

AASTROM BIOSCIENCES INC

FORM 10-Q/A (Amended Quarterly Report)

Filed 12/3/2004 For Period Ending 9/30/2004

Address	24 FRANKL LLOYD WRIGHT DR PO BOX 376 ANN ARBOR, Michigan 48106
Telephone	734-930-5555
CIK	0000887359
Industry	Biotechnology & Drugs
Sector	Healthcare
Fiscal Year	06/30

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q
(Amendment No. 1)

(Mark One)

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2004, OR
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE TRANSITION PERIOD FROM ___ TO ___

Commission file number 0-22025

AASTROM BIOSCIENCES, INC.

(Exact name of registrant as specified in its charter)

Michigan

94-3096597

(State or other jurisdiction of
incorporation or organization)

(I.R.S. employer
identification no.)

24 Frank Lloyd Wright Dr.
P.O. Box 376
Ann Arbor, Michigan

48106

(Address of principal executive offices)

(Zip code)

(734) 930-5555

(Registrant's telephone number, including area code)

(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 an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes - No -

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

COMMON STOCK, NO PAR VALUE
(Class)

92,223,100
Outstanding at November 5, 2004

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EXPLANATORY NOTE

This amended quarterly report on Form 10-Q/A is being filed to amend Part II, Item 6 of the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2004 for the sole purpose of adding Exhibits 10.80, 10.81 and 10.82 that were inadvertently omitted from the original filing. No other modifications have been made to Part II, Item 6 or to any other portion of the Company's Form 10-Q as originally filed. This amendment to our Form 10-Q does not reflect events occurring after the original filing of the Form 10-Q or modify or update those disclosures affected by subsequent events.

PART II – OTHER INFORMATION

Item 6. Exhibits

See Exhibit Index.

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.

AASTROM BIOSCIENCES, INC.

Date: December 2, 2004

/s/ R. Douglas Armstrong

R. Douglas Armstrong, Ph.D.
Chief Executive Officer and Chairman
(Principal Executive Officer)

Date: December 2, 2004

/s/ Alan M. Wright

Alan M. Wright
Sr. Vice President Administrative & Financial
Operations, Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBITS

Exhibit Number	Description
3.1 *	Restated Articles of Incorporation of the Company, as amended
3.2 **	Bylaws of the Company
10.78	Employment Agreement with James Cour(1)
10.79	Employment Agreement with Janet Hock(1)
10.80	Employment Agreement with R. Douglas Armstrong
10.81	Amended and Restated Employment Agreement with Brian S. Hampson
10.82	2004 Equity Incentive Plan
31	Rules 13a-14(a) and 15(d)-14a Certifications
32	Section 1350 Certifications(1)

(1) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2004.

* Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003.

** Incorporated by reference to the Company's Registration Statement on Form S-1 (No. 333-15415), declared effective on February 3, 1997.

Exhibit 10.80

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is entered into as of August 27, 2004, by and between AASTROM BIOSCIENCES, INC., a Michigan corporation ("Employer"), and R. DOUGLAS ARMSTRONG, PH.D. ("Employee").

RECITALS

A. Employer and Employee are parties to certain written employment and/or benefits-related agreements as follows: (i) Employee Retention and Severance Agreement dated February 9, 1999; (ii) Pay to Stay Severance Agreement dated as of October 15, 1999; and (iii) Agreement Regarding Pay-To-Stay dated as of April 28, 2000 (collectively, the "Written Agreements").

B. Employer is also entitled to certain employee benefits as have been approved by Employer's Board of Directors from time to time during the course of Employee's employment (collectively, the "Additional Benefits").

C. Employer and Employee desire to incorporate into a single document the terms and conditions of the Written Agreements and the Additional Benefits as set forth herein.

D. Employer and Employee intend that this Agreement shall supersede in their entirety the Written Agreements and the Additional Benefits, which Written Agreements and Additional Benefits, and any other written or oral employment and/or benefits-related agreement, are, by this Agreement, hereby terminated in their entirety.

AGREEMENTS

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

"Accountants" shall be defined as set forth in Section 6.3.

"Acquiring Corporation" shall be as defined as set forth in Section 9.2.

"Cash Severance Payment" shall be defined as set forth in Section 6.3.

"Cause" means the occurrence of any of the following events, as determined by the Board of Directors of Employer, in good faith:

(i) Employee's theft, material act of dishonesty or fraud, or intentional falsification of any records of Employer;

(ii) Employee's breach of the Aastrom Biosciences, Inc. Restated Employee Proprietary Information and Invention Agreement or any other agreement with the Employer covering the use or disclosure of confidential or proprietary information of Employer, the ownership of intellectual property or restrictions on competition;

(iii) Employee's gross negligence or willful misconduct in the performance of Employee's assigned duties (but not mere unsatisfactory performance); or

(iv) Employee's conviction (including any plea of guilty or nolo contendere) of a crime causing material harm to the reputation or standing of Employer or which materially impairs Employee's ability to perform his duties for Employer.

"Change in Control" shall mean the occurrence of any of the following:

(i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), other than a trustee or other fiduciary holding securities of Employer under an employee benefit plan of Employer, becomes the "beneficial owner" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Employer representing 50% or more of (A) the outstanding shares of common stock of Employer or (B) the combined voting power of Employer's then-outstanding securities;

(ii) Employer is party to a merger or consolidation which results in the holders of voting securities of Employer outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least 50% of the combined voting power of the voting securities of Employer or such surviving entity outstanding immediately after such merger or consolidation;

(iii) the sale or disposition of all or substantially all of Employer's assets (or consummation of any transaction having similar effect);

(iv) a change in the composition of the Board of Directors of Employer within a three-year period as a result of which fewer than a majority of the directors are Incumbent Directors.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor thereto, and any applicable regulations promulgated thereunder.

"Disability" means that:

(i) Employee has been incapacitated by bodily injury, illness or disease so as to be prevented thereby from effectively performing Employee's duties;

(ii) Such incapacity shall have continued for a period of six (6) consecutive months; and

(iii) Such incapacity will, in the opinion of a qualified physician, be long-term, which shall mean a period exceeding twelve (12) months.

"Employer" means Aastrom Biosciences, Inc., a Michigan corporation, and, following a Change in Control, any Successor that agrees to assume all of the terms and provisions of this Agreement, or a Successor which otherwise becomes bound by operation of law to this Agreement.

"Incumbent Director" means a director who either (i) is a director of Employer as of the Effective Date of this Agreement, or (ii) is elected, or nominated for election, to the Board of Directors with the affirmative votes of at least a majority of the Incumbent Directors at the time of such election or nomination.

"Successor" means Employer and any successor or assign to substantially all of its business and/or assets.

"Termination Upon Change in Control" means the occurrence of either of the following events:

(i) termination by Employer of Employee's employment for any reason other than Cause during the period commencing thirty (30) days prior to the date that Employer first considered conducting negotiations leading to the Change in Control event, and ending on the date which is twelve (12) months after the Change in Control; or

(ii) any resignation by the Employee from all capacities in which Employee is then rendering service to Employer within twelve (12) months following a Change in Control;

provided, however, that Termination Upon Change in Control shall not include any termination of Employee's employment which is (1) for Cause, or (2) a result of Employee's death or Disability.

2. EMPLOYMENT. Employer hereby engages Employee, and Employee hereby accepts such engagement, upon the terms and conditions set forth herein.

3. DUTIES. Employee is engaged as President and Chief Executive Officer. Employee shall perform faithfully and diligently the duties customarily performed by persons in the position for which employee is engaged, together with such other reasonable and appropriate duties as Employer shall designate from time to time. Employee shall devote Employee's full business time and efforts to the rendition of such services and to the performance of such duties. As a full-time employee of Employer, Employee shall not be entitled to provide consulting services or other business or scientific services to any other party, without the prior written consent of Employer.

4. COMPENSATION AND FRINGE BENEFITS.

4.1 BASE SALARY. During the term of this Agreement, as compensation for the proper and satisfactory performance of all duties to be performed by Employee hereunder, Employer shall pay to Employee a salary of Three Hundred Sixteen Thousand Five Hundred Seventy Two and 00/100 Dollars (\$316,572.00) per year, payable in arrears in equal bi-weekly installments, less required deductions for state and federal withholding tax, Social Security and all other employee taxes and payroll deductions. The base salary shall be subject to review and adjustment on an annual basis at the sole discretion of the Board of Directors of the Company or committee of the Board of Directors, with the first such review being July 1, 2005.

4.2 CUSTOMARY FRINGE BENEFITS. Employee shall be entitled to such fringe benefits as Employer customarily makes available to employees of Employer engaged in the same or similar

position as Employee ("Fringe Benefits"). Such Fringe Benefits may include vacation leave, sick leave, and health insurance coverage. Employer reserves the right to change the Fringe Benefits on a prospective basis, at any time, effective upon delivery of written notice to Employee.

4.3 DISABILITY COVERAGE. Employee shall be entitled to long-term disability insurance coverage to the greatest extent available for purchase by the Employer, up to an annual benefit not greater than the Employee's then current base salary.

4.4 VACATION. Employee is entitled to twenty (20) days of vacation in each calendar year.

4.5 ACCUMULATION. Employee shall earn and accumulate unused vacation and sick leave in accordance with the Company's policy in effect from time to time. Further, Employee shall not be entitled to receive payments in lieu of Fringe Benefits, other than for unused vacation leave earned and accumulated at the time the employment relationship terminates.

5. TERM.

5.1 COMMENCEMENT. The employment relationship pursuant to this Agreement shall commence on the date as of which this Agreement was executed as set forth above.

5.2 TERMINATION AT WILL. Employer and Employee acknowledge and agree that Employer's employment currently is "at will" and that their employment relationship may be terminated by either party at any time, with or without Cause.

6. PAYMENTS UPON TERMINATION.

6.1 PAYMENT OF COMPENSATION UPON TERMINATION. Upon termination of Employee's employment with the Company, Employee shall be entitled to be paid his base salary through the effective date of such termination, as full compensation for any and all claims of Employee under this Agreement or otherwise, except as set forth in Section 6.2, 6.3 and 7.

6.2 PAYMENT OF SEVERANCE UPON TERMINATION.

6.2.1 SEVERANCE. In the event Employee's employment is terminated by Employer without Cause, then Employer shall pay to Employee a lump sum severance payment equal to eighteen (18) months of Employee's then current salary rate, less customary payroll deductions, unless Employee is also entitled to a payment of severance under Section 6.3, in which case no severance shall be payable under this Section 6.2.1.

6.2.2 RELOCATION COSTS. In the event Employee's employment is terminated by Employer without Cause, or the Employee, at the request of the Company, relocates his principal place of employment more than 50 miles from Ann Arbor, Michigan, then Employer shall reimburse Employee for the costs for Employee to relocate his principal place of employment to another city in the United States, up to an aggregate of \$50,000 of relocation costs, including closing costs on the sale of Employee's Michigan residence, payable upon forwarding of standard relocation receipts that are not being reimbursed by another third party or provided as a

relocation allowance associated with a new position, to the extent said relocation costs are incurred within one year following the termination of employment. Any tax payable with respect to said relocation cost reimbursement shall be the responsibility of Employee.

6.2.3 CONTINUED MEDICAL COVERAGE. In the event Employee's employment is terminated, then Employee shall be entitled to elect continued medical insurance coverage in accordance with applicable provisions of the Consolidated Budget Reconciliation Act of 1985 ("COBRA").

6.3 PAYMENT OF SEVERANCE UPON TERMINATION UPON CHANGE IN CONTROL. In the event of Employee's Termination Upon Change in Control, in addition to all compensation and benefits earned by Employee through the date of Employee's termination of employment, Employee shall be paid a lump sum payment (the "Cash Severance Payment") equal to the maximum whole dollar amount which, when added to all other compensation and benefits treated as parachute payments, if any, under Section 280G of the Code, does not result in any compensation or benefit pursuant to this Agreement becoming subject to an excise tax pursuant to Section 4999 of the Code. Unless Employer and Employee otherwise agree in writing, within thirty (30) days after the date of the Employee's termination of employment, the amount of the Cash Severance Payment shall be determined and reported in writing to Employer and Employee by independent public accountants agreed to by Employer and Employee (the "Accountants"). Such determination by the Accountants shall be conclusive and binding upon Employer and Employee for all purposes. For the purposes of such determination, the Accountants may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. Employer and Employee shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make their required determination. The Company shall bear all fees and expenses the Accountants may reasonably charge in connection with their services contemplated by this Section 6.3. Employer shall pay the Cash Severance Payment to the Employee within ten (10) days after the date of the Accountants' report of their determination.

6.4 RIGHT TO TERMINATE. Employer retains and reserves the right to terminate the employment of Employee at any time, with or without Cause. For avoidance of doubt, said severance payment shall not be owed if Employee's termination is for Cause, or if Employee voluntarily terminates employment for reasons other than as specified in Section 6.3 hereof.

6.5 NO LIABILITY. No director, officer or shareholder of Employer shall have any personal liability for the payment of any severance to Employee.

6.6 RESIGNATION. Employee's entitlement to any compensation or benefits under this Section 6 (other than compensation and benefits earned by Employee through the date of Employee's termination of employment) is conditioned upon Employee's resignation from all capacities in which Employee is then rendering services to Employer, including from the Board of Directors and any committees thereof on which Employee serves.

6.7 EXCLUSIVE REMEDY. The parties acknowledge and agree that the payments specified in this Agreement constitute Employee's sole and exclusive remedy for any alleged injury or other damages arising out of a termination of Employee's employment under

circumstances described herein. Accordingly, as a condition to receipt of said payments, Employee shall sign a customary and reasonable release form, in the form attached hereto as Exhibit A, pursuant to which Employee acknowledges and agrees that Employee has no claims against Employer or any director, officer, shareholder or agent of Employer, or any successor in interest to Employer, with respect to any employment matters or termination of employment (excepting only for accrued salary, accrued vacation leave and reimbursement of customary business expenses incurred on behalf of Employer, all in the ordinary course of business, or any incentive sale bonus or relocation bonus to which Employee may be entitled, if any).

7. INCENTIVE SALE BONUS.

7.1 GENERAL. In the event of a Change in Control described in subsection (ii) or (iii) of the definition of Change in Control, then Employee shall be entitled to participate in an incentive sale bonus pool (the "Bonus Pool").

7.2 FUNDING OF BONUS POOL. The Bonus Pool shall be funded by a portion of the net proceeds realized by Employer from a Change in Control described in subsection (ii) or (iii) of the definition of Change in Control, after all liabilities of Employer are satisfied. Said net proceeds may consist of cash, stock or other consideration when and as paid by the acquirer. The Bonus Pool shall be funded in increments consisting of 30% of the first million of net proceeds, 25% of the second million of net proceeds, 15% of the third million of net proceeds, and 10% of all additional net proceeds up to an aggregate of \$25 million of net proceeds.

7.3 EMPLOYEE SHARE OF BONUS POOL. Employee shall be entitled to a 50.0% share of the Bonus Pool.

7.4 VOLUNTARY TERMINATION BY EMPLOYEE. In the event that Employee voluntarily terminates employment with Employer prior to the completion of a Change in Control described in subsection (ii) or (iii) of the definition of Change in Control, then Employee shall not be entitled to any share of the Bonus Pool. Alternatively, if Employer decides to terminate Employee for reasons other than "Cause", then Employee shall be entitled to receive Employee's designated share of the Bonus Pool when it becomes payable.

8. RELOCATION BONUS. In the event that Employer requests Employee to relocate his principal place of employment more than 50 miles from Ann Arbor, Michigan and Employee stays employed with Employer for one (1) year after such relocation, then the Employer shall pay to Employee a relocation bonus equal to six (6) months of Employee's then current salary rate, less customary payroll deductions, to be paid immediately upon completion of the one year of employment. Further, if the Company terminates Employee's employment without Cause during said one (1) year period after a relocation, then this relocation bonus shall nevertheless still be payable in full even though the employment did not continue for the one (1) year period.

9. STOCK OPTIONS; REPURCHASE RIGHT.

9.1 VESTING. The parties agree that the following unvested stock options granted by Employer to Employee prior to April 30, 2000 were accelerated and immediately vested as of such date:

DATE OF GRANT	EXERCISE PRICE	OPTIONS	
		QUALIFIED	NON-QUALIFIED
12/15/99	\$0.8438	118,518	-
12/15/99	\$0.8438	-	198,482

9.2 ACKNOWLEDGMENT REGARDING STOCK OPTIONS. Except as set forth in Section 9.1, this Agreement shall not be deemed to modify the provisions of any stock options granted by Employer to Employee on or before the date hereof.

