(i) changed its legal name, identity, jurisdiction of incorporation, organization or formation or organizational structure or formed or acquired any Subsidiary except as follows:\_\_\_\_\_;

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(ii) acquired the assets of, or merged or consolidated with or into, any Person, except as follows: \_\_\_\_\_  
\_\_\_\_\_; or

(iii) changed its address or otherwise relocated or acquired fee simple title to any real property or entered into any real property leases, except as follows: \_\_\_\_\_.

IN WITNESS WHEREOF, Borrower Representative has caused this Certificate to be executed by one of its Responsible Officers this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

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

Note: Unless otherwise specified, all financial covenants are calculated for Borrowers and their Subsidiaries on a consolidated basis in accordance with GAAP and all calculations are without duplication.

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EXHIBIT A TO EXHIBIT 4.2(b)  
COMPLIANCE CERTIFICATE

**Covenant 6.1 Capital Expenditure Limit**

For purposes of Covenant 6.1, Capital Expenditures are defined as follows:

The aggregate of all expenditures and obligations, for the relevant test period set forth in Section 6.1 of the Credit Agreement, which should be capitalized under GAAP. \$ \_\_\_\_\_

Less: Net Proceeds from Dispositions and/or Events of Loss which a Borrower is permitted to reinvest pursuant to subsection 1.8(b) and which are included above \_\_\_\_\_

To the extent included above, amounts paid as the purchase price for a Target in a Permitted Acquisition \_\_\_\_\_

Capital Expenditures \_\_\_\_\_

Permitted Capital Expenditures (including carry forward of \$\_\_\_\_\_ from prior period) \_\_\_\_\_

In Compliance Yes/No



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**Covenant 6.2 Leverage Ratio**

Leverage Ratio is defined as follows:

Average of the sum of the aggregate balance of outstanding Revolving Loans as of the last day of each month in the twelve month (or shorter period commencing on the Closing Date) period ended on the date of measurement \_\_\_\_\_

Plus: Letter of Credit Obligations as of date of measurement \_\_\_\_\_

Principal portion of Capital Lease Obligations and Indebtedness secured by purchase money Liens as of date of measurement \_\_\_\_\_

Without duplication, all other Indebtedness of Credit Parties as of date of measurement (other than Indebtedness of the type described in clauses (e), (g), (h), (i) and (j) (other than with respect to clause (j), Guarantees of Indebtedness of others of the type not described in clauses (e), (g), (h) and (i) of the definition of Indebtedness) of the definition of Indebtedness) \_\_\_\_\_

Indebtedness

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

Adjusted EBITDA for the twelve month period ending on the date of measurement (per Covenant 6.3)

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

Leverage Ratio (Indebtedness (from above) divided by Adjusted EBITDA)

\_\_\_\_\_

Maximum Leverage Multiple

2.0:1.0

In Compliance

Yes/No

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**Covenant 6.3 Minimum EBITDA**

EBITDA is defined as follows:

Net income (or loss) for the applicable period of measurement of Borrowers and their Subsidiaries on a consolidated basis determined in accordance with GAAP, but excluding: (a) the income (or loss) of any Person which is not a Subsidiary of a Borrower, except to the extent of the amount of dividends or other distributions actually paid to a Borrower or any of its Subsidiaries in cash by such Person during such period and the payment of dividends or similar distributions by that Person is not at the time prohibited by operation of the terms of its charter or of any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Person; (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of a Borrower or is merged into or consolidated with a Borrower or any of its Subsidiaries or that Person's assets are acquired by a Borrower or any of its Subsidiaries; (c) the proceeds of any life insurance policy; (d) gains or losses from the sale, exchange, transfer or other disposition of Property or assets not in the Ordinary Course of Business of the Borrowers and their Subsidiaries, and related tax effects in accordance with GAAP; (e) any other extraordinary or non-recurring gains or losses of a Borrower or its Subsidiaries, and related tax effects in accordance with GAAP; and (f) interest income