10. GENERAL PROVISIONS.

10.1 ATTORNEYS' FEES. In the event of any dispute or breach arising with respect to this Agreement, the party prevailing in any negotiations or proceedings for the resolution or enforcement thereof shall be entitled to recover from the losing party reasonable expenses, attorneys' fees and costs incurred therein.

10.2 AMENDMENT. No amendment or modification of the terms or conditions of this Agreement shall be valid unless in writing and signed by both parties hereto. There shall be no implied-in-fact contracts modifying the terms of this Agreement. However, the noncumulation of benefits provision of Section 10.6 shall apply to any subsequent agreement, unless (i) such provision is explicitly disclaimed in the subsequent agreement, and (ii) the subsequent agreement has been authorized by the Board or a committee thereof.

10.3 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties with respect to the employment of Employee, other than relating to the Employer's stock option grants to Employee, the Employer's inventions, trade secrets, and proprietary and confidential information, competition with the Employer and solicitation of the Employer's employees. This Agreement supersedes all prior agreements, understandings, negotiations and representation with respect to the employment relationship, including, without limitation, the Written Agreements and the Additional Benefits, each of which is hereby terminated in its entirety. This Agreement is not intended to and shall not affect, limit or terminate any plans, programs, or arrangements of Employer that are regularly made available to a significant number of employees or officers of the Employer.

10.4 SUCCESSORS AND ASSIGNS.

10.4.1 Successors of Employer. Employer shall require any Successor, expressly, absolutely and unconditionally to assume and agree to perform this Agreement in the same manner and to the same extent that Employer would be required to perform it if no such succession or assignment had taken place. Failure of Employer to obtain such agreement shall be a material breach of this Agreement.

10.4.2 Acknowledgment by Company. If, after a Change in Control, Employer (or any Successor) fails to reasonably confirm that it has performed the obligation described in Section 10.4.1 within ten (10) days after written notice from Employee, Employee shall be entitled to terminate Employee's employment with Employer, and to receive the benefits provided under this Agreement in the event of Termination Upon Change in Control.

10.4.3 Heirs and Representatives of Employee. This Agreement shall inure to the benefit of and be enforceable by the Employee's personal and legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

10.5 NO LIMITATION OF REGULAR BENEFIT PLANS. This Agreement is not intended to and shall not affect, limit or terminate any plans, programs, or arrangements of Employer that are regularly made available to a significant number of employees or officers of Employer, including without limitation Employer's stock option plans.

10.6 NONCUMULATION OF BENEFITS. Employee may not cumulate cash severance payments under both this Agreement and another agreement. If Employee has any other binding written agreement with Employer which provides that, upon a Change in Control or termination of employment, Employee shall receive one or more of the benefits described in Section 6 of this Agreement (i.e., the payment of cash compensation), then with respect to those benefits the aggregate amounts payable under this Agreement shall be reduced by the amounts paid or payable under such other agreements.

10.7 NO ASSIGNMENT OF BENEFITS. The rights of any person to payments or benefits under this Agreement shall not be made subject to option or assignment, either by voluntary or involuntary assignment or by operation of law, including (without limitation) bankruptcy, garnishment, attachment or other creditors process, and any action in violation of this Section 10.7 shall be void.

10.8 NOTICES.

10.8.1 General. Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered, when mailed, if mailed by U.S. registered or certified mail, return receipt requested and postage prepaid, or when shipped, if shipped by nationally known reputable overnight delivery service and shipping charges prepaid. In the case of Employee, notices shall be addressed to Employee at the home address which he most recently communicated to the Employer, in writing. In the case of the Employer, notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

10.8.2 Notice of Termination. Any termination by the Employer of Employee's employment for Cause or by Employee as a result of a voluntary resignation shall be communicated by a notice of termination to the other party hereto given in accordance with Subsection 10.8.1. Such notice shall indicate the specific termination provisions in this Agreement relied upon, shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated, and shall specify the termination date.

10.9 NO DUTY TO MITIGATE. Employee shall not be required to mitigate the amount of any payment contemplated by this Agreement (whether by seeking employment with a new employer or in any other manner), nor shall any such payment be reduced by any earnings that Employee may receive from any other source except as otherwise provided herein.

10.10 NO REPRESENTATIONS. Employee acknowledges that in entering into this Agreement Employee is not relying and has not relied on any promise, representation or statement made by or on behalf of the Employer which is not set forth in this Agreement.

10.11 CHOICE OF LAW. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Michigan, without regard to its choice of law rules.

10.12 WAIVER. Either party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision, or prevent that party thereafter from enforcing each and every other provision of this Agreement.

10.13 SEVERABLE PROVISIONS. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

10.14 TAX WITHHOLDING. The payments to be made pursuant to this Agreement will be subject to customary withholding of applicable income and employment taxes.

10.15 CONSULTATION. Employee acknowledges that this Agreement confers significant legal rights on Employee, and also involves Employee waiving other potential rights he might have under other agreements and laws. Employee acknowledges that Employer has encouraged Employee to consult with Employee's own legal, tax, and financial advisers before signing the Agreement; and that Employee has had adequate time to do so before signing this Agreement.

10.16 COUNTERPARTS. This Agreement may be executed in counterparts, and each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

10.17 EXCESS PARACHUTE PAYMENT. In the event that any payment or benefit received or to be received by Employee pursuant to this Agreement or otherwise would subject Employee to any excise tax pursuant to Section 4999 of the Code due to the characterization of such payment or benefit as an excess parachute payment under Section 280G of the Code, Employee may elect in his sole discretion to reduce the amounts of any payments or benefits otherwise called for under this Agreement in order to avoid such characterization.

10.18 CLAIMS PROCEDURE FOR SEVERANCE PAYMENTS.

10.18.1 Administrator. The administrator for purposes of the severance payments provided by Section 6.2 of this Agreement shall be the Employer ("Administrator"), whose address is 24 Frank Lloyd Wright Dr., P.O. Box 376, Ann Arbor, Michigan 48106, and whose telephone number is 734-930-5555. The "Named Fiduciary" as defined in Section 402(a)(2) of ERISA, also shall be the Employer. The Employer shall have the right to designate one or more employees as the Administrator and the Named Fiduciary at any time, and to change the address and telephone number of the same. The Employer shall give the Employee written notice of any change in the Administrator and Named Fiduciary, or in the address or telephone number of the same.

10.18.2 Claims. The Administrator shall make all determinations as to the right of any person to receive benefits under this Agreement. Any denial by the Administrator of a claim for benefits by the Employee ("the claimant") shall be stated in writing by the Administrator and delivered or mailed to the claimant within ten (10) days after receipt of the claim, unless special circumstances require an extension of time for processing the claim. If such an extension is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 10-day period. In no event shall such extension exceed a period of ten (10) days from the end of the initial period. Any notice of denial shall set forth the specific reasons for the denial, specific reference to pertinent provisions of this Agreement upon which the denial is based, a description of any additional material or information necessary for the claimant to perfect the claim, with an explanation of why such material or information is necessary, and any explanation of claim review procedures, and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under ERISA Section 502(a) after exhausting all levels of appeal provided herein, written to the best of the Administrator's ability in a manner that may be understood without legal or actuarial counsel.

10.18.3 Review of Claim Denial. A claimant whose claim for benefits has been wholly or partially denied by the Administrator may request, within sixty (60) days following the date of such denial, in a writing addressed to the Administrator, a review of such denial. The claimant shall be entitled to submit such issues or comments in writing or otherwise, as the claimant shall consider relevant to a determination of the claim, and the claimant may include a request for a hearing in person before the Administrator. Prior to submitting the request, the claimant shall be entitled to review such documents as are relevant to the claim. The claimant may, at all stages of review, be represented by counsel, legal or otherwise, of the claimant's choice. All requests for review shall be promptly resolved. The Administrator's decision with respect to any such review shall be set forth in writing and shall be mailed to the claimant not later than ten (10) days following receipt by the Administrator of the claimant's request unless special circumstances, such as the need to hold a hearing, require an extension of time for processing, in which case the Administrator's decision shall be so mailed not later than twenty (20) days after receipt of such request.

10.18.4 Arbitration. A claimant who has followed the procedure in paragraphs 10.18.2 and 10.18.3 of this Section, but who has not obtained full relief on the claim for benefits, may, within sixty (60) days following the claimant's receipt of the Administrator's written decision on review, apply in writing to the Administrator for arbitration of the claim as provided in Section 10.19.

10.19 ARBITRATION.

(a) Either party to this Agreement, after complying with the requirements of Section 10.18, to the extent applicable, may submit any dispute under this Agreement for binding arbitration of the dispute before an arbitrator mutually acceptable to both parties, the arbitration to be held in Ann Arbor, Michigan, in accordance with the arbitration rules of the American Arbitration Association, as then in effect, and the rights of claimant under Section 10.18. If the parties are unable to mutually agree upon an arbitrator, then the arbitration proceedings shall be held before three arbitrators, one of which shall be designated by the Employer, one of which

shall be designated by the claimant and the third of which shall be designated mutually by the first two arbitrators in accordance with the arbitration rules referenced above. The arbitrator(s) sole authority shall be to interpret and apply the provisions of this Agreement; the arbitrator(s) shall not change, add to, or subtract from, any of the Agreement's provisions. The arbitrator(s) shall have the power to compel attendance of witnesses at the hearing. Any court having jurisdiction may enter a judgment based upon such arbitration. Except as set forth in Section 10.18, the decision of the arbitrator(s) shall be final and binding on the parties to this Agreement and without appeal to any court. Except as set forth in Section 10.18, upon execution of this Agreement, the Employee shall be deemed to have waived any right to commence litigation proceedings regarding this Agreement outside of arbitration without the express written consent of the Employer.

(b) In the case of a dispute relating to severance payments provided by Section 6.2, the decision of the arbitrator(s) shall be delivered or mailed to the claimant within sixty (60) days of the claimant's initial request for review of the denied claim under Section 10.18, unless special circumstances require an extension of time. If an extension is needed the arbitrator(s) shall, before the end of the sixty (60) day period, give to the claimant written notice of the special circumstances requiring the extension and the date by which the arbitrator(s) expect(s) to render a decision. The extension of time shall not exceed sixty (60) days from the end of the initial sixty (60) day period. Notwithstanding the provisions of Section 10.19(b), in the case of a dispute relating to severance payments provided by Section 6.2, the claimant shall not be precluded from challenging the arbitrator's decision under Section 502(a) of ERISA.

10.20 ERISA. The severance compensation provided by Section 6.2 of this Agreement constitutes an unfunded compensation arrangement for a member of a select group of the Employer's management and any exemptions under ERISA, as applicable to such an arrangement, shall be applicable to this Agreement.

Section 10.18 through this Section 10.20 apply to the severance compensation provided by Section 6.2 of this Agreement.

10.21 REPORTING AND DISCLOSURE. The Employer, from time to time, shall provide government agencies with such reports concerning this Agreement as may be required by law, and the Employer shall provide the Employee with such disclosure concerning this Agreement as may be required by law or as the Employer may deem appropriate.

11. EMPLOYEE'S REPRESENTATIONS. Employee represents and warrants that Employee (i) is free to enter into this Agreement and to perform each of the terms and covenants contained herein, (ii) is not restricted or prohibited, contractually or otherwise, from entering into and performing this Agreement, and (iii) will not be in violation or breach of any other agreement by reason of Employee's execution and performance of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

EMPLOYER:

Aastrom Biosciences, Inc.

By: _____

Joseph Taylor
Chairman, Compensation Committee
Board of Directors

EMPLOYEE:

R. Douglas Armstrong, Ph.D.

Address: 5330 Falkirk Court

Superior, MI 48198

**EXHIBIT A
TO AASTROM BIOSCIENCES, INC.
EMPLOYMENT AGREEMENT**

RELEASE AGREEMENT

THIS AGREEMENT ("Agreement") is made by and between _____ ("Executive") and Aastrom Biosciences, Inc. (the "Company").

RECITALS

- A. Executive has terminated employment as an executive officer of Company, effective _____, _____.
- B. Executive has been given the opportunity to review this Agreement, to consult with legal counsel, and to ascertain his rights and remedies.
- C. Executive and Company, without any admission of liability, desire to settle with finality, compromise, dispose of, and release any and all claims and demands asserted or which could be asserted arising out of Executive's employment at and separation from Company.

In consideration of the foregoing and of the promises and mutual covenants contained herein, it is hereby agreed between Executive and Company as follows:

AGREEMENT

- 1. In exchange for the good and valuable consideration set forth in that certain Employment Agreement, made as of _____, between the Company and Executive (the "Employment Agreement"), Executive hereby releases, waives and discharges any and all manner of action, causes of action, claims, rights, charges, suits, damages, debts, demands, obligations, attorneys fees, and any and all other liabilities or claims of whatsoever nature, whether in law or in equity, known or unknown, including, but not limited to, age discrimination under The Age Discrimination In Employment Act of 1967 (as amended), employment discrimination prohibited by other federal, state or local laws, and any other claims, which Executive has claimed or may claim or could claim in any local, state or federal or other forum, against Company, its directors, officers, employees, agents, attorneys, successors and assigns as a result of or relating to Executive's employment at and separation from Company and as an officer of Company as a result of any acts or omissions by Company or any of its directors, officers, employees, agents, attorneys, successors or assigns ("Covered Acts or Omissions") which occurred prior to the date of this Agreement; excluding only (i) those to compel the payment of amounts due to Executive as provided in the Employment Agreement, (ii) enforcement of any rights of Executive under any stock option agreements with the Company or (iii) those for indemnification under the Company's articles of incorporation, bylaws or applicable law by reason of his service as an officer or director of the Company.

2. Executive agrees to immediately return to Company all property, assets, manuals, materials, information, notes, reports, agreements, memoranda, customer lists, formulae, data, know-how, inventions, trade secrets, processes, techniques, and all other assets, materials and information of any kind or nature, belonging or pertaining to Company ("Company Information and Property"), including, but not limited to, computer programs and diskettes or other media for electronic storage of information containing Company Information and Property, in Executive's possession, and Executive shall not retain copies of any such Company Information and Property. Executive further agrees that from and after the date hereof he will not remove from Company's offices any Company Information and Property, nor retain possession or copies of any Company Information and Property.
3. Executive agrees that he shall never make any statement that negatively affects the goodwill or good reputation of the Company, or any officer or director of Company, except as required by law, and except that such statements may be made to members of the Board of Directors of the Company.
4. Executive covenants and agrees that he shall never commence or prosecute, or knowingly encourage, promote, assist or participate in any way, except as required by law, in the commencement or prosecution, of any claim, demand, action, cause of action or suit of any nature whatsoever against Company or any officer, director, employee or agent of Company ("Covered Litigation") that is based upon any claim, demand, action, cause of action or suit released pursuant to this Agreement or involving or based upon the Covered Acts and Omissions.
5. Executive further agrees that he has read this Agreement carefully and understands all of its terms.
6. Executive understands and agrees that he was advised to consult with an attorney and did so prior to executing this Agreement.
7. Executive understands and agrees that he has been given twenty-one (21) days within which to consider this Agreement.
8. Executive understands and agrees that he may revoke this Agreement for a period of seven (7) calendar days following the execution of this Agreement (the "Revocation Period"). This Agreement is not effective until this revocation period has expired. Executive understands that any revocation, to be effective, must be in writing and either (a) postmarked within seven (7) days of execution of this Agreement and addressed to Aastrom Biosciences, Inc., 24 Frank Lloyd Drive, Ann Arbor, Michigan 48105 or (b) hand delivered within seven (7) days of execution of this Agreement to Aastrom Biosciences, Inc., 24 Frank Lloyd Drive, Ann Arbor, Michigan 48105. Executive understands that if revocation is made by mail, mailing by certified mail, return receipt requested, is recommended to show proof of mailing.
9. In agreeing to sign this Agreement and separate from Company, Executive is doing so completely voluntarily and of his own free-will and without any encouragement or pressure from Company and agrees that in doing so he has not relied on any oral statements or explanations made by Company or its representatives.

10. Both parties agree not to disclose the terms of this Agreement to any third party, except as is required by law, or as is necessary for purposes of securing counsel from either parties' attorneys or accountants.
11. This Agreement shall not be construed as an admission of wrongdoing by Company.
12. This Agreement contains the entire agreement between Executive and Company regarding the matters set forth herein. Any modification of this Agreement must be made in writing and signed by Executive and each of the entities constituting the Company.
13. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Michigan, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Michigan.
14. In the event any provision of this Agreement or portion thereof is found to be wholly or partially invalid, illegal or unenforceable in any judicial proceeding, then such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Agreement, as the case may require, and this Agreement shall be construed and enforced to the maximum extent permitted by law, as if such provision had been originally incorporated herein as so modified or restricted, or as if such provision had not been originally incorporated herein, as the case may be.
15. If there is a breach or threatened breach of the provisions of this Agreement, Company may, in addition to other available rights and remedies, apply to any court of competent jurisdiction for specific performance and/or injunctive relief in order to enforce, or prevent any violation of, any of the provisions of this Agreement.
16. In the event that Executive violates the terms of this Agreement, in addition to other available rights and remedies, the Company shall be released of all of its remaining obligations under the Severance Agreement.

The parties hereto have entered into this Agreement as of this _____ day of _____, _____.

AASTROM BIOSCIENCES, INC.

By: _____

EXECUTIVE

By: R. Douglas Armstrong, Ph.D.

Exhibit 10.81

**AMENDED AND RESTATED
EMPLOYMENT AGREEMENT**

This Amended and Restated Employment Agreement (the "Agreement") is entered into as of August 27, 2004, by and between AASTROM BIOSCIENCES, INC., a Michigan corporation ("Employer"), and BRIAN HAMPSON ("Employee").

RECITALS

- A. Employer and Employee are parties to that certain Employment Agreement entered into as of June 4, 1993 (the "Existing Employment Agreement").
- B. Employer and Employee are also parties to certain other written employment and/or benefits-related agreements as follows: (i) Pay to Stay Severance Agreement dated as of October 19, 1999; (ii) Agreement Regarding Pay-To-Stay dated as of April 28, 2000; (iii) Retention Bonus Agreement dated as of July 17, 2000; and (iv) Relocation Bonus Agreement dated as of July 17, 2000 (collectively, the "Other Agreements").
- C. Employer and Employee desire to amend and restate the Existing Employment Agreement to incorporate into a single document the terms and conditions of the Existing Employment Agreement and the Other Agreements as set forth herein.
- D. Employer and Employee intend that this Agreement shall supersede in their entirety the Existing Employment Agreement and the Other Agreements, which Existing Employment Agreement and Other Agreements are, by this Agreement, hereby terminated in their entirety.

AGREEMENTS

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

"Acquiring Corporation" shall mean the surviving, successor or purchasing corporation or parent corporation thereof, in a Change in Control, as the case may be.

"Cause" means the occurrence of any of the following events, as determined by the Board of Directors of Employer, in good faith:

- (i) Employee's theft, material act of dishonesty or fraud, or intentional falsification of any records of Employer;
- (ii) Employee's breach of the Aastrom Biosciences, Inc. Amended and Restated Employee Proprietary Information and Invention Agreement or any other agreement with the Employer covering the use or disclosure of confidential or proprietary information of Employer, the ownership of intellectual property or restrictions on competition;

(iii) Employee's gross negligence or willful misconduct in the performance of Employee's assigned duties (but not mere unsatisfactory performance); or

(iv) Employee's conviction (including any plea of guilty or nolo contendere) of a crime causing material harm to the reputation or standing of Employer or which materially impairs Employee's ability to perform his duties for Employer.

"Change in Control" shall mean the occurrence of any of the following:

(i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), other than a trustee or other fiduciary holding securities of Employer under an employee benefit plan of Employer, becomes the "beneficial owner" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Employer representing 50% or more of (A) the outstanding shares of common stock of Employer or (B) the combined voting power of Employer's then-outstanding securities;

(ii) Employer is party to a merger or consolidation which results in the holders of voting securities of Employer outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least 50% of the combined voting power of the voting securities of Employer or such surviving entity outstanding immediately after such merger or consolidation; or

(iii) the sale or disposition of all or substantially all of Employer's assets (or consummation of any transaction having similar effect).

"Disability" means that:

(i) Employee has been incapacitated by bodily injury, illness or disease so as to be prevented thereby from effectively performing Employee's duties;

(ii) Such incapacity shall have continued for a period of six (6) consecutive months; and

(iii) Such incapacity will, in the opinion of a qualified physician, be long-term, which shall mean a period exceeding twelve (12) months.

"Employer" means Aastrom Biosciences, Inc., a Michigan corporation, and, following a Change in Control, any Successor that agrees to assume all of the terms and provisions of this Agreement, or a Successor which otherwise becomes bound by operation of law to this Agreement.

"Good Reason" means the occurrence of any of the following conditions following a Change in Control, without Employee's informed written consent, which condition(s) remain(s) in effect ten (10) days after written notice to Employer from Employee of such condition(s):

(i) assignment of Employee to responsibilities or duties that are not a Substantive Functional Equivalent of the position which Employee occupied prior to the Change in Control;

(ii) any decrease in Employee's base salary or target bonus amount (subject to applicable performance requirements with respect to the actual amount of bonus compensation earned by Employee);

(iii) any failure by Employer to (A) continue to provide Employee with the opportunity to participate, on terms no less favorable than those in effect for the benefit of any employee group which customarily includes a person holding the employment position or a comparable position with Employer then held by Employee, in any benefit or compensation plans and programs, including, but not limited to, Employer's life, disability, health, dental, medical, savings, profit sharing, stock purchase and retirement plans, if any, in which Employee was participating immediately prior to the date of the Change in Control, or their equivalent, or (B) provide Employee with all other fringe benefits (or their equivalent) from time to time in effect for the benefit of any employee group which customarily includes a person holding the employment position or a comparable position with Employer then held by Employee;

(iv) the relocation of Employee's work place for Employer to a location more than 50 miles from the location of the work place prior to the Change in Control, or the imposition of travel requirements substantially more demanding of Employee than such travel requirements existing immediately prior to the Change in Control; or

(v) any material breach of this Agreement by Employer.

"Substantive Functional Equivalent" means an employment position occupied by Employee after a Change in Control that:

(i) is in a substantive area of competence consistent with Employee's experience and not materially different from the position occupied by Employee prior to the Change in Control;

(ii) requires Employee to serve in a role and perform duties that are functionally equivalent to those performed prior to the Change in Control (such as, executive officer);

(iii) carries a title that does not connote a lesser rank or corporate role than the title held by Employee prior to the Change in Control; and

(iv) does not otherwise constitute a material, adverse change in Employee's responsibilities or duties, as measured against Employee's responsibilities or duties prior to the Change in Control, causing it to be of materially lesser rank or responsibility.

"Successor" means Employer and any successor or assign to substantially all of its business and/or assets.

2. EMPLOYMENT. Employer hereby engages Employee, and Employee hereby accepts such engagement, upon the terms and conditions set forth herein.

3. DUTIES. Employee is engaged as Vice President, Product Development. Employee shall perform faithfully and diligently the duties customarily performed by persons in the position for which employee is engaged, together with such other reasonable and appropriate duties as Employer shall designate from time to time. Employee shall devote Employee's full business time and efforts to the rendition of such services and to the performance of such duties. As a full-time employee of Employer, Employee shall not be entitled to provide consulting services or other business or scientific services to any other party, without the prior written consent of Employer.

4. COMPENSATION AND FRINGE BENEFITS.

4.1 BASE SALARY. During the term of this Agreement, as compensation for the proper and satisfactory performance of all duties to be performed by Employee hereunder, Employer shall pay to Employee a salary of One Hundred Ninety Five Thousand and 00/100 Dollars (\$195,000.00) per year, payable in arrears in equal bi-weekly installments, less required deductions for state and federal withholding tax, Social Security and all other employee taxes and payroll deductions. The base salary shall be subject to review and adjustment on an annual basis.

4.2 CUSTOMARY FRINGE BENEFITS. Employee shall be entitled to such fringe benefits as Employer customarily makes available to employees of Employer engaged in the same or similar position as Employee ("Fringe Benefits"). Such Fringe Benefits may include vacation leave, sick leave, and health insurance coverage. Employer reserves the right to change the Fringe Benefits on a prospective basis, at any time, effective upon delivery of written notice to Employee.

4.3 VACATION. Employee is entitled to twenty (20) days of vacation in each calendar year.

4.4 ACCUMULATION. Employee shall earn and accumulate unused vacation and sick leave in accordance with the Company's policy in effect from time to time. Further, Employee shall not be entitled to receive payments in lieu of Fringe Benefits, other than for unused vacation leave earned and accumulated at the time the employment relationship terminates.

5. TERM.

5.1 COMMENCEMENT. The employment relationship pursuant to this Agreement shall commence on the date as of which this Agreement was executed as set forth above.

5.2 TERMINATION AT WILL. Employer and Employee acknowledge and agree that Employer's employment currently is "at will" and that their employment relationship may be terminated by either party at any time, with or without Cause.

6. PAYMENTS UPON TERMINATION.

6.1 PAYMENT OF COMPENSATION UPON TERMINATION. Upon termination of Employee's employment with the Company, Employee shall be entitled to be paid his base salary through the effective date of such termination, as full compensation for any and all claims of Employee under this Agreement or otherwise, except as set forth in Section 6.2. and Section 7.

6.2 PAYMENT OF SEVERANCE UPON TERMINATION.

6.2.1 Severance. In the event Employee's employment is terminated by Employer without Cause, or in the event of Employee's termination of his employment for Good Reason within twelve (12) months following a Change in Control, then Employer shall pay to Employee severance payment equal to twelve (12) months of Employee's then current salary rate, less customary payroll deductions. The severance payment shall be paid in equal installments over six (6) months in accordance with the Employer's normal payroll periods, except that severance payments due following a Change in Control shall be paid in a lump sum immediately following the Change in Control.

6.2.2 Relocation. If Employee's employment terminates for any of the reasons set forth in Section 6.2.1 following a Change in Control, or the Employee, at the request of the Company following the consummation of a Change in Control, relocates his principal place of employment more than 50 miles from Ann Arbor, Michigan, the Employee shall receive a \$25,000 additional reimbursement allowance to assist in his relocation, including closing costs on the sale of Employee's Michigan residence, payable upon forwarding of standard relocation receipts that are not being reimbursed by another third party or provided as a relocation allowance associated with a new position, to the extent said relocation costs are incurred within one year following the termination of employment. Any tax payable with respect to such relocation cost reimbursement shall be the responsibility of Employee.

6.2.3 Continued Medical Coverage. In the event Employee's employment is terminated, then Employee shall be entitled to elect continued medical insurance coverage in accordance with applicable provisions of the Consolidated Budget Reconciliation Act of 1985 ("COBRA").

6.2.4 Right to Terminate. Employer retains and reserves the right to terminate the employment of Employee at any time, with or without Cause. For avoidance of doubt, said severance payment shall not be owed if Employee's termination is for Cause, if Employee voluntarily terminates employment for reasons other than as specified in Section 6.2.1 hereof or if Employee's employment terminates as a result of Employee's death or disability.

6.2.5 No Liability. No director, officer or shareholder of Employer shall have any personal liability for the payment of any severance to Employee.

6.3 RESIGNATION. Employee's entitlement to any compensation or benefits under this Section 6 (other than compensation and benefits earned by Employee through the date of Employee's termination of employment) is conditioned upon Employee's resignation from all capacities in which Employee is then rendering services to Employer, including from the Board of Directors and any committees thereof on which Employee serves.

6.4 EXCLUSIVE REMEDY. The parties acknowledge and agree that the payments specified herein constitute Employee's sole and exclusive remedy for any alleged injury or other damages arising out of a termination of Employee's employment under circumstances described herein. Accordingly, as a condition to receipt of said payments, Employee shall sign a customary and reasonable release form, in the form attached hereto as Exhibit A, pursuant to which Employee acknowledges and agrees that Employee has no claims against Employer or any director, officer, shareholder or agent of Employer, or any successor in interest to Employer, with respect to any employment matters or termination of employment (excepting only for accrued salary, accrued vacation leave and reimbursement of customary business expenses incurred on behalf of Employer, all in the ordinary course of business, or any incentive sale bonus to which Employee may be entitled, if any).

7. INCENTIVE SALE BONUS.

7.1 GENERAL. In the event of a Change in Control described in subsection (ii) or (iii) of the definition of Change in Control, then Employee shall be entitled to participate in an incentive sale bonus pool (the "Bonus Pool").

7.2 FUNDING OF BONUS POOL. The Bonus Pool shall be funded by a portion of the net proceeds realized by Employer from a Change in Control described in subsection (ii) or (iii) of the definition of Change in Control, after all liabilities of Employer are satisfied. Said net proceeds may consist of cash, stock or other consideration when and as paid by the acquirer. The Bonus Pool shall be funded in increments consisting of 30% of the first million of net proceeds, 25% of the second million of net proceeds, 15% of the third million of net proceeds, and 10% of all additional net proceeds up to an aggregate of \$25 million of net proceeds.

7.3 EMPLOYEE SHARE OF BONUS POOL. Employee shall be entitled to a 12.5% share of the Bonus Pool.

7.4 VOLUNTARY TERMINATION BY EMPLOYEE. In the event that Employee voluntarily terminates employment with Employer prior to the completion of a Change in Control described in subsection (ii) or (iii) of the definition of Change in Control, then Employee shall not be entitled to any share of the Bonus Pool, and the Employee's share will go to other Bonus Pool members per the approval schedule. Alternatively, if Employer decides to terminate Employee for reasons other than "Cause," then Employee shall be entitled to receive Employee's designated share of the Bonus Pool when it becomes payable to all other Bonus Pool members.

8. STOCK OPTIONS.

8.1 VESTING. The parties agree that the following unvested stock options granted by Employer to Employee prior to April 30, 2000 were accelerated and immediately vested as of such date:

DATE OF GRANT	EXERCISE PRICE	OPTIONS	
		QUALIFIED	NON-QUALIFIED
07/09/97	\$3.5620	10,000	—
09/16/98	\$1.9100	5,000	—
12/15/98	\$0.8438	14,000	—

8.2 ACKNOWLEDGMENT REGARDING STOCK OPTIONS. Except as set forth in Section 9.1, this Agreement shall not be deemed to modify the provisions of any stock options granted by Employer to Employee on or before the date hereof.

9. GENERAL PROVISIONS.

9.1 ATTORNEYS' FEES. In the event of any dispute or breach arising with respect to this Agreement, the party prevailing in any negotiations or proceedings for the resolution or enforcement thereof shall be entitled to recover from the losing party reasonable expenses, attorneys' fees and costs incurred therein.

9.2 AMENDMENTS. No amendment or modification of the terms or conditions of this Agreement shall be valid unless in writing and signed by both parties hereto. There shall be no implied-in-fact contracts modifying the terms of this Agreement. However, the noncumulation of benefits provision of Section 9.6 shall apply to any subsequent agreement, unless (i) such provision is explicitly disclaimed in the subsequent agreement, and (ii) the subsequent agreement has been authorized by the Board of Directors of the Employer or a committee thereof.

9.3 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties with respect to the employment of Employee, other than relating to the Employer's stock option grants to Employee, the Employer's inventions, trade secrets, and proprietary and confidential information, competition with the Employer and solicitation of the Employer's employees. This Agreement supersedes all prior agreements, understandings, negotiations and representation with respect to the employment relationship, including, without limitation, the Existing Employment Agreement and the Other Agreements, each of which is hereby terminated in its entirety.

9.4 SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of and be enforceable by the Employee's personal and legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

9.5 NO LIMITATION OF REGULAR BENEFIT PLANS. This Agreement is not intended to and shall not affect, limit or terminate any plans, programs, or arrangements of Employer that are regularly made available to a significant number of employees or officers of the Employer, including without limitation Employer's stock option plans.

9.6 NONCUMULATION OF BENEFITS. Employee may not cumulate cash severance payments under both this Agreement and another agreement. If Employee has any other binding written agreement with Employer which provides that, upon a Change in Control or termination of employment, Employee shall receive one or more of the benefits described in Sections 6 of this Agreement (i.e., the payment of cash compensation), then with respect to those benefits the aggregate amounts payable under this Agreement shall be reduced by the amounts paid or payable under such other agreements.

9.7 NO ASSIGNMENT OF BENEFITS. The rights of any person to payments or benefits under this Agreement shall not be made subject to option or assignment, either by voluntary or involuntary assignment or by operation of law, including (without limitation) bankruptcy, garnishment, attachment or other creditors process, and any action in violation of this Section 10.7 shall be void.

9.8 NOTICES. Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered, when mailed, if mailed by U.S. registered or certified mail, return receipt requested and postage prepaid, or when shipped, if shipped by nationally known reputable overnight delivery service and shipping charges prepaid. In the case of Employee, notices shall be addressed to Employee at the home address which he most recently communicated to the Employer, in writing. In the case of the Employer, notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

9.9 NO DUTY TO MITIGATE. Employee shall not be required to mitigate the amount of any payment contemplated by this Agreement (whether by seeking employment with a new employer or in any other manner), nor shall any such payment be reduced by any earnings that Employee may receive from any other source except as otherwise provided herein.

9.10 NO REPRESENTATIONS. Employee acknowledges that in entering into this Agreement Employee is not relying and has not relied on any promise, representation or statement made by or on behalf of the Employer which is not set forth in this Agreement.