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

Plus: All amounts deducted in calculating net income (or loss) for depreciation or amortization for such period

\_\_\_\_\_

Interest expense deducted in calculating net income (or loss) for such period

\_\_\_\_\_

All accrued taxes on or measured by income to the extent deducted in calculating net income (or loss) for such period

\_\_\_\_\_

All non-cash losses or expenses (or minus non-cash income or gain) included or deducted in calculating net income (or loss) for such period, excluding any non-cash loss or expense (a) that is an accrual of a reserve for a cash expenditure or payment to be made, or anticipated to be made, in a future period or (b) relating to a write-down, write off or reserve with respect to Accounts and Inventory

\_\_\_\_\_

\_\_\_\_\_

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Fees and expenses paid to Agent and/or Lenders in connection with the Loan Documents, to the extent deducted in calculating net income (or loss) for such period \_\_\_\_\_

EBITDA

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

Required Minimum EBITDA

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

In Compliance

Yes/No

Note: Other than non-cash charges related to stock compensation, no non-cash charges for Fiscal Year 2007 will be permitted as an add back to EBITDA.

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Calculation of Adjusted EBITDA

EBITDA for the applicable period of measurement: \$ \_\_\_\_\_

Plus: with respect to Targets owned by the Borrowers for which the Agent has received financial statements pursuant to subsection 4.1( [b] [c] ) for less than [twelve (12) months][four (4) quarters], Pro Forma EBITDA allocated to each [month][quarter] prior to the acquisition thereof included in the trailing [twelve (12) month][four (4) quarter] period for which Adjusted EBITDA is being calculated; **[If more than one Target has been acquired, Borrower Representative should attach calculation of Pro Forma EBITDA for each Target]** \$ \_\_\_\_\_

Minus: with respect to any Disposition consummated within the period in question, EBITDA attributable to the Subsidiary, profit centers, or other asset which is the subject of such Disposition from the beginning of such period until the date of consummation of such Disposition \$ \_\_\_\_\_

Adjusted EBITDA \$ \_\_\_\_\_

“Pro Forma EBITDA” means, with respect to any Target, EBITDA for such Target for the most recent twelve (12) month period preceding the acquisition thereof, adjusted by verifiable expense reductions, including excess owner compensation, if any, which are expected to be realized, in each case calculated on a month by month basis by the Borrowers and consented to by the Agent and Required Lenders

EXHIBIT 11.1(a)  
TO  
CREDIT AGREEMENT  
FORM OF ASSIGNMENT

This ASSIGNMENT, dated as of the Effective Date, is entered into between \_\_\_\_\_ (“the Assignor”) and \_\_\_\_\_ (“the Assignee”).

The parties hereto hereby agree as follows:

**Borrowers:** CryoLife, Inc., a Florida corporation and certain of its Subsidiaries (together, the “Borrowers”)

**Agent:** General Electric Capital Corporation, as administrative agent for the Lenders and L/C Issuers (in such capacity and together with its successors and permitted assigns, the “Agent”)

**Credit Agreement:** Credit Agreement, dated as of \_\_\_\_\_, 2008, among the Borrowers, CryoLife, Inc., as Borrower Representative, the other Credit Parties party thereto, the Lenders and L/C Issuers party thereto and the Agent (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”; capitalized terms used herein without definition are used as defined in the Credit Agreement)

[Trade Date: \_\_\_\_\_, \_\_\_\_]<sup>1</sup>

Effective Date: \_\_\_\_\_, \_\_\_\_<sup>2</sup>

<sup>1</sup> Insert for informational purposes only if needed to determine other arrangements between the assignor and the assignee.

<sup>2</sup> To be filled out by Agent upon entry in the Register.

<u>Loan/ Commitment Assigned</u>	<u>Aggregate amount of Commitments or principal amount of Loans for all Lenders<sup>5</sup></u>	<u>Aggregate amount of Commitments<sup>3</sup> or principal amount of Loans Assigned<sup>4</sup></u>	<u>Percentage Assigned<sup>5</sup></u>
Revolver	\$ _____	\$ _____	_____%

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

<sup>3</sup> Including Revolving Loans and interests, participations and obligations to participate in Letter of Credit Obligations.