9.11 CHOICE OF LAW. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Michigan, without regard to its choice of law rules.

9.12 WAIVER. Either party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision, or prevent that party thereafter from enforcing each and every other provision of this Agreement.

9.13 SEVERABLE PROVISIONS. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

9.14 TAX WITHHOLDING. The payments to be made pursuant to this Agreement will be subject to customary withholding of applicable income and employment taxes.

9.15 CONSULTATION. Employee acknowledges that this Agreement confers significant legal rights on Employee, and also involves Employee waiving other potential rights he might have under other agreements and laws. Employee acknowledges that Employer has encouraged Employee to consult with Employee's own legal, tax, and financial advisers before signing the Agreement; and that Employee has had adequate time to do so before signing this Agreement.

9.16 COUNTERPARTS. This Agreement may be executed in counterparts, and each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

9.17 EXCESS PARACHUTE PAYMENT. In the event that any payment or benefit received or to be received by Employee pursuant to this Agreement or otherwise would subject Employee to any excise tax pursuant to Section 4999 of the Code due to the characterization of such payment or benefit as an excess parachute payment under Section 280G of the Code, Employee may elect in his sole discretion to reduce the amounts of any payments or benefits otherwise called for under this Agreement in order to avoid such characterization.

9.18 CLAIMS PROCEDURE FOR SEVERANCE PAYMENTS.

9.18.1 Administrator. The administrator for purposes of the severance payments provided by Section 6.2 of this Agreement shall be the Employer ("Administrator"), whose address is 24 Frank Lloyd Wright Dr., P.O. Box 376, Ann Arbor, Michigan 48106, and whose telephone number is 734-930-5555. The "Named Fiduciary" as defined in Section 402(a)(2) of ERISA, also shall be the Employer. The Employer shall have the right to designate one or more employees as the Administrator and the Named Fiduciary at any time, and to change the address and telephone number of the same. The Employer shall give the Employee written notice of any change in the Administrator and Named Fiduciary, or in the address or telephone number of the same.

9.18.2 Claims. The Administrator shall make all determinations as to the right of any person to receive benefits under this Agreement. Any denial by the Administrator of a claim for benefits by the Employee ("the claimant") shall be stated in writing by the Administrator and delivered or mailed to the claimant within ten (10) days after receipt of the claim, unless special circumstances require an extension of time for processing the claim. If such an extension is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 10-day period. In no event shall such extension exceed a period of ten (10) days from the end of the initial period. Any notice of denial shall set forth the specific reasons for the denial, specific reference to pertinent provisions of this Agreement upon which the denial is based, a description of any additional material or information necessary for the claimant to perfect the claim, with an explanation of why such material or information is necessary, and any explanation of claim review procedures, and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under ERISA Section 502(a) after exhausting all levels of appeal provided herein, written to the best of the Administrator's ability in a manner that may be understood without legal or actuarial counsel.

9.18.3 Review of Claim Denial. A claimant whose claim for benefits has been wholly or partially denied by the Administrator may request, within sixty (60) days following the date of such denial, in a writing addressed to the Administrator, a review of such denial. The claimant shall be entitled to submit such issues or comments in writing or otherwise, as the claimant shall consider relevant to a determination of the claim, and the claimant may include a request for a hearing in person before the Administrator. Prior to submitting the request, the claimant shall be entitled to review such documents as are relevant to the claim. The claimant may, at all stages of review, be represented by counsel, legal or otherwise, of the claimant's choice. All requests for review shall be promptly resolved. The Administrator's decision with respect to any such review shall be set forth in writing and shall be mailed to the claimant not later than ten (10) days following receipt by the Administrator of the claimant's request unless

special circumstances, such as the need to hold a hearing, require an extension of time for processing, in which case the Administrator's decision shall be so mailed not later than twenty (20) days after receipt of such request.

9.18.4 Arbitration. A claimant who has followed the procedure in paragraphs 9.18.2 and 9.18.3 of this Section, but who has not obtained full relief on the claim for benefits, may, within sixty (60) days following the claimant's receipt of the Administrator's written decision on review, apply in writing to the Administrator for arbitration of the claim as provided in Section 9.19.

9.19 ARBITRATION.

(a) Either party to this Agreement, after complying with the requirements of Section 9.18, to the extent applicable, may submit any dispute under this Agreement for binding arbitration of the dispute before an arbitrator mutually acceptable to both parties, the arbitration to be held in Ann Arbor, Michigan, in accordance with the arbitration rules of the American Arbitration Association, as then in effect, and the rights of claimant under Section 9.18. If the parties are unable to mutually agree upon an arbitrator, then the arbitration proceedings shall be held before three arbitrators, one of which shall be designated by the Employer, one of which shall be designated by the claimant and the third of which shall be designated mutually by the first two arbitrators in accordance with the arbitration rules referenced above. The arbitrator(s) sole authority shall be to interpret and apply the provisions of this Agreement; the arbitrator(s) shall not change, add to, or subtract from, any of the Agreement's provisions. The arbitrator(s) shall have the power to compel attendance of witnesses at the hearing. Any court having jurisdiction may enter a judgment based upon such arbitration. Except as set forth in Section 9.18, the decision of the arbitrator(s) shall be final and binding on the parties to this Agreement and without appeal to any court. Except as set forth in Section 9.18, upon execution of this Agreement, the Employee shall be deemed to have waived any right to commence litigation proceedings regarding this Agreement outside of arbitration without the express written consent of the Employer.

(b) In the case of a dispute relating to severance payments provided by Section 6.2, the decision of the arbitrator(s) shall be delivered or mailed to the claimant within sixty (60) days of the claimant's initial request for review of the denied claim under Section 9.18, unless special circumstances require an extension of time. If an extension is needed the arbitrator(s) shall, before the end of the sixty (60) day period, give to the claimant written notice of the special circumstances requiring the extension and the date by which the arbitrator(s) expect(s) to render a decision. The extension of time shall not exceed sixty (60) days from the end of the initial sixty (60) day period. Notwithstanding the provisions of Section 9.19(b), in the case of a dispute relating to severance payments provided by Section 6.2, the claimant shall not be precluded from challenging the arbitrator's decision under Section 502(a) of ERISA.

9.20 ERISA. The severance compensation provided by Section 6.2 of this Agreement constitutes an unfunded compensation arrangement for a member of a select group of the Employer's management and any exemptions under ERISA, as applicable to such an arrangement, shall be applicable to this Agreement.

Section 9.18 through this Section 9.20 apply to the severance compensation provided by Section 6.2 of this Agreement.

9.21 REPORTING AND DISCLOSURE. The Employer, from time to time, shall provide government agencies with such reports concerning this Agreement as may be required by law, and the Employer shall provide the Employee with such disclosure concerning this Agreement as may be required by law or as the Employer may deem appropriate.

10. EMPLOYEE'S REPRESENTATIONS. Employee represents and warrants that Employee (i) is free to enter into this Agreement and to perform each of the terms and covenants contained herein, (ii) is not restricted or prohibited, contractually or otherwise, from entering into and performing this Agreement, and (iii) will not be in violation or breach of any other agreement by reason of Employee's execution and performance of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

EMPLOYER:

Aastrom Biosciences, Inc.

By: _____
R. Douglas Armstrong, Ph.D.
Chairman, Chief Executive Officer

EMPLOYEE:

Brian Hampson Address: _____

**EXHIBIT A
TO AASTROM BIOSCIENCES, INC.
EMPLOYMENT AGREEMENT**

RELEASE AGREEMENT

THIS AGREEMENT ("Agreement") is made by and between _____ ("Executive") and Aastrom Biosciences, Inc. (the "Company").

RECITALS

- A. Executive has terminated employment as an executive officer of Company, effective _____, _____.
- B. Executive has been given the opportunity to review this Agreement, to consult with legal counsel, and to ascertain his rights and remedies.
- C. Executive and Company, without any admission of liability, desire to settle with finality, compromise, dispose of, and release any and all claims and demands asserted or which could be asserted arising out of Executive's employment at and separation from Company.

In consideration of the foregoing and of the promises and mutual covenants contained herein, it is hereby agreed between Executive and Company as follows:

AGREEMENT

1. In exchange for the good and valuable consideration set forth in that certain Employment Agreement, made as of _____, between the Company and Executive (the "Employment Agreement"), Executive hereby releases, waives and discharges any and all manner of action, causes of action, claims, rights, charges, suits, damages, debts, demands, obligations, attorneys fees, and any and all other liabilities or claims of whatsoever nature, whether in law or in equity, known or unknown, including, but not limited to, age discrimination under The Age Discrimination In Employment Act of 1967 (as amended), employment discrimination prohibited by other federal, state or local laws, and any other claims, which Executive has claimed or may claim or could claim in any local, state or federal or other forum, against Company, its directors, officers, employees, agents, attorneys, successors and assigns as a result of or relating to Executive's employment at and separation from Company and as an officer of Company as a result of any acts or omissions by Company or any of its directors, officers, employees, agents, attorneys, successors or assigns ("Covered Acts or Omissions") which occurred prior to the date of this Agreement; excluding only (i) those to compel the payment of amounts due to Executive as provided in the Employment Agreement, (ii) enforcement of any rights of Executive under any stock option agreements with the Company or (iii) those for indemnification under the Company's articles of incorporation, bylaws or applicable law by reason of his service as an officer or director of the Company.
2. Executive agrees to immediately return to Company all property, assets, manuals, materials, information, notes, reports, agreements, memoranda, customer lists, formulae, data, know-how, inventions, trade secrets, processes, techniques, and all other assets, materials and

information of any kind or nature, belonging or pertaining to Company ("Company Information and Property"), including, but not limited to, computer programs and diskettes or other media for electronic storage of information containing Company Information and Property, in Executive's possession, and Executive shall not retain copies of any such Company Information and Property. Executive further agrees that from and after the date hereof he will not remove from Company's offices any Company Information and Property, nor retain possession or copies of any Company Information and Property.

3. Executive agrees that he shall never make any statement that negatively affects the goodwill or good reputation of the Company, or any officer or director of Company, except as required by law, and except that such statements may be made to members of the Board of Directors of the Company.

4. Executive covenants and agrees that he shall never commence or prosecute, or knowingly encourage, promote, assist or participate in any way, except as required by law, in the commencement or prosecution, of any claim, demand, action, cause of action or suit of any nature whatsoever against Company or any officer, director, employee or agent of Company ("Covered Litigation") that is based upon any claim, demand, action, cause of action or suit released pursuant to this Agreement or involving or based upon the Covered Acts and Omissions.

5. Executive further agrees that he has read this Agreement carefully and understands all of its terms.

6. Executive understands and agrees that he was advised to consult with an attorney and did so prior to executing this Agreement.

7. Executive understands and agrees that he has been given twenty-one (21) days within which to consider this Agreement.

8. Executive understands and agrees that he may revoke this Agreement for a period of seven (7) calendar days following the execution of this Agreement (the "Revocation Period"). This Agreement is not effective until this revocation period has expired. Executive understands that any revocation, to be effective, must be in writing and either (a) postmarked within seven (7) days of execution of this Agreement and addressed to Aastrom Biosciences, Inc., 24 Frank Lloyd Drive, Ann Arbor, Michigan 48105 or (b) hand delivered within seven (7) days of execution of this Agreement to Aastrom Biosciences, Inc., 24 Frank Lloyd Drive, Ann Arbor, Michigan 48105. Executive understands that if revocation is made by mail, mailing by certified mail, return receipt requested, is recommended to show proof of mailing.

9. In agreeing to sign this Agreement and separate from Company, Executive is doing so completely voluntarily and of his own free-will and without any encouragement or pressure from Company and agrees that in doing so he has not relied on any oral statements or explanations made by Company or its representatives.

10. Both parties agree not to disclose the terms of this Agreement to any third party, except as is required by law, or as is necessary for purposes of securing counsel from either parties' attorneys or accountants.

11. This Agreement shall not be construed as an admission of wrongdoing by Company.

12. This Agreement contains the entire agreement between Executive and Company regarding the matters set forth herein. Any modification of this Agreement must be made in writing and signed by Executive and each of the entities constituting the Company.

13. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Michigan, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Michigan.

14. In the event any provision of this Agreement or portion thereof is found to be wholly or partially invalid, illegal or unenforceable in any judicial proceeding, then such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Agreement, as the case may require, and this Agreement shall be construed and enforced to the maximum extent permitted by law, as if such provision had been originally incorporated herein as so modified or restricted, or as if such provision had not been originally incorporated herein, as the case may be.

15. If there is a breach or threatened breach of the provisions of this Agreement, Company may, in addition to other available rights and remedies, apply to any court of competent jurisdiction for specific performance and/or injunctive relief in order to enforce, or prevent any violation of, any of the provisions of this Agreement.

16. In the event that Executive violates the terms of this Agreement, in addition to other available rights and remedies, the Company shall be released of all of its remaining obligations under the Severance Agreement.

The parties hereto have entered into this Agreement as of this _____ day of _____, _____.

AASTROM BIOSCIENCES, INC.

By: _____

Name: _____

Title: _____

EXECUTIVE

Exhibit 10.82

AASTROM BIOSCIENCES, INC.

2004 EQUITY INCENTIVE PLAN

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**AASTROM BIOSCIENCES, INC.
2004 EQUITY INCENTIVE PLAN**

1. ESTABLISHMENT, PURPOSE AND TERM OF PLAN.

1.1 ESTABLISHMENT. The Aastrom Biosciences, Inc. 2004 Equity Incentive Plan (the "PLAN") is hereby established effective as of November 10, 2004, the date of its approval by the stockholders of the Company (the "EFFECTIVE DATE"). After the Effective Date, the Company shall terminate, and no longer issue any awards from under, the Company's 2001 Stock Option Plan.

1.2 PURPOSE. The purpose of the Plan is to advance the interests of the Participating Company Group and its stockholders by providing an incentive to attract, retain and reward persons performing services for the Participating Company Group and by motivating such persons to contribute to the growth and profitability of the Participating Company Group. The Plan seeks to achieve this purpose by providing for Awards in the form of Options, Stock Appreciation Rights, Restricted Stock Purchase Rights, Restricted Stock Bonuses, Restricted Stock Units and Deferred Compensation Awards.

1.3 TERM OF PLAN. The Plan shall continue in effect until the earlier of its termination by the Board or the date on which all of the shares of Stock available for issuance under the Plan have been issued and all restrictions on such shares under the terms of the Plan and the agreements evidencing Awards granted under the Plan have lapsed. However, all Awards shall be granted, if at all, within ten (10) years from the Effective Date.

2. DEFINITIONS AND CONSTRUCTION.

2.1 DEFINITIONS. Whenever used herein, the following terms shall have their respective meanings set forth below:

(a) "AFFILIATE" means (i) an entity, other than a Parent Corporation, that directly, or indirectly through one or more intermediary entities, controls the Company or (ii) an entity, other than a Subsidiary Corporation, that is controlled by the Company directly, or indirectly through one or more intermediary entities. For this purpose, the term "control" (including the term "controlled by") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the relevant entity, whether through the ownership of voting securities, by contract or otherwise; or shall have such other meaning assigned such term for the purposes of registration on Form S-8 under the Securities Act.

(b) "AWARD" means any Option, SAR, Restricted Stock Purchase Right, Restricted Stock Bonus, Restricted Stock Unit or Deferred Compensation Award granted under the Plan.

(c) "AWARD AGREEMENT" means a written agreement between the Company and a Participant setting forth the terms, conditions and restrictions of the Award

granted to the Participant. An Award Agreement may be an "Option Agreement," an "SAR Agreement," a "Restricted Stock Purchase Agreement," a "Restricted Stock Bonus Agreement," a "Restricted Stock Unit Agreement," or a "Deferred Compensation Award Agreement."

(d) "BOARD" means the Board of Directors of the Company.

(e) "CAUSE" means, unless otherwise defined by the Participant's Award Agreement or contract of employment or service, any of the following: (i) the Participant's theft, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, or falsification of any Participating Company documents or records; (ii) the Participant's material failure to abide by a Participating Company's code of conduct or other policies (including, without limitation, policies relating to confidentiality and reasonable workplace conduct); (iii) the Participant's unauthorized use, misappropriation, destruction or diversion of any tangible or intangible asset or corporate opportunity of a Participating Company (including, without limitation, the Participant's improper use or disclosure of a Participating Company's confidential or proprietary information); (iv) any intentional act by the Participant which has a material detrimental effect on a Participating Company's reputation or business; (v) the Participant's repeated failure or inability to perform any reasonable assigned duties after written notice from a Participating Company of, and a reasonable opportunity to cure, such failure or inability; (vi) any material breach by the Participant of any employment or service agreement between the Participant and a Participating Company, which breach is not cured pursuant to the terms of such agreement; or (vii) the Participant's conviction (including any plea of guilty or nolo contendere) of any criminal act involving fraud, dishonesty, misappropriation or moral turpitude, or which impairs the Participant's ability to perform his or her duties with a Participating Company.