<sup>4</sup> Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date. The aggregate amounts are inserted for informational purposes only to help in calculating the percentages assigned which, themselves, are for informational purposes only.

<sup>5</sup> Set forth, to at least 9 decimals, the Assigned Interest as a percentage of the aggregate Commitment. This percentage is set forth for informational purposes only and is not intended to be binding. The assignments are based on the amounts assigned not on the percentages listed in this column.

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Section 1. Assignment. Assignor hereby sells and assigns to Assignee, and Assignee hereby purchases and assumes from Assignor, Assignor's rights and obligations in its capacity as Lender under the Credit Agreement (including Liabilities owing to or by Assignor thereunder) and the other Loan Documents, in each case to the extent related to the amounts identified above (the "Assigned Interest").

Section 2. Representations, Warranties and Covenants of Assignors. Assignor (a) represents and warrants to Assignee and the Agent that (i) it has full power and authority, and has taken all actions necessary for it, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and (ii) it is the legal and beneficial owner of its Assigned Interest and that such Assigned Interest is free and clear of any Lien and other adverse claims and (iii) by executing, signing and delivering this assignment via ClearPar® or any other electronic settlement system designated by the Agent, the Person signing, executing and delivering this Assignment on behalf of the Assignor is a duly authorized signatory for the Assignor and is authorized to execute, sign and deliver this Agreement, (b) makes no other representation or warranty and assumes no responsibility, including with respect to the aggregate amount of the Loans and Commitments, the percentage of the Loans and Commitments represented by the amounts assigned, any statements, representations and warranties made in or in connection with any Loan Document or any other document or information furnished pursuant thereto, the execution, legality, validity, enforceability or genuineness of any Loan Document or any document or information provided in connection therewith and the existence, nature or value of any Collateral, (c) assumes no responsibility (and makes no representation or warranty) with respect to the financial condition of any Credit Party or the performance or nonperformance by any Credit Party of any obligation under any Loan Document or any document provided in connection therewith and (d) attaches any Notes held by it evidencing at least in part the Assigned Interest of such Assignor (or, if applicable, an affidavit of loss or similar affidavit therefor) and requests that the Agent exchange such Notes for new Notes in accordance with Section 1.2 of the Credit Agreement.

Section 3. Representations, Warranties and Covenants of Assignees. Assignee (a) represents and warrants to Assignor and the Agent that (i) it has full power and authority, and has taken all actions necessary for Assignee, to execute and deliver this Assignment and to consummate the transactions contemplated hereby, (ii) it is [**not**] an Affiliate or an Approved Fund of a Lender and (iii) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest assigned to it hereunder and either Assignee or the Person exercising discretion in making the decision for such assignment is experienced in acquiring assets of such type, (iv) by executing, signing and delivering this Assignment via ClearPar® or any other electronic settlement system designated by the Administrative Agent, the Person signing, executing and delivering this Assignment on behalf of the Assignor is a duly authorized signatory for the Assignor and is authorized to execute, sign and deliver this Agreement (b) appoints and authorizes the Agent to take such action as administrative agent on its behalf and to exercise such powers under the Loan Documents as are delegated to the Agent by the terms thereof, together with such powers as are reasonably incidental thereto, (c) shall perform in accordance with their terms all obligations that, by the terms of the Loan Documents, are required to be performed by it as a Lender, (d) confirms it has received such documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and shall continue to make its own credit decisions in taking or not taking

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any action under any Loan Document independently and without reliance upon Agent, any L/C Issuer, any Lender or any other Indemnitee and based on such documents and information as it shall deem appropriate at the time, (e) acknowledges and agrees that, as a Lender, it may receive material non-public information and confidential information concerning the Credit Parties and their Affiliates and their Stock and agrees to use such information in accordance with Section 9.10 of the Credit Agreement, (f) specifies as its applicable lending offices (and addresses for notices) the offices at the addresses set forth beneath its name on the signature pages hereof, (g) shall pay to the Agent an assignment fee in the amount of \$3,500 to the extent such fee is required to be paid under Section 9.9 of the Credit Agreement and (h) to the extent required pursuant to Section 10.1(f) of the Credit Agreement, attaches two completed originals of Forms W-8ECI, W-8BEN, W-8IMY or W-9 and, if applicable, a portfolio interest exemption certificate.

Section 4. Determination of Effective Date; Register. Following the due execution and delivery of this Assignment by Assignor, Assignee and, to the extent required by Section 9.9 of the Credit Agreement, the Borrowers, this Assignment (including its attachments) will be delivered to the Agent for its acceptance and recording in the Register. The effective date of this Assignment (the “Effective Date”) shall be the later of (i) the acceptance of this Assignment by the Agent and (ii) the recording of this Assignment in the Register. The Agent shall insert the Effective Date when known in the space provided therefor at the beginning of this Assignment.

Section 5. Effect. As of the Effective Date, (a) Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment, have the rights and obligations of a Lender under the Credit Agreement and (b) Assignor shall, to the extent provided in this Assignment, relinquish its rights (except those surviving the termination of the Commitments and payment in full of the Obligations) and be released from its obligations under the Loan Documents other than those obligations relating to events and circumstances occurring prior to the Effective Date.

Section 6. Distribution of Payments. On and after the Effective Date, the Agent shall make all payments under the Loan Documents in respect of each Assigned Interest (a) in the case of amounts accrued to but excluding the Effective Date, to Assignor and (b) otherwise, to Assignee.

Section 7. Miscellaneous. (a) The parties hereto, to the extent permitted by law, waive all right to trial by jury in any action, suit, or proceeding arising out of, in connection with or relating to, this Assignment and any other transaction contemplated hereby. This waiver applies to any action, suit or proceeding whether sounding in tort, contract or otherwise.

(b) On and after the Effective Date, this Assignment shall be binding upon, and inure to the benefit of, the Assignor, Assignee, the Agent and their Related Persons and their successors and assigns.

(c) This Assignment shall be governed by, and be construed and interpreted in accordance with, the law of the State of New York.



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(d) This Assignment may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(e) Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Assignment by facsimile transmission or Electronic Transmission shall be as effective as delivery of a manually executed counterpart of this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed by their respective officers thereunto duly authorized, as of the date first above written.

[NAME OF ASSIGNOR]  
as Assignor

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

[NAME OF ASSIGNEE]  
as Assignee

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

Lending Office for LIBOR Rate Loans:

[Insert Address (including contact name, fax number and e-mail address)]

Lending Office (and address for notices) for any other purpose:

[Insert Address (including contact name, fax number and e-mail address)]

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ACCEPTED and AGREED  
this \_\_\_\_ day of \_\_\_\_\_:

GENERAL ELECTRIC CAPITAL CORPORATION  
as Agent

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

CRYOLIFE, INC.<sup>7</sup>

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

<sup>7</sup> Include only if required pursuant to Section 9.9 of the Credit Agreement.

EXHIBIT 11.1(c)  
TO  
CREDIT AGREEMENT

FORM OF REVOLVING LOAN NOTE

Lender: [NAME OF LENDER]  
Principal Amount: \$ \_\_\_\_\_

New York, New York  
\_\_\_\_\_, 20\_\_

FOR VALUE RECEIVED, the undersigned, CRYOLIFE, INC., a Florida corporation, CRYOLIFE ACQUISITION CORPORATION, a Florida corporation, AURAZYME PHARMACEUTICALS, INC., a Nevada corporation, and CRYOLIFE INTERNATIONAL, INC., a Florida corporation (together, the "Borrowers"), hereby jointly and severally promise to pay to the order of the Lender set forth above (the "Lender") the Principal Amount set forth above, or, if less, the aggregate unpaid principal amount of all Revolving Loans (as defined in the Credit Agreement referred to below) of the Lender to the Borrowers, payable at such times and in such amounts as are specified in the Credit Agreement.