(f) "CHANGE IN CONTROL" means, unless otherwise defined by the Participant's Award Agreement or contract of employment or service, the occurrence of any of the following:

(i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), other than (1) a trustee or other fiduciary holding stock of the Company under an employee benefit plan of a Participating Company or (2) a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the stock of the Company, becomes the "beneficial owner" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of stock of the Company representing more than fifty percent (50%) of the total combined voting power of the Company's then-outstanding voting stock; or

(ii) an Ownership Change Event or series of related Ownership Change Events (collectively, a "TRANSACTION") in which the stockholders of the Company immediately before the Transaction do not retain immediately after the Transaction direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the outstanding voting securities of the Company or, in the case of an Ownership Change Event described in Section 2.1(z)(iii), the entity to which the assets of the Company were transferred (the "TRANSFEREE"), as the case may be; or

(iii) a liquidation or dissolution of the Company.

For purposes of the preceding sentence, indirect beneficial ownership shall include, without limitation, an interest resulting from ownership of the voting securities of one or more corporations or other business entities which own the Company or the Transferee, as the case may be, either directly or through one or more subsidiary corporations or other business entities. The Committee shall have the right to determine whether multiple sales or exchanges of the voting securities of the Company or multiple Ownership Change Events are related, and its determination shall be final, binding and conclusive.

(g) "CODE" means the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated thereunder.

(h) "COMMITTEE" means the Compensation Committee or other committee of the Board duly appointed to administer the Plan and having such powers as shall be specified by the Board. If no committee of the Board has been appointed to administer the Plan, the Board shall exercise all of the powers of the Committee granted herein, and, in any event, the Board may in its discretion exercise any or all of such powers.

(i) "COMPANY" means Aastrom Biosciences, Inc., a Michigan corporation, or any successor corporation thereto.

(j) "CONSULTANT" means a person engaged to provide consulting or advisory services (other than as an Employee or a member of the Board) to a Participating Company, provided that the identity of such person, the nature of such services or the entity to which such services are provided would not preclude the Company from offering or selling securities to such person pursuant to the Plan in reliance on registration on a Form S-8 Registration Statement under the Securities Act.

(k) "DEFERRED COMPENSATION AWARD" means an award of Stock Units granted to a Participant pursuant to Section 11 of the Plan.

(l) "DIRECTOR" means a member of the Board.

(m) "DISABILITY" means the permanent and total disability of the Participant, within the meaning of Section 22(e)(3) of the Code.

(n) "DIVIDEND EQUIVALENT" means a credit, made at the discretion of the Committee or as otherwise provided by the Plan, to the account of a Participant in an amount equal to the cash dividends paid on one share of Stock for each share of Stock represented by an Award held by such Participant.

(o) "EMPLOYEE" means any person treated as an employee (including an Officer or a member of the Board who is also treated as an employee) in the records of a Participating Company and, with respect to any Incentive Stock Option granted to such person, who is an employee for purposes of Section 422 of the Code; provided, however, that neither service as a member of the Board nor payment of a director's fee shall be sufficient to constitute employment for purposes of the Plan. The Company shall determine in good faith and in the exercise of its discretion whether an individual has become or has ceased to be an Employee and the effective date of such individual's employment or termination of employment, as the case

may be. For purposes of an individual's rights, if any, under the Plan as of the time of the Company's determination, all such determinations by the Company shall be final, binding and conclusive, notwithstanding that the Company or any court of law or governmental agency subsequently makes a contrary determination.

(p) "EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended.

(q) "FAIR MARKET VALUE" means, as of any date, the value of a share of Stock or other property as determined by the Committee, in its discretion, or by the Company, in its discretion, if such determination is expressly allocated to the Company herein, subject to the following:

(i) Except as otherwise determined by the Committee, if, on such date, the Stock is listed on a national or regional securities exchange or market system, the Fair Market Value of a share of Stock shall be the closing price of a share of Stock (or the mean of the closing bid and asked prices of a share of Stock if the Stock is so quoted instead) as quoted on the Nasdaq National Market, The Nasdaq SmallCap Market or such other national or regional securities exchange or market system constituting the primary market for the Stock, as reported in The Wall Street Journal or such other source as the Company deems reliable. If the relevant date does not fall on a day on which the Stock has traded on such securities exchange or market system, the date on which the Fair Market Value shall be established shall be the last day on which the Stock was so traded prior to the relevant date, or such other appropriate day as shall be determined by the Committee, in its discretion.

(ii) Notwithstanding the foregoing, the Committee may, in its discretion, determine the Fair Market Value on the basis of the opening, closing, high, low or average sale price of a share of Stock or the actual sale price of a share of Stock received by a Participant, on such date, the preceding trading day, the next succeeding trading day or an average determined over a period of trading days. The Committee may vary its method of determination of the Fair Market Value as provided in this Section for different purposes under the Plan.

(iii) If, on such date, the Stock is not listed on a national or regional securities exchange or market system, the Fair Market Value of a share of Stock shall be as determined by the Committee in good faith without regard to any restriction other than a restriction which, by its terms, will never lapse.

(r) "INCENTIVE STOCK OPTION" means an Option intended to be (as set forth in the Award Agreement) and which qualifies as an incentive stock option within the meaning of Section 422(b) of the Code.

(s) "INDEXED OPTION" means an Option with an exercise price which either increases by a fixed percentage over time or changes by reference to a published index, as determined by the Committee and set forth in the Option Agreement.

(t) "INSIDER" means an Officer, Director or any other person whose transactions in Stock are subject to Section 16 of the Exchange Act.

- (u) "NONEMPLOYEE DIRECTOR" means a Director who is not an Employee.
- (v) "NONEMPLOYEE DIRECTOR OPTION" means an Option granted to a Nonemployee Director pursuant to Section 7 of the Plan. Nonemployee Director Options shall be Nonstatutory Stock Options.
- (w) "NONSTATUTORY STOCK OPTION" means an Option not intended to be (as set forth in the Award Agreement) an incentive stock option within the meaning of Section 422(b) of the Code.
- (x) "OFFICER" means any person designated by the Board as an officer of the Company.
- (y) "OPTION" means the right to purchase Stock at a stated price for a specified period of time granted to a Participant pursuant to Section 6 or Section 7 of the Plan. An Option may be either an Incentive Stock Option, a Nonstatutory Stock Option or an Indexed Option.
- (z) "OPTION EXCHANGE PROGRAM" means any program instituted by the Committee which would permit either (i) Participants the opportunity to transfer any outstanding Options to a financial institution selected by the Committee or (ii) the cancellation of outstanding Options and/or SARs and the grant in substitution therefore of any new Awards, including specifically any new Options and/or SARs having a lower exercise price.
- (aa) "OWNERSHIP CHANGE EVENT" means the occurrence of any of the following with respect to the Company: (i) the direct or indirect sale or exchange in a single or series of related transactions by the stockholders of the Company of more than fifty percent (50%) of the voting stock of the Company;
- (ii) a merger or consolidation in which the Company is a party; or (iii) the sale, exchange, or transfer of all or substantially all of the assets of the Company (other than a sale, exchange or transfer to one or more subsidiaries of the Company).
- (bb) "PARENT CORPORATION" means any present or future "parent corporation" of the Company, as defined in Section 424(e) of the Code.
- (cc) "PARTICIPANT" means any eligible person who has been granted one or more Awards.
- (dd) "PARTICIPATING COMPANY" means the Company or any Parent Corporation, Subsidiary Corporation or Affiliate.
- (ee) "PARTICIPATING COMPANY GROUP" means, at any point in time, all entities collectively which are then Participating Companies.
- (ff) "PERFORMANCE GOAL" means a performance goal established by the Committee pursuant to Section 9.9 of the Plan.
- (gg) "PRIOR PLAN OPTIONS" means any option or other award granted by the Company which is subject to vesting or repurchase by the Company, including specifically,

all such options and awards granted pursuant to the Company's 2001 Stock Option Plan which is outstanding on or after the Effective Date.

(hh) "RESTRICTED STOCK AWARD" means an Award of a Restricted Stock Bonus or a Restricted Stock Purchase Right.

(ii) "RESTRICTED STOCK BONUS" means Stock granted to a Participant pursuant to Section 9 of the Plan.

(jj) "RESTRICTED STOCK PURCHASE RIGHT" means a right to purchase Stock granted to a Participant pursuant to Section 9 of the Plan.

(kk) "RESTRICTED STOCK UNIT" or "STOCK UNIT" means a bookkeeping entry representing a right granted to a Participant pursuant to Section 10 or Section 11 of the Plan, respectively, to receive a share of Stock on a date determined in accordance with the provisions of Section 10 or Section 11, as applicable, and the Participant's Award Agreement.

(ll) "RESTRICTION PERIOD" means the period established in accordance with Section 9.5 of the Plan during which shares subject to a Restricted Stock Award are subject to Vesting Conditions.

(mm) "RULE 16B-3" means Rule 16b-3 under the Exchange Act, as amended from time to time, or any successor rule or regulation.

(nn) "SAR" or "STOCK APPRECIATION RIGHT" means a bookkeeping entry representing, for each share of Stock subject to such SAR, a right granted to a Participant pursuant to Section 8 of the Plan to receive payment of an amount equal to the excess, if any, of the Fair Market Value of a share of Stock on the date of exercise of the SAR over the exercise price.

(oo) "SECTION 162(m)" means Section 162(m) of the Code.

(pp) "SECURITIES ACT" means the Securities Act of 1933, as amended.

(qq) "SERVICE" means a Participant's employment or service with the Participating Company Group, whether in the capacity of an Employee, a Director or a Consultant. A Participant's Service shall not be deemed to have terminated merely because of a change in the capacity in which the Participant renders such Service or a change in the Participating Company for which the Participant renders such Service, provided that there is no interruption or termination of the Participant's Service. Furthermore, a Participant's Service shall not be deemed to have terminated if the Participant takes any military leave, sick leave, or other bona fide leave of absence approved by the Company. However, if any such leave taken by a Participant exceeds ninety (90) days, then on the one hundred eighty-first (181st) day following the commencement of such leave any Incentive Stock Option held by the Participant shall cease to be treated as an Incentive Stock Option and instead shall be treated thereafter as a Nonstatutory Stock Option, unless the Participant's right to return to Service with the Participating Company Group is guaranteed by statute or contract. Notwithstanding the foregoing, unless otherwise designated by the Company or required by law, a leave of absence

shall not be treated as Service for purposes of determining vesting under the Participant's Award Agreement. A Participant's Service shall be deemed to have terminated either upon an actual termination of Service or upon the entity for which the Participant performs Service ceasing to be a Participating Company. Subject to the foregoing, the Company, in its discretion, shall determine whether the Participant's Service has terminated and the effective date of such termination.

(rr) "STOCK" means the common stock of the Company, as adjusted from time to time in accordance with Section 4.3 of the Plan.

(ss) "SUBSIDIARY CORPORATION" means any present or future "subsidiary corporation" of the Company, as defined in Section 424(f) of the Code.

(tt) "TEN PERCENT OWNER" means a Participant who, at the time an Option is granted to the Participant, owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of a Participating Company (other than an Affiliate) within the meaning of Section 422(b)(6) of the Code.

(uu) "VESTING CONDITIONS" mean those conditions established in accordance with Section 9.5 or Section 10.3 of the Plan prior to the satisfaction of which shares subject to a Restricted Stock Award or Restricted Stock Unit Award, respectively, remain subject to forfeiture or a repurchase option in favor of the Company upon the Participant's termination of Service.

2.2 CONSTRUCTION. Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of the Plan. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

3. ADMINISTRATION.

3.1 ADMINISTRATION BY THE COMMITTEE. The Plan shall be administered by the Committee. All questions of interpretation of the Plan or of any Award shall be determined by the Committee, and such determinations shall be final and binding upon all persons having an interest in the Plan or such Award.

3.2 AUTHORITY OF OFFICERS. Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, determination or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has apparent authority with respect to such matter, right, obligation, determination or election. The Board may, in its discretion, delegate to a committee comprised of one or more Officers the authority to grant one or more Awards, without further approval of the Board or the Committee, to any Employee, other than a person who, at the time of such grant, is an Insider; provided, however, that (a) such Awards shall not be granted for shares in excess of the maximum aggregate number of shares of Stock authorized for issuance pursuant to Section 4.1, (b) the exercise price per share of each such Award which is an Option or Stock Appreciation Right shall be not less than the Fair Market Value per share of the Stock on the effective date of grant

(or, if the Stock has not traded on such date, on the last day preceding the effective date of grant on which the Stock was traded), and (c) each such Award shall be subject to the terms and conditions of the appropriate standard form of Award Agreement approved by the Board or the Committee and shall conform to the provisions of the Plan and such other guidelines as shall be established from time to time by the Board or the Committee.

3.3 ADMINISTRATION WITH RESPECT TO INSIDERS. With respect to participation by Insiders in the Plan, at any time that any class of equity security of the Company is registered pursuant to Section 12 of the Exchange Act, the Plan shall be administered in compliance with the requirements, if any, of Rule 16b-3.

3.4 COMMITTEE COMPLYING WITH SECTION 162(m). If the Company is a "publicly held corporation" within the meaning of Section 162(m), the Board may establish a Committee of "outside directors" within the meaning of Section 162(m) to approve the grant of any Award which might reasonably be anticipated to result in the payment of employee remuneration that would otherwise exceed the limit on employee remuneration deductible for income tax purposes pursuant to Section 162(m).

3.5 POWERS OF THE COMMITTEE. In addition to any other powers set forth in the Plan and subject to the provisions of the Plan, the Committee shall have the full and final power and authority, in its discretion:

- (a) to determine the persons to whom, and the time or times at which, Awards shall be granted and the number of shares of Stock or units to be subject to each Award;
- (b) to determine the type of Award granted and to designate Options as Incentive Stock Options, Nonstatutory Stock Options or Indexed Options;
- (c) to determine the Fair Market Value of shares of Stock or other property;
- (d) to determine the terms, conditions and restrictions applicable to each Award (which need not be identical) and any shares acquired pursuant thereto, including, without limitation, (i) the exercise or purchase price of shares purchased pursuant to any Award, (ii) the method of payment for shares purchased pursuant to any Award, (iii) the method for satisfaction of any tax withholding obligation arising in connection with Award, including by the withholding or delivery of shares of Stock, (iv) the timing, terms and conditions of the exercisability or vesting of any Award or any shares acquired pursuant thereto, (v) the Performance Goals applicable to any Award and the extent to which such Performance Goals have been attained, (vi) the time of the expiration of any Award, (vii) the effect of the Participant's termination of Service on any of the foregoing, and (viii) all other terms, conditions and restrictions applicable to any Award or shares acquired pursuant thereto not inconsistent with the terms of the Plan;
- (e) to determine whether an Award will be settled in shares of Stock, cash, or in any combination thereof;
- (f) to approve one or more forms of Award Agreement;

(g) to amend, modify, extend, cancel or renew any Award or to waive any restrictions or conditions applicable to any Award or any shares acquired pursuant thereto;

(h) to accelerate, continue, extend or defer the exercisability or vesting of any Award or any shares acquired pursuant thereto, including with respect to the period following a Participant's termination of Service;

(i) without the consent of the affected Participant and notwithstanding the provisions of any Award Agreement to the contrary, to unilaterally substitute at any time a Stock Appreciation Right providing for settlement solely in shares of Stock in place of any outstanding Option, provided that such Stock Appreciation Right covers the same number of shares of Stock and provides for the same exercise price (subject in each case to adjustment in accordance with Section 4.3) as the replaced Option and otherwise provides substantially equivalent terms and conditions as the replaced Option, as determined by the Committee;

(j) to prescribe, amend or rescind rules, guidelines and policies relating to the Plan, or to adopt sub-plans or supplements to, or alternative versions of, the Plan, including, without limitation, as the Committee deems necessary or desirable to comply with the laws or regulations of or to accommodate the tax policy, accounting principles or custom of, foreign jurisdictions whose citizens may be granted Awards; and

(k) to correct any defect, supply any omission or reconcile any inconsistency in the Plan or any Award Agreement and to make all other determinations and take such other actions with respect to the Plan or any Award as the Committee may deem advisable to the extent not inconsistent with the provisions of the Plan or applicable law.