The Borrowers jointly and severally promise to pay interest on the unpaid principal amount of the Revolving Loans from the date made until such principal amount is paid in full, payable at such times and at such interest rates as are specified in the Credit Agreement. Demand, diligence, presentment, protest and notice of non-payment and protest are hereby waived by the Borrower.

Both principal and interest are payable in Dollars to General Electric Capital Corporation, as Agent, at the address set forth in the Credit Agreement, in immediately available funds.

This Note is one of the Notes referred to in, and is entitled to the benefits of, the Credit Agreement, dated as of \_\_\_\_\_, 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrowers, CryoLife, Inc., as Borrower Representative, the other Credit Parties party thereto, the Lenders and the L/C Issuers party thereto and General Electric Capital Corporation, as administrative agent for the Lenders and L/C Issuers. Capitalized terms used herein without definition are used as defined in the Credit Agreement.

The Credit Agreement, among other things, (a) provides for the making of Revolving Loans by the Lender to the Borrowers in an aggregate amount not to exceed at any time outstanding the Principal Amount set forth above, the indebtedness of the Borrowers resulting from such Revolving Loans being evidenced by this Note and (b) contains provisions for acceleration of the maturity of the unpaid principal amount of this Note upon the happening of certain stated events and also for prepayments on account of the principal hereof prior to the maturity hereof upon the terms and conditions specified therein.

This Note is a Loan Document, is entitled to the benefits of the Loan Documents and is subject to certain provisions of the Credit Agreement, including Sections 9.18(b) (Submission to Jurisdiction), 9.19 (Waiver of Jury Trial), 9.23 (Joint and Several) and 11.2 (Other Interpretive Provisions) thereof.

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This Note shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each Borrower has caused this Note to be executed and delivered by its duly authorized officer as of the day and year and at the place set forth above.

CRYOLIFE, INC.

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

CRYOLIFE ACQUISITION CORPORATION

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

CRYOLIFE INTERNATIONAL, INC.

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

AURAZYME PHARMACEUTICALS, INC.

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

[ADD OTHER BORROWERS, IF ANY]

EXHIBIT 11.1(d)  
TO  
CREDIT AGREEMENT

FORM OF NOTICE OF BORROWING

GENERAL ELECTRIC CAPITAL CORPORATION  
as Agent under the Credit Agreement referred to below

Attention:

Re: CryoLife, Inc. and certain of its Subsidiaries (the "Borrowers")

Reference is made to the Credit Agreement, dated as of \_\_\_\_\_, 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrowers, CryoLife, Inc., as Borrower Representative, the other Credit Parties, the Lenders and L/C Issuers party thereto and General Electric Capital Corporation, as administrative agent for such Lenders and L/C Issuers. Capitalized terms used herein without definition are used as defined in the Credit Agreement.

The Borrower Representative, on behalf of Borrowers, hereby gives you irrevocable notice, pursuant to Section 1.5 of the Credit Agreement of its request of a Borrowing (the "Proposed Borrowing") under the Credit Agreement and, in that connection, sets forth the following information:

(a) The date of the Proposed Borrowing is \_\_\_\_\_, \_\_\_\_\_ (the "Funding Date").

(b) The aggregate principal amount of requested Revolving Loans is \$ \_\_\_\_\_, of which \$ \_\_\_\_\_ consists of Base Rate Loans and \$ \_\_\_\_\_ consists of LIBOR Rate Loans having an initial Interest Period of \_\_\_\_\_ months.