3.6 NO REPRICING. Without the affirmative vote of holders of a majority of the shares of Stock cast in person or by proxy at a meeting of the stockholders of the Company at which a quorum representing a majority of all outstanding shares of Stock is present or represented by proxy, the Board shall not approve a program providing for the amendment of outstanding Options and/or SARs to reduce the exercise price thereof. This paragraph shall not be construed to apply to (i) "issuing or assuming a stock option in a transaction to which section 424(a) applies," within the meaning of Section 424 of the Code or (ii) to any Option Exchange Program.

3.7 INDEMNIFICATION. In addition to such other rights of indemnification as they may have as members of the Board or the Committee or as officers or employees of the Participating Company Group, members of the Board or the Committee and any officers or employees of the Participating Company Group to whom authority to act for the Board, the Committee or the Company is delegated shall be indemnified by the Company against all reasonable expenses, including attorneys' fees, actually and necessarily incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action taken or failure to act under or in connection with the Plan, or any right granted hereunder, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the Company) or paid by them in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or

proceeding that such person is liable for gross negligence, bad faith or intentional misconduct in duties; provided, however, that within sixty (60) days after the institution of such action, suit or proceeding, such person shall offer to the Company, in writing, the opportunity at its own expense to handle and defend the same.

4. SHARES SUBJECT TO PLAN.

4.1 MAXIMUM NUMBER OF SHARES ISSUABLE. Subject to adjustment as provided in Section 4.2 and Section 4.3, the maximum aggregate number of shares of Stock that may be issued under the Plan shall be Ten Million One Hundred and Twenty-Seven Thousand Five Hundred and Twenty-Six (10,127,526), reduced at any time by the number of shares subject to the Prior Plan Options (which as of the Effective Date equaled approximately Five Million Six Hundred and Ninety Thousand Eight Hundred and Fifty-One (5,690,851)). Such shares shall consist of authorized but unissued or reacquired shares of Stock or any combination thereof. If any outstanding Award, including any Prior Plan Options, for any reason, expires or is terminated or canceled without having been exercised or settled in full, or if shares of Stock acquired pursuant to an Award subject to forfeiture or repurchase, including any Prior Plan Options, are forfeited or repurchased by the Company, the shares of Stock allocable to the terminated portion of such Award, including any Prior Plan Options, or such forfeited or repurchased shares of Stock shall again be available for grant under the Plan. Notwithstanding anything in the Plan, or any Award Agreement to the contrary, shares underlying Options transferred under any Option Exchange Program to a financial institution described in Section 2.1(z) (i) shall not be again available for grant under the Plan. Shares of Stock shall not be deemed to have been issued pursuant to the Plan (a) with respect to any portion of an Award that is settled in cash or (b) to the extent such shares are withheld or reacquired by the Company in satisfaction of tax withholding obligations pursuant to Section 15.2. Upon payment in shares of Stock pursuant to the exercise of an SAR, the number of shares available for issuance under the Plan shall be reduced only by the number of shares actually issued in such payment. If the exercise price of an Option is paid by tender to the Company, or attestation to the ownership, of shares of Stock owned by the Participant, the number of shares available for issuance under the Plan shall be reduced by the net number of shares for which the Option is exercised.

4.2 MAXIMUM NUMBER OF SHARES ISSUABLE PURSUANT TO INCENTIVE STOCK OPTIONS. Subject to adjustment as provided in Section 4.3, the maximum aggregate number of shares of Stock that may be issued under the Plan pursuant to the exercise of Incentive Stock Options (the "ISO SHARE LIMIT") shall not exceed Ten Million One Hundred and Twenty-Seven Thousand Five Hundred and Twenty-Six (10,127,526). The maximum aggregate number of shares of Stock that may be issued under the Plan pursuant to all Awards other than Incentive Stock Options shall be the number of shares determined in accordance with Section 4.1, subject to adjustment as provided in Section 4.3.

4.3 ADJUSTMENTS FOR CHANGES IN CAPITAL STRUCTURE. Subject to any required action by the stockholders of the Company, in the event of any change in the Stock effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, stock dividend, stock split, reverse stock split, split-up, split-off, spin-off, combination of shares, exchange of shares, or similar change in the capital structure of the Company, or in the event of payment of a dividend

or distribution to the stockholders of the Company in a form other than Stock (excepting normal cash dividends) that has a material effect on the Fair Market Value of shares of Stock, appropriate adjustments shall be made in the number and kind of shares subject to the Plan and to any outstanding Awards, in the ISO Share Limit set forth in Section 4.2, in the Nonemployee Director Options to be granted automatically pursuant to Section 7, and in the exercise or purchase price per share under any outstanding Award in order to prevent dilution or enlargement of Participants' rights under the Plan. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." Any fractional share resulting from an adjustment pursuant to this Section 4.3 shall be rounded down to the nearest whole number, and in no event may the exercise or purchase price under any Award be decreased to an amount less than the par value, if any, of the stock subject to such Award. The Committee in its sole discretion, may also make such adjustments in the terms of any Award to reflect, or related to, such changes in the capital structure of the Company or distributions as it deems appropriate, including modification of Performance Goals. The adjustments determined by the Committee pursuant to this Section 4.3 shall be final, binding and conclusive.

5. ELIGIBILITY AND AWARD LIMITATIONS.

5.1 PERSONS ELIGIBLE FOR AWARDS. Awards may be granted only to Employees, Consultants and Directors. For purposes of the foregoing sentence, "Employees," "Consultants" and "Directors" shall include prospective Employees, prospective Consultants and prospective Directors to whom Awards are granted in connection with written offers of an employment or other service relationship with the Participating Company Group; provided, however, that no Stock subject to any such Award shall vest, become exercisable or be issued prior to the date on which such person commences Service. A Nonemployee Director Option may be granted only to a person who, at the time of grant, is a Nonemployee Director.

5.2 PARTICIPATION. Awards other than Nonemployee Director Options are granted solely at the discretion of the Committee. Eligible persons may be granted more than one Award. However, excepting Nonemployee Director Options, eligibility in accordance with this Section shall not entitle any person to be granted an Award, or, having been granted an Award, to be granted an additional Award.

5.3 INCENTIVE STOCK OPTION LIMITATIONS.

(a) PERSONS ELIGIBLE. An Incentive Stock Option may be granted only to a person who, on the effective date of grant, is an Employee of the Company, a Parent Corporation or a Subsidiary Corporation (each being an "ISO-QUALIFYING CORPORATION"). Any person who is not an Employee of an ISO-Qualifying Corporation on the effective date of the grant of an Option to such person may be granted only a Nonstatutory Stock Option. An Incentive Stock Option granted to a prospective Employee upon the condition that such person become an Employee of an ISO-Qualifying Corporation shall be deemed granted effective on the date such person commences Service with an ISO-Qualifying Corporation, with an exercise price determined as of such date in accordance with Section 6.1.

(b) **FAIR MARKET VALUE LIMITATION.** To the extent that options designated as Incentive Stock Options (granted under all stock option plans of the Participating Company Group, including the Plan) become exercisable by a Participant for the first time during any calendar year for stock having a Fair Market Value greater than One Hundred Thousand Dollars (\$100,000), the portion of such options which exceeds such amount shall be treated as Nonstatutory Stock Options. For purposes of this Section, options designated as Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of stock shall be determined as of the time the option with respect to such stock is granted. If the Code is amended to provide for a limitation different from that set forth in this Section, such different limitation shall be deemed incorporated herein effective as of the date and with respect to such Options as required or permitted by such amendment to the Code. If an Option is treated as an Incentive Stock Option in part and as a Nonstatutory Stock Option in part by reason of the limitation set forth in this Section, the Participant may designate which portion of such Option the Participant is exercising. In the absence of such designation, the Participant shall be deemed to have exercised the Incentive Stock Option portion of the Option first. Upon exercise, shares issued pursuant to each such portion shall be separately identified.

5.4 **SECTION 162(m) AWARD LIMITS.** The following limits shall apply to the grant of any Award if, at the time of grant, the Company is a "publicly held corporation" within the meaning of Section 162(m).

(i) **OPTIONS AND SARS.** Subject to adjustment as provided in Section 4.3, no Employee shall be granted within any fiscal year of the Company one or more Options or Freestanding SARs which in the aggregate are for more than Five Hundred Thousand (500,000) shares of Stock, provided, however, that the Company may make an additional one-time grant to any newly-hired Employee of an Option and/or SAR for the purchase of up to an additional Two Hundred and Fifty Thousand (250,000) shares of Stock. An Option which is canceled (or a Freestanding SAR as to which the exercise price is reduced to reflect a reduction in the Fair Market Value of the Stock) in the same fiscal year of the Company in which it was granted shall continue to be counted against such limit for such fiscal year.

(ii) **RESTRICTED STOCK AWARDS AND RESTRICTED STOCK UNITS.** Subject to adjustment as provided in Section 4.3, no Employee shall be granted within any fiscal year of the Company one or more Restricted Stock Awards or Restricted Stock Units, subject to Vesting Conditions based on the attainment of Performance Goals, for more than Five Hundred Thousand (500,000) shares of Stock, provided, however, that the Company may make an additional one-time grant to any newly-hired Employee of a Restricted Stock Award or Restricted Stock Units of up to an additional Two Hundred and Fifty Thousand (250,000) shares of Stock.

6. TERMS AND CONDITIONS OF OPTIONS.

Options shall be evidenced by Award Agreements specifying the number of shares of Stock covered thereby, in such form as the Committee shall from time to time establish. No Option or purported Option shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement. Award Agreements evidencing Options may incorporate all or any of the terms of the Plan by reference and, except as otherwise set forth in

Section 7 with respect to Nonemployee Director Options, shall comply with and be subject to the following terms and conditions:

6.1 EXERCISE PRICE. The exercise price for each Option shall be established in the discretion of the Committee; provided, however, that (a) the exercise price per share shall be not less than the Fair Market Value of a share of Stock on the effective date of grant of the Option, (b) no Incentive Stock Option granted to a Ten Percent Owner shall have an exercise price per share less than one hundred ten percent (110%) of the Fair Market Value of a share of Stock on the effective date of grant of the Option, and (c) notwithstanding anything to the contrary in this Section 6.1, in the case of an Indexed Option, the Committee shall determine the exercise price of such Indexed Option and the terms and conditions that affect, if any, any adjustments to the exercise price of such Indexed Option. Notwithstanding the foregoing, an Option may be granted with an exercise price lower than the minimum exercise price set forth above if such Option is granted pursuant to an assumption or substitution for another option in a manner qualifying under the provisions of Section 424(a) of the Code.

6.2 EXERCISABILITY AND TERM OF OPTIONS. Options shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria and restrictions as shall be determined by the Committee and set forth in the Award Agreement evidencing such Option; provided, however, that (a) no Option shall be exercisable after the expiration of ten (10) years after the effective date of grant of such Option, (b) no Incentive Stock Option granted to a Ten Percent Owner shall be exercisable after the expiration of five (5) years after the effective date of grant of such Option, and (c) no Option granted to a prospective Employee, prospective Consultant or prospective Director may become exercisable prior to the date on which such person commences Service. Subject to the foregoing, unless otherwise specified by the Committee in the grant of an Option, any Option granted hereunder shall terminate ten (10) years after the effective date of grant of the Option, unless earlier terminated in accordance with its provisions.

6.3 PAYMENT OF EXERCISE PRICE.

(a) FORMS OF CONSIDERATION AUTHORIZED. Except as otherwise provided below, payment of the exercise price for the number of shares of Stock being purchased pursuant to any Option shall be made (i) in cash, by check or in cash equivalent, (ii) by tender to the Company, or attestation to the ownership, of shares of Stock owned by the Participant having a Fair Market Value not less than the exercise price, (iii) by delivery of a properly executed notice of exercise together with irrevocable instructions to a broker providing for the assignment to the Company of the proceeds of a sale or loan with respect to some or all of the shares being acquired upon the exercise of the Option (including, without limitation, through an exercise complying with the provisions of Regulation T as promulgated from time to time by the Board of Governors of the Federal Reserve System) (a "CASHLESS EXERCISE"), (iv) by such other consideration as may be approved by the Committee from time to time to the extent permitted by applicable law, or (v) by any combination thereof. The Committee may at any time or from time to time grant Options which do not permit all of the foregoing forms of consideration to be used in payment of the exercise price or which otherwise restrict one or more forms of consideration.

(b) LIMITATIONS ON FORMS OF CONSIDERATION.

(i) TENDER OF STOCK. Notwithstanding the foregoing, an Option may not be exercised by tender to the Company, or attestation to the ownership, of shares of Stock to the extent such tender or attestation would constitute a violation of the provisions of any law, regulation or agreement restricting the redemption of the Company's stock. Unless otherwise provided by the Committee, an Option may not be exercised by tender to the Company, or attestation to the ownership, of shares of Stock unless such shares either have been owned by the Participant for more than six (6) months (and not used for another Option exercise by attestation during such period) or were not acquired, directly or indirectly, from the Company.

(ii) CASHLESS EXERCISE. The Company reserves, at any and all times, the right, in the Company's sole and absolute discretion, to establish, decline to approve or terminate any program or procedures for the exercise of Options by means of a Cashless Exercise, including with respect to one or more Participants specified by the Company notwithstanding that such program or procedures may be available to other Participants.

6.4 EFFECT OF TERMINATION OF SERVICE.

(a) OPTION EXERCISABILITY. Subject to earlier termination of the Option as otherwise provided herein and unless otherwise provided by the Committee in the grant of an Option and set forth in the Award Agreement, an Option shall be exercisable after a Participant's termination of Service only during the applicable time period determined in accordance with this Section and thereafter shall terminate:

(i) DISABILITY. If the Participant's Service terminates because of the Disability of the Participant, the Option, to the extent unexercised and exercisable on the date on which the Participant's Service terminated, may be exercised by the Participant (or the Participant's guardian or legal representative) at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the date of expiration of the Option's term as set forth in the Award Agreement evidencing such Option (the "OPTION EXPIRATION DATE").

(ii) DEATH. If the Participant's Service terminates because of the death of the Participant, the Option, to the extent unexercised and exercisable on the date on which the Participant's Service terminated, may be exercised by the Participant's legal representative or other person who acquired the right to exercise the Option by reason of the Participant's death at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date. The Participant's Service shall be deemed to have terminated on account of death if the Participant dies within three (3) months after the Participant's termination of Service.

(iii) TERMINATION FOR CAUSE. Notwithstanding any other provision of the Plan to the contrary, if the Participant's Service is terminated for Cause, the Option shall terminate and cease to be exercisable immediately upon such termination of Service.

(iv) OTHER TERMINATION OF SERVICE. If the Participant's Service terminates for any reason, except Disability, death or Cause, the Option, to the extent unexercised and exercisable by the Participant on the date on which the Participant's Service terminated, may be exercised by the Participant at any time prior to the expiration of three (3) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(b) EXTENSION IF EXERCISE PREVENTED BY LAW. Notwithstanding the foregoing, other than termination of Service for Cause, if the exercise of an Option within the applicable time periods set forth in Section 6.4(a) is prevented by the provisions of Section 14 below, the Option shall remain exercisable until three (3) months (or such longer period of time as determined by the Committee, in its discretion) after the date the Participant is notified by the Company that the Option is exercisable, but in any event no later than the Option Expiration Date.

(c) EXTENSION IF PARTICIPANT SUBJECT TO SECTION 16(b). Notwithstanding the foregoing, other than termination of Service for Cause, if a sale within the applicable time periods set forth in Section 6.4(a) of shares acquired upon the exercise of the Option would subject the Participant to suit under Section 16(b) of the Exchange Act, the Option shall remain exercisable until the earliest to occur of (i) the tenth (10th) day following the date on which a sale of such shares by the Participant would no longer be subject to such suit, (ii) the one hundred and ninetieth (190th) day after the Participant's termination of Service, or (iii) the Option Expiration Date.

6.5 TRANSFERABILITY OF OPTIONS. During the lifetime of the Participant, an Option shall be exercisable only by the Participant or the Participant's guardian or legal representative. Prior to the issuance of shares of Stock upon the exercise of an Option, the Option shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. Notwithstanding the foregoing, to the extent permitted by the Committee, in its discretion, an Option shall be assignable or transferable subject to the applicable limitations, if any, described in the General Instructions to Form S-8 Registration Statement under the Securities Act. Notwithstanding any of the foregoing, the Committee may permit further transferability of any Option, on a general or specific basis, to third parties in connection with an Option Exchange Program established and approved by the Committee pursuant to which Participant's may receive a cash payment, or other consideration, in exchange for the transfer of such Option, and the Committee may impose any conditions and limitations on any permitted transferability and may amend, without Participant consent, any outstanding Option as may be necessary to facilitate the transfer of such Option under any Option Exchange Program.

7. TERMS AND CONDITIONS OF NONEMPLOYEE DIRECTOR AWARDS

The Committee may grant any Award authorized under this Plan to Nonemployee Directors. All such Awards shall be evidenced by Award Agreements in such final form as the Committee shall from time to time establish and shall specify the type of Award and the number of Nonemployee Director Units underlying any such Award. For the purposes of this Section 7,

the term "NONEMPLOYEE DIRECTOR UNIT" shall mean a right to acquire one bookkeeping unit, purchase right, share of Stock, or the appropriate cash amount as applicable depending on the type of Award authorized under the Plan (i.e., whether granted as an Option, a SAR, a Restricted Stock Award, a RSU or a Deferred Compensation Award). Such Award Agreements may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to, as applicable for any such Award, the terms and conditions of Sections 6, 8, 9, 10 and 11 to the extent not inconsistent with this Section and the following terms and conditions.

7.1 GRANT OF NONEMPLOYEE DIRECTOR AWARDS.

(a) INITIAL AWARD. Subject to the execution by the Nonemployee Director of an appropriate Award Agreement, each person who first becomes a Nonemployee Director on or after the Effective Date shall be granted automatically and without further action of the Committee on the date such person first becomes a Nonemployee Director an Award (an "INITIAL AWARD") in an amount equal to Twelve Thousand (12,000) Nonemployee Director Units. The Committee shall determine, in its sole and absolute discretion, prior to the grant date of any such Initial Award, the type of Award to be granted to such Nonemployee Director for such Initial Award.

(b) ANNUAL AWARD. Subject to the execution by the Nonemployee Director of an appropriate Award Agreement, each Nonemployee Director (including any Director who previously did not qualify as a Nonemployee Director but who subsequently becomes a Nonemployee Director) shall be granted automatically and without further action of the Committee on the day after each annual meeting of the stockholders of the Company (the "ANNUAL MEETING"), commencing with the Annual Meeting held in 2004 and continuing for each Annual Meeting held thereafter during the term of the Plan, immediately following which such person remains a Nonemployee Director, an Award (an "ANNUAL AWARD") in an amount equal to Twelve Thousand (12,000) Nonemployee Director Units; provided, however, that a Nonemployee Director granted an Initial Award on, or within a period of six (6) months prior to, the date of an Annual Meeting shall not be granted an Annual Award pursuant to this Section 7.1(b) with respect to the same Annual Meeting. The Committee shall determine, in its sole and absolute discretion, prior to the grant date of any such Annual Award, the type of Award to be granted to such Nonemployee Director for such Annual Award.

(c) RIGHT TO DECLINE NONEMPLOYEE DIRECTOR AWARD. Notwithstanding the foregoing, any person may elect not to receive a Nonemployee Director Award by delivering written notice of such election to the Board no later than the day prior to the date such Nonemployee Director Award would otherwise be granted. A person so declining a Nonemployee Director Award shall receive no payment or other consideration in lieu of such declined Nonemployee Director Award. A person who has declined a Nonemployee Director Award may revoke such election by delivering written notice of such revocation to the Board no later than the day prior to the date such Nonemployee Director Award would be granted pursuant to Section 7.1(a) or (b), as the case may be.

7.2 EXERCISE PRICE OF ANY NONEMPLOYEE DIRECTOR OPTION. The exercise price per share of Stock subject to any Nonemployee Director Award which has been determined

by the Committee to be granted in the form of an Option shall be the Fair Market Value of a share of Stock on the date of grant of the Nonemployee Director Option.

7.3 EXERCISABILITY AND TERM OF NONEMPLOYEE DIRECTOR OPTIONS. Except as otherwise provided in the Plan or in the Award Agreement evidencing a Nonemployee Director Option and provided that the Participant's Service has not terminated prior to the relevant date, each Nonemployee Director Option shall vest and become exercisable as set forth below and shall terminate and cease to be exercisable on the tenth (10th) anniversary of the date of grant of the Nonemployee Director Option, unless earlier terminated in accordance with the terms of the Plan or the Award Agreement evidencing such Option. Both Initial Options and Annual Options shall vest and become exercisable in twelve (12) substantially equal monthly installments after the grant date of such options.

7.4 EFFECT OF TERMINATION OF SERVICE.

(a) **OPTION EXERCISABILITY.** Subject to earlier termination of the Nonemployee Director Option as otherwise provided herein, a Nonemployee Director Option shall be exercisable after the Participant's termination of Service only during the applicable time period determined in accordance with this Section and thereafter shall terminate:

(i) **DISABILITY.** If the Participant's Service terminates because of the Disability of the Participant, the Nonemployee Director Option, to the extent unexercised and exercisable on the date on which the Participant's Service terminated, may be exercised by the Participant (or the Participant's guardian or legal representative) at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(ii) **DEATH.** If the Participant's Service terminates because of the death of the Participant, the Nonemployee Director Option, to the extent unexercised and exercisable on the date on which the Participant's Service terminated, may be exercised by the Participant's legal representative or other person who acquired the right to exercise the Nonemployee Director Option by reason of the Participant's death at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date. The Participant's Service shall be deemed to have terminated on account of death if the Participant dies within three (3) months after the Participant's termination of Service.

(iii) **OTHER TERMINATION OF SERVICE.** If the Participant's Service terminates for any reason, except Disability or death, the Nonemployee Director Option, to the extent unexercised and exercisable by the Participant on the date on which the Participant's Service terminated, may be exercised by the Participant at any time prior to the expiration of six (6) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(b) **EXTENSION IF EXERCISE PREVENTED BY LAW.** Notwithstanding the foregoing, if the exercise of a Nonemployee Director Option within the applicable time periods set forth in Section 7.4(a) is prevented by the provisions of Section 14 below, the Nonemployee

Director Option shall remain exercisable until three (3) months after the date the Participant is notified by the Company that the Nonemployee Director Option is exercisable, but in any event no later than the Option Expiration Date.

(c) EXTENSION IF PARTICIPANT SUBJECT TO SECTION 16(b). Notwithstanding the foregoing, if a sale within the applicable time periods set forth in Section 7.4(a) of shares acquired upon the exercise of the Nonemployee Director Option would subject the Participant to suit under Section 16(b) of the Exchange Act, the Nonemployee Director Option shall remain exercisable until the earliest to occur of (i) the tenth (10th) day following the date on which a sale of such shares by the Participant would no longer be subject to such suit, (ii) the one hundred and ninetieth (190th) day after the Participant's termination of Service, or (iii) the Option Expiration Date.

8. TERMS AND CONDITIONS OF STOCK APPRECIATION RIGHTS.

Stock Appreciation Rights shall be evidenced by Award Agreements specifying the number of shares of Stock subject to the Award, in such form as the Committee shall from time to time establish. No SAR or purported SAR shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement. Award Agreements evidencing SARs may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

8.1 TYPES OF SARS AUTHORIZED. SARs may be granted in tandem with all or any portion of a related Option (a "TANDEM SAR") or may be granted independently of any Option (a "FREESTANDING SAR"). A Tandem SAR may be granted either concurrently with the grant of the related Option or at any time thereafter prior to the complete exercise, termination, expiration or cancellation of such related Option.

8.2 EXERCISE PRICE. The exercise price for each SAR shall be established in the discretion of the Committee; provided, however, that (a) the exercise price per share subject to a Tandem SAR shall be the exercise price per share under the related Option and (b) the exercise price per share subject to a Freestanding SAR shall be not less than the Fair Market Value of a share of Stock on the effective date of grant of the SAR.

8.3 EXERCISABILITY AND TERM OF SARS.

(a) TANDEM SARS. Tandem SARs shall be exercisable only at the time and to the extent, and only to the extent, that the related Option is exercisable, subject to such provisions as the Committee may specify where the Tandem SAR is granted with respect to less than the full number of shares of Stock subject to the related Option. The Committee may, in its discretion, provide in any Award Agreement evidencing a Tandem SAR that such SAR may not be exercised without the advance approval of the Company and, if such approval is not given, then the Option shall nevertheless remain exercisable in accordance with its terms. A Tandem SAR shall terminate and cease to be exercisable no later than the date on which the related Option expires or is terminated or canceled. Upon the exercise of a Tandem SAR with respect to some or all of the shares subject to such SAR, the related Option shall be canceled automatically as to the number of shares with respect to which the Tandem SAR was exercised.

Upon the exercise of an Option related to a Tandem SAR as to some or all of the shares subject to such Option, the related Tandem SAR shall be canceled automatically as to the number of shares with respect to which the related Option was exercised.

(b) FREESTANDING SARS. Freestanding SARs shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria and restrictions as shall be determined by the Committee and set forth in the Award Agreement evidencing such SAR; provided, however, that no Freestanding SAR shall be exercisable after the expiration of ten (10) years after the effective date of grant of such SAR.

8.4 EXERCISE OF SARS. Upon the exercise (or deemed exercise pursuant to Section 8.5) of an SAR, the Participant (or the Participant's legal representative or other person who acquired the right to exercise the SAR by reason of the Participant's death) shall be entitled to receive payment of an amount for each share with respect to which the SAR is exercised equal to the excess, if any, of the Fair Market Value of a share of Stock on the date of exercise of the SAR over the exercise price. Payment of such amount shall be made in cash, shares of Stock, or any combination thereof as determined by the Committee. Unless otherwise provided in the Award Agreement evidencing such SAR, payment shall be made in a lump sum as soon as practicable following the date of exercise of the SAR. The Award Agreement evidencing any SAR may provide for deferred payment in a lump sum or in installments. When payment is to be made in shares of Stock, the number of shares to be issued shall be determined on the basis of the Fair Market Value of a share of Stock on the date of exercise of the SAR. For purposes of Section 8, an SAR shall be deemed exercised on the date on which the Company receives notice of exercise from the Participant or as otherwise provided in Section 8.5.

8.5 DEEMED EXERCISE OF SARS. If, on the date on which an SAR would otherwise terminate or expire, the SAR by its terms remains exercisable immediately prior to such termination or expiration and, if so exercised, would result in a payment to the holder of such SAR, then any portion of such SAR which has not previously been exercised shall automatically be deemed to be exercised as of such date with respect to such portion.

8.6 EFFECT OF TERMINATION OF SERVICE. Subject to earlier termination of the SAR as otherwise provided herein and unless otherwise provided by the Committee in the grant of an SAR and set forth in the Award Agreement, an SAR shall be exercisable after a Participant's termination of Service only during the applicable time period determined in accordance with Section 6.4 (treating the SAR as if it were an Option) and thereafter shall terminate.

8.7 NONTRANSFERABILITY OF SARS. During the lifetime of the Participant, a SAR shall be exercisable only by the Participant or the Participant's guardian or legal representative. Prior to the exercise of a SAR, the SAR shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. Notwithstanding any of the foregoing, the Board may permit further transferability of any SAR, on a general or specific basis, and may impose conditions and limitations on any permitted transferability.

9. TERMS AND CONDITIONS OF RESTRICTED STOCK AWARDS.

Restricted Stock Awards shall be evidenced by Award Agreements specifying whether the Award is a Restricted Stock Bonus or a Restricted Stock Purchase Right and the number of shares of Stock subject to the Award, in such form as the Committee shall from time to time establish. No Restricted Stock Award or purported Restricted Stock Award shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement. Award Agreements evidencing Restricted Stock Awards may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

9.1 TYPES OF RESTRICTED STOCK AWARDS AUTHORIZED. Restricted Stock Awards may be in the form of either a Restricted Stock Bonus or a Restricted Stock Purchase Right. Restricted Stock Awards may be granted upon such conditions as the Committee shall determine, including, without limitation, upon the attainment of one or more Performance Goals described in Section 9.9. If either the grant of a Restricted Stock Award or the lapsing of the Restriction Period is to be contingent upon the attainment of one or more Performance Goals, the Committee shall follow such procedures established by the Committee for such purposes.

9.2 PURCHASE PRICE. The purchase price for shares of Stock issuable under each Restricted Stock Purchase Right shall be established by the Committee in its discretion. No monetary payment (other than applicable tax withholding) shall be required as a condition of receiving shares of Stock pursuant to a Restricted Stock Bonus, the consideration for which shall be services actually rendered to a Participating Company or for its benefit. Notwithstanding the foregoing, the Participant shall furnish consideration in the form of cash or past services rendered to a Participating Company or for its benefit having a value not less than the par value of the shares of Stock subject to such Restricted Stock Award.

9.3 PURCHASE PERIOD. A Restricted Stock Purchase Right shall be exercisable within a period established by the Committee, which shall in no event exceed thirty (30) days from the effective date of the grant of the Restricted Stock Purchase Right; provided, however, that no Restricted Stock Purchase Right granted to a prospective Employee, prospective Consultant or prospective Director may become exercisable prior to the date on which such person commences Service.

9.4 PAYMENT OF PURCHASE PRICE. Except as otherwise provided below, payment of the purchase price for the number of shares of Stock being purchased pursuant to any Restricted Stock Purchase Right shall be made (a) in cash, by check, or in cash equivalent, (b) by such other consideration as may be approved by the Committee from time to time to the extent permitted by applicable law, or (iii) by any combination thereof. The Committee may at any time or from time to time grant Restricted Stock Purchase Rights which do not permit all of the foregoing forms of consideration to be used in payment of the purchase price or which otherwise restrict one or more forms of consideration. Restricted Stock Bonuses shall be issued in consideration for past services actually rendered to a Participating Company or for its benefit.

9.5 VESTING AND RESTRICTIONS ON TRANSFER. Shares issued pursuant to any Restricted Stock Award may or may not be made subject to Vesting Conditions based upon the

satisfaction of such Service requirements, conditions, restrictions or performance criteria, including, without limitation, Performance Goals as described in Section 9.9, as shall be established by the Committee and set forth in the Award Agreement evidencing such Award. During any Restriction Period in which shares acquired pursuant to a Restricted Stock Award remain subject to Vesting Conditions, such shares may not be sold, exchanged, transferred, pledged, assigned or otherwise disposed of other than pursuant to an Ownership Change Event, as defined in Section 2.1(aa), or as provided in Section 9.8. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

9.6 VOTING RIGHTS; DIVIDENDS AND DISTRIBUTIONS. Except as provided in this Section, Section 9.5 and any Award Agreement, during the Restriction Period applicable to shares subject to a Restricted Stock Award, the Participant shall have all of the rights of a stockholder of the Company holding shares of Stock, including the right to vote such shares and to receive all dividends and other distributions paid with respect to such shares. However, in the event of a dividend or distribution paid in shares of Stock or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant is entitled by reason of the Participant's Restricted Stock Award shall be immediately subject to the same Vesting Conditions as the shares subject to the Restricted Stock Award with respect to which such dividends or distributions were paid or adjustments were made.

9.7 EFFECT OF TERMINATION OF SERVICE. Unless otherwise provided by the Committee in the grant of a Restricted Stock Award and set forth in the Award Agreement, if a Participant's Service terminates for any reason, whether voluntary or involuntary (including the Participant's death or disability), then

(a) the Company shall have the option to repurchase for the purchase price paid by the Participant any shares acquired by the Participant pursuant to a Restricted Stock Purchase Right which remain subject to Vesting Conditions as of the date of the Participant's termination of Service and (b) the Participant shall forfeit to the Company any shares acquired by the Participant pursuant to a Restricted Stock Bonus which remain subject to Vesting Conditions as of the date of the Participant's termination of Service. The Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company.

9.8 NONTRANSFERABILITY OF RESTRICTED STOCK AWARD RIGHTS. Prior to the issuance of shares of Stock pursuant to a Restricted Stock Award, rights to acquire such shares shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or the laws of descent and distribution. All rights with respect to a Restricted Stock Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

9.9 MEASUREMENT OF PERFORMANCE GOALS. Performance Goals shall be established by the Committee on the basis of targets to be attained ("PERFORMANCE TARGETS") with respect to one or more measures of business or financial performance (each, a "PERFORMANCE MEASURE"), subject to the following:

(a) PERFORMANCE MEASURES. Performance Measures shall have the same meanings as used in the Company's financial statements, or, if such terms are not used in the Company's financial statements, they shall have the meaning applied pursuant to generally accepted accounting principles, or as used generally in the Company's industry. Performance Measures shall be calculated with respect to the Company and each Subsidiary Corporation consolidated therewith for financial reporting purposes or such division or other business unit as may be selected by the Committee. For purposes of the Plan, the Performance Measures applicable to any Award shall be calculated in accordance with generally accepted accounting principles, but prior to the accrual or payment of any Award for the same performance period and excluding the effect (whether positive or negative) of any change in accounting standards or any extraordinary, unusual or nonrecurring item, as determined by the Committee, occurring after the establishment of the Performance Goals applicable to the Award. Each such adjustment, if any, shall be made solely for the purpose of providing a consistent basis from period to period for the calculation of Performance Measures in order to prevent the dilution or enlargement of the Participant's rights with respect to an Award. Performance Measures may be one or more of the following, as determined by the Committee:

- (i) sales revenue;
- (ii) gross margin;
- (iii) operating margin;
- (iv) operating income;
- (v) pre-tax profit;
- (vi) earnings before interest, taxes and depreciation, and amortization;
- (vii) net income;
- (viii) expenses;
- (ix) earnings per share;
- (x) return on stockholder equity;
- (xi) return on capital;
- (xii) return on net assets;
- (xiii) economic value added;
- (xiv) number of customers;
- (xv) product development progress;
- (xvi) clinical trial progress;
- (xvii) product regulatory approval progress; and
- (xviii) market share.