The undersigned hereby certifies that, except as set forth on Schedule A attached hereto, the following statements are true on the date hereof and will be true on the Funding Date, both before and after giving effect to the Proposed Borrowing and any other Loan to be made or Letter of Credit to be Issued on or before the Funding Date:

(a) the representations and warranties set forth in Article III of the Credit Agreement and elsewhere in the Loan Documents are true and correct in all material respects (without duplication of any materiality qualifier contained therein), except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such date;

(b) no Default or Event of Default has occurred and is continuing; and

(c) the aggregate outstanding amount of Revolving Loans does not exceed the Maximum Revolving Loan Balance.

CRYOLIFE, INC., as the Borrower Representative

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

FISCAL YEAR \_\_\_\_\_  
BONUS AGREEMENT  
UNDER THE  
2007 EXECUTIVE INCENTIVE PLAN

This CRYOLIFE, INC. FISCAL YEAR \_\_\_\_\_ EXECUTIVE INCENTIVE PLAN BONUS AGREEMENT (this "*Agreement*") was adopted by the Plan Committee pursuant to the CryoLife, Inc. (the "*Company*") 2007 Executive Incentive Plan (the "*Plan*") (a copy of which is attached as **Exhibit 1**) and agreed to by the Company and \_\_\_\_\_ ("*Executive*") effective \_\_\_\_\_, 20\_\_\_. This Agreement is effective for the fiscal year ending December 31, 20\_\_\_ (the "*Plan Year*"). Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Plan.

**1. Calculation of Bonus.** Subject to the further adjustments, limitations and additions provided for in the Plan and this Agreement, Executive's bonus for the \_\_\_\_\_ fiscal year shall be computed as set forth on **Exhibit 2** attached hereto.

**2. Term of Agreement.** This Agreement shall be effective only for the Plan Year (i.e., the fiscal year ending December 31, 20\_\_\_).

**3. No Employment Arrangement Implied.** Nothing in this Agreement or the Plan shall imply any right of Employment for Executive, and except as set forth in Section 10 of the Plan with respect to a Change of Control or as otherwise determined by the Committee, in its discretion, or contained in any other agreement between Executive and the Company, which shall not be affected hereby, if Executive is terminated, voluntarily or involuntarily, with or without cause, prior to the end of the Plan Year, Executive shall not be entitled to any bonus for the Plan Year regardless of whether or not such bonus had been or would have been earned in whole or in part, but any unpaid bonus earned with respect to a prior fiscal year shall not be affected.

**4. Plan Provisions shall Govern.** This Agreement is subject to and governed by the Plan and in the case of any conflict between the terms of this Agreement and the contents of the Plan, the terms of the Plan will control.

**5. Governing Law.** The interpretation, construction and performance of this Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of Georgia without regard to the principle of conflict of laws.

**6. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

**7. Severability.** Provided the other provisions of this Agreement do not frustrate the purpose and intent of the law, in the event that any portion of this Agreement shall be determined to be invalid or unenforceable to any extent, the same shall to that extent be deemed severable from this Agreement, and the invalidity or unenforceability thereof shall not affect the validity and enforceability of the remaining portion of this Agreement.

**8. Amendment and Termination.** The Company may amend this Agreement, at any time prior to the payment of the bonus, without the approval of Executive. Notwithstanding anything to the contrary contained in this Agreement, the Company may terminate this Agreement at any time prior to the payment of the bonus and Executive shall not be entitled to any bonus under this Agreement for the Plan Year regardless of when this Agreement is terminated.



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IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by a duly authorized officer of the Company and Executive has executed this Agreement as of the day and year first written above.

CRYOLIFE, INC.

EXECUTIVE

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

\_\_\_\_\_  
\_\_\_\_\_

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**EXHIBIT 1**

“PLAN”

**EXHIBIT 2**

Executive may earn up to approximately \_\_\_% of Executive's base salary of \$\_\_\_\_\_ based on attaining specified adjusted revenue targets, up to approximately \_\_\_\_\_% of base salary based on achieving specified adjusted net earnings targets, and up to approximately \_\_\_\_\_% of base salary based on Executive's personal performance review. No bonus is payable in a given category if the specified minimum set forth below in that category is not obtained. In addition, Executive may earn from \_\_\_% to \_\_\_% of base salary if additional adjusted net earnings targets are met. Subject to the provisions of the Plan and the discretion of the Committee, all bonuses will be paid \_\_\_\_\_% in cash and \_\_\_\_\_% in Company common stock, valued at the closing price of the common stock on the New York Stock Exchange on the date of Compensation Committee authorization of payment. Details regarding bonus calculation are set forth below (data points shown in the tables, other than the minimum and maximum levels, are representative only, and a pro rata portion of the bonus shall be earned for performance achieved that falls between the data points shown):

**Adjusted Revenues\***

Adjusted Revenue* Target (in thousands)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Bonus Payable	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

\* Adjusted Revenues are fiscal \_\_\_\_\_ Company revenues from (i) cardiac and vascular allograft tissue processing, (ii) BioGlue and related product sales, and (iii) CardioWrap sales.

**Adjusted Net Income\***

<b>Adjusted Net Income* Target (in thousands)</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Bonus Payable</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

\* Adjusted Net Income is GAAP net income for \_\_\_\_\_, exclusive of interest expense, interest income, stock compensation expense (other than stock compensation expense related to the bonus plan), other income and expense and income taxes.

**Personal Performance**

<b>Personal Performance Rating</b>	<b>4 or higher</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>Bonus Payable</b>	\$ _____	\$ _____	\$ _____	\$ _____

**Additional Bonus Related to Adjusted Net Income\***

<b>Adjusted Net Income* Target (in thousands)</b>	\$ _____	\$ _____	\$ _____
<b>Bonus Payable</b>	\$ _____	\$ _____	\$ _____

**SUMMARY OF REVISED SALARIES FOR  
NAMED EXECUTIVE OFFICERS  
(As of April 21, 2008)**

The following summarizes the current salaries received by the Company's Chief Executive Officer and the other officers who are named in the Summary Compensation Table in the proxy statement for the Company's upcoming Annual Meeting of Stockholders (collectively, the "Named Executive Officers"). These revised salaries were disclosed in the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 25, 2008.

The executive officers of the Company serve at the discretion of the Board of Directors. The Compensation Committee of the Board reviews and determines the salaries that are paid to the Company's executive officers, including the Named Executive Officers. The current salaries of the Named Executive Officers are as follows:

Steven G. Anderson <i>Chairman, President and Chief Executive Officer</i>	\$619,229
D. Ashley Lee <i>Executive Vice President, Chief Operating Officer and Chief Financial Officer</i>	\$350,897
Albert E. Heacox, Ph.D. <i>Senior Vice President, Research and Development</i>	\$281,589
Gerald B. Seery <i>Senior Vice President, Sales and Marketing</i>	\$275,000
David M. Fronk <i>Vice President, Regulatory Affairs and Quality Assurance</i>	\$254,400

**CERTIFICATIONS**

I, Steven G. Anderson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of CryoLife, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report:
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 30, 2008

/s/ STEVEN G. ANDERSON

Chairman, President, and Chief Executive Officer

I, David Ashley Lee, certify that:

1. I have reviewed this quarterly report on Form 10-Q of CryoLife, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report:
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 30, 2008

/s/ D. ASHLEY LEE

Executive Vice President,  
Chief Operating Officer, and Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of CryoLife Inc. (the "Company") on Form 10-Q for the quarter ending March 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of Steven G. Anderson, the Chairman, President, and Chief Executive Officer of the Company, and David Ashley Lee, the Executive Vice President, Chief Operating Officer, and Chief Financial Officer of the Company, hereby certifies, pursuant to and for purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ STEVEN G. ANDERSON  
STEVEN G. ANDERSON  
Chairman, President, and Chief Executive Officer  
April 30, 2008

/s/ D. ASHLEY LEE  
D. ASHLEY LEE  
Executive Vice President,  
Chief Operating Officer, and Chief Financial Officer  
April 30, 2008