(b) PERFORMANCE TARGETS. Performance Targets may include a minimum, maximum, target level and intermediate levels of performance, with the final value of an Award determined under the applicable formula by the level attained during the applicable performance period. A Performance Target may be stated as an absolute value or as a value determined relative to a standard selected by the Committee.

10. TERMS AND CONDITIONS OF RESTRICTED STOCK UNIT AWARDS.

Restricted Stock Unit Awards shall be evidenced by Award Agreements specifying the number of Restricted Stock Units subject to the Award, in such form as the Committee shall from time to time establish. No Restricted Stock Unit Award or purported Restricted Stock Unit Award shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement. Award Agreements evidencing Restricted Stock Units may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

10.1 GRANT OF RESTRICTED STOCK UNIT AWARDS. Restricted Stock Unit Awards may be granted upon such conditions as the Committee shall determine, including, without limitation, upon the attainment of one or more Performance Goals described in Section 9.9. If either the grant of a Restricted Stock Unit Award or the Vesting Conditions with respect to such Award is to be contingent upon the attainment of one or more Performance Goals, the Committee shall follow such procedures established by the Committee for such purposes.

10.2 PURCHASE PRICE. No monetary payment (other than applicable tax withholding, if any) shall be required as a condition of receiving a Restricted Stock Unit Award, the consideration for which shall be services actually rendered to a Participating Company or for its benefit.

10.3 VESTING. Restricted Stock Units may or may not be made subject to Vesting Conditions based upon the satisfaction of such Service requirements, conditions, restrictions or performance criteria, including, without limitation, Performance Goals as described in Section 9.9, as shall be established by the Committee and set forth in the Award Agreement evidencing such Award.

10.4 VOTING RIGHTS, DIVIDEND EQUIVALENT RIGHTS AND DISTRIBUTIONS. Participants shall have no voting rights with respect to shares of Stock represented by Restricted Stock Units until the date of the issuance of such shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). However, the Committee, in its discretion, may provide in the Award Agreement evidencing any Restricted Stock Unit Award that the Participant shall be entitled to receive Dividend Equivalents with respect to the payment of cash dividends on Stock having a record date prior to date on which Restricted Stock Units held by such Participant are settled. Such Dividend Equivalents, if any, shall be paid by crediting the Participant with additional whole Restricted Stock Units as of the date of payment of such cash dividends on Stock. The number of additional Restricted Stock Units (rounded to the nearest whole number) to be so credited shall be determined by dividing (a) the amount of cash dividends paid on such date with respect to the number of shares of Stock represented by the Restricted Stock Units previously credited to the Participant by (b) the Fair Market Value per share of Stock on such date. Such additional Restricted Stock Units shall be subject to the same terms and conditions and shall be settled in the same manner and at the same time (or as soon thereafter as practicable) as the Restricted Stock Units originally subject to the Restricted Stock Unit Award. In the event of a dividend or distribution paid in shares of Stock or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, appropriate adjustments shall be made in the Participant's Restricted Stock Unit

Award so that it represents the right to receive upon settlement any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant would be entitled by reason of the shares of Stock issuable upon settlement of the Award, and all such new, substituted or additional securities or other property shall be immediately subject to the same Vesting Conditions as are applicable to the Award.

10.5 EFFECT OF TERMINATION OF SERVICE. Unless otherwise provided by the Committee in the grant of a Restricted Stock Unit Award and set forth in the Award Agreement, if a Participant's Service terminates for any reason, whether voluntary or involuntary (including the Participant's death or disability), then the Participant shall forfeit to the Company any Restricted Stock Units pursuant to the Award which remain subject to Vesting Conditions as of the date of the Participant's termination of Service.

10.6 SETTLEMENT OF RESTRICTED STOCK UNIT AWARDS. The Company shall issue to a Participant on the date on which Restricted Stock Units subject to the Participant's Restricted Stock Unit Award vest or on such other date determined by the Committee, in its discretion, and set forth in the Award Agreement one (1) share of Stock (and/or any other new, substituted or additional securities or other property pursuant to an adjustment described in Section 10.4) for each Restricted Stock Unit then becoming vested or otherwise to be settled on such date, subject to the withholding of applicable taxes. Notwithstanding the foregoing, if permitted by the Committee and set forth in the Award Agreement, the Participant may elect in accordance with terms specified in the Award Agreement to defer receipt of all or any portion of the shares of Stock or other property otherwise issuable to the Participant pursuant to this Section.

10.7 NONTRANSFERABILITY OF RESTRICTED STOCK UNIT AWARDS. Prior to the issuance of shares of Stock in settlement of a Restricted Stock Unit Award, the Award shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. All rights with respect to a Restricted Stock Unit Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

11. DEFERRED COMPENSATION AWARDS.

11.1 ESTABLISHMENT OF DEFERRED COMPENSATION AWARD PROGRAMS. This Section 11 shall not be effective unless and until the Committee determines to establish a program pursuant to this Section. The Committee, in its discretion and upon such terms and conditions as it may determine, may establish one or more programs pursuant to the Plan under which:

(a) Participants designated by the Committee who are Insiders or otherwise among a select group of highly compensated Employees may irrevocably elect, prior to a date specified by the Committee, to reduce such Participant's compensation otherwise payable in cash (subject to any minimum or maximum reductions imposed by the Committee) and to be granted automatically at such time or times as specified by the Committee one or more Awards of Stock Units with respect to such numbers of shares of Stock as determined in

accordance with the rules of the program established by the Committee and having such other terms and conditions as established by the Committee.

(b) Participants designated by the Committee who are Insiders or otherwise among a select group of highly compensated Employees may irrevocably elect, prior to a date specified by the Committee, to be granted automatically an Award of Stock Units with respect to such number of shares of Stock and upon such other terms and conditions as established by the Committee in lieu of:

(i) shares of Stock otherwise issuable to such Participant upon the exercise of an Option;

(ii) cash or shares of Stock otherwise issuable to such Participant upon the exercise of an SAR; or

(iii) cash or shares of Stock otherwise issuable to such Participant upon the settlement of a Restricted Stock Award.

11.2 TERMS AND CONDITIONS OF DEFERRED COMPENSATION AWARDS. Deferred Compensation Awards granted pursuant to this Section 11 shall be evidenced by Award Agreements in such form as the Committee shall from time to time establish. No such Deferred Compensation Award or purported Deferred Compensation Award shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement. Award Agreements evidencing Deferred Compensation Awards may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

(a) **VESTING CONDITIONS.** Deferred Compensation Awards shall not be subject to any vesting conditions.

(b) **TERMS AND CONDITIONS OF STOCK UNITS.**

(i) **VOTING RIGHTS; DIVIDEND EQUIVALENT RIGHTS AND DISTRIBUTIONS.** Participants shall have no voting rights with respect to shares of Stock represented by Stock Units until the date of the issuance of such shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). However, a Participant shall be entitled to receive Dividend Equivalents with respect to the payment of cash dividends on Stock having a record date prior to date on which Stock Units held by such Participant are settled. Such Dividend Equivalents shall be paid by crediting the Participant with additional whole and/or fractional Stock Units as of the date of payment of such cash dividends on Stock. The method of determining the number of additional Stock Units to be so credited shall be specified by the Committee and set forth in the Award Agreement. Such additional Stock Units shall be subject to the same terms and conditions and shall be settled in the same manner and at the same time (or as soon thereafter as practicable) as the Stock Units originally subject to the Stock Unit Award. In the event of a dividend or distribution paid in shares of Stock or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, appropriate adjustments shall be made in the Participant's Stock Unit Award so that it represent the right to receive upon settlement any and all new,

substituted or additional securities or other property (other than normal cash dividends) to which the Participant would be entitled by reason of the shares of Stock issuable upon settlement of the Award.

(ii) **SETTLEMENT OF STOCK UNIT AWARDS.** A Participant electing to receive an Award of Stock Units pursuant to this Section 11, shall specify at the time of such election a settlement date with respect to such Award. The Company shall issue to the Participant as soon as practicable following the earlier of the settlement date elected by the Participant or the date of termination of the Participant's Service, a number of whole shares of Stock equal to the number of whole Stock Units subject to the Stock Unit Award. Such shares of Stock shall be fully vested, and the Participant shall not be required to pay any additional consideration (other than applicable tax withholding) to acquire such shares. Any fractional Stock Unit subject to the Stock Unit Award shall be settled by the Company by payment in cash of an amount equal to the Fair Market Value as of the payment date of such fractional share.

(iii) **NONTRANSFERABILITY OF STOCK UNIT AWARDS.** Prior to their settlement in accordance with the provision of the Plan, no Stock Unit Award shall be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. All rights with respect to a Stock Unit Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

12. STANDARD FORMS OF AWARD AGREEMENT.

12.1 **AWARD AGREEMENTS.** Each Award shall comply with and be subject to the terms and conditions set forth in the appropriate form of Award Agreement approved by the Committee and as amended from time to time. Any Award Agreement may consist of an appropriate form of Notice of Grant and a form of Agreement incorporated therein by reference, or such other form or forms as the Committee may approve from time to time.

12.2 **AUTHORITY TO VARY TERMS.** The Committee shall have the authority from time to time to vary the terms of any standard form of Award Agreement either in connection with the grant or amendment of an individual Award or in connection with the authorization of a new standard form or forms; provided, however, that the terms and conditions of any such new, revised or amended standard form or forms of Award Agreement are not inconsistent with the terms of the Plan.

13. CHANGE IN CONTROL.

13.1 EFFECT OF CHANGE IN CONTROL ON OPTIONS AND SARs.

(a) **ACCELERATED VESTING.** Notwithstanding any other provision of the Plan to the contrary except as provided in this Section 13.1(a), the Committee, in its sole discretion, may provide in any Award Agreement or, in the event of a Change in Control, may take such actions as it deems appropriate to provide for the acceleration of the exercisability and vesting in connection with such Change in Control of any or all outstanding Options and SARs and shares acquired upon the exercise of such Options and SARs upon such conditions and to

such extent as the Committee shall determine. Any unexercisable or unvested portion of each outstanding Nonemployee Director Option and any shares acquired upon the exercise thereof shall be immediately exercisable and vested in full as of the date ten (10) days prior to the date of the Change in Control but conditioned upon the consummation of the Change in Control.

(b) ASSUMPTION OR SUBSTITUTION. In the event of a Change in Control, the surviving, continuing, successor, or purchasing entity or parent thereof, as the case may be (the "ACQUIROR"), may, without the consent of any Participant, either assume the Company's rights and obligations under outstanding Options and SARs or substitute for outstanding Options and SARs substantially equivalent options and SARs (as the case may be) for the Acquiror's stock. In the event that the Acquiring Corporation elects not to assume or substitute for outstanding Options and SARs in connection with a Change in Control the exercisability and vesting of each such outstanding Option, SAR and any shares acquired upon the exercise thereof held by a Participant whose Service has not terminated prior to such date shall be accelerated, effective as of the date ten (10) days prior to the date of the Change in Control. The exercise or vesting of any Option, SAR and any shares acquired upon the exercise thereof that was permissible solely by reason of this

Section 13.1 and the provisions of such applicable Award Agreement shall be conditioned upon the consummation of the Change in Control. Any Options or SARs which are not assumed by the Acquiror in connection with the Change in Control nor exercised as of the time of consummation of the Change in Control shall terminate and cease to be outstanding effective as of the time of consummation of the Change in Control.

(c) CASH-OUT OF OPTIONS. The Committee may, in its sole discretion and without the consent of any Participant, determine that, upon the occurrence of a Change in Control, each or any Option or SAR outstanding immediately prior to the Change in Control shall be canceled in exchange for a payment with respect to each vested share of Stock subject to such canceled Option or SAR in (i) cash, (ii) stock of the Company or of a corporation or other business entity a party to the Change in Control, or (iii) other property which, in any such case, shall be in an amount having a Fair Market Value equal to the excess of the Fair Market Value of the consideration to be paid per share of Stock in the Change in Control over the exercise price per share under such Option or SAR (the "SPREAD"). In the event such determination is made by the Committee, the Spread (reduced by applicable withholding taxes, if any) shall be paid to Participants in respect of their canceled Options and SARs as soon as practicable following the date of the Change in Control.

13.2 EFFECT OF CHANGE IN CONTROL ON RESTRICTED STOCK AWARDS. The Committee may, in its discretion, provide in any Award Agreement evidencing a Restricted Stock Award that, in the event of a Change in Control, the lapsing of the Restriction Period applicable to the shares subject to the Restricted Stock Award held by a Participant whose Service has not terminated prior to the Change in Control shall be accelerated effective immediately prior to the consummation of the Change in Control to such extent as specified in such Award Agreement. Any acceleration of the lapsing of the Restriction Period that was permissible solely by reason of this Section 13.2 and the provisions of such Award Agreement shall be conditioned upon the consummation of the Change in Control.

13.3 EFFECT OF CHANGE IN CONTROL ON RESTRICTED STOCK UNIT AWARDS. The Committee may, in its discretion, provide in any Award Agreement evidencing a Restricted

Stock Unit Award that, in the event of a Change in Control, the Restricted Stock Unit Award held by a Participant whose Service has not terminated prior to such date shall be settled effective as of the date of the Change in Control to such extent as specified in such Award Agreement.

13.4 EFFECT OF CHANGE IN CONTROL ON DEFERRED COMPENSATION AWARDS. The Committee may, in its discretion, provide in any Award Agreement evidencing a Deferred Compensation Award that, in the event of a Change in Control, the Stock Units pursuant to such Award shall be settled effective as of the date of the Change in Control to such extent as specified in such Award Agreement.

14. COMPLIANCE WITH SECURITIES LAW.

The grant of Awards and the issuance of shares of Stock pursuant to any Award shall be subject to compliance with all applicable requirements of federal, state and foreign law with respect to such securities and the requirements of any stock exchange or market system upon which the Stock may then be listed. In addition, no Award may be exercised or shares issued pursuant to an Award unless (a) a registration statement under the Securities Act shall at the time of such exercise or issuance be in effect with respect to the shares issuable pursuant to the Award or (b) in the opinion of legal counsel to the Company, the shares issuable pursuant to the Award may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any shares hereunder shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained. As a condition to issuance of any Stock, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

15. TAX WITHHOLDING.

15.1 TAX WITHHOLDING IN GENERAL. The Company shall have the right to deduct from any and all payments made under the Plan, or to require the Participant, through payroll withholding, cash payment or otherwise, including by means of a Cashless Exercise of an Option, to make adequate provision for, the federal, state, local and foreign taxes, if any, required by law to be withheld by the Participating Company Group with respect to an Award or the shares acquired pursuant thereto. The Company shall have no obligation to deliver shares of Stock, to release shares of Stock from an escrow established pursuant to an Award Agreement, or to make any payment in cash under the Plan until the Participating Company Group's tax withholding obligations have been satisfied by the Participant.

15.2 WITHHOLDING IN SHARES. The Company shall have the right, but not the obligation, to deduct from the shares of Stock issuable to a Participant upon the exercise or settlement of an Award, or to accept from the Participant the tender of, a number of whole shares of Stock having a Fair Market Value, as determined by the Company, equal to all or any part of the tax withholding obligations of the Participating Company Group. The Fair Market Value of

any shares of Stock withheld or tendered to satisfy any such tax withholding obligations shall not exceed the amount determined by the applicable minimum statutory withholding rates.

16. AMENDMENT OR TERMINATION OF PLAN.

The Committee may amend, suspend or terminate the Plan at any time. However, without the approval of the Company's stockholders, there shall be (a) no increase in the maximum aggregate number of shares of Stock that may be issued under the Plan (except by operation of the provisions of Section 4.3),

(b) no change in the class of persons eligible to receive Incentive Stock Options, (c) no Option and/or SAR repricing as described in Section 3.6, and (d) no other amendment of the Plan that would require approval of the Company's stockholders under any applicable law, regulation or rule. No amendment, suspension or termination of the Plan shall affect any then outstanding Award unless expressly provided by the Committee. In any event, no amendment, suspension or termination of the Plan may adversely affect any then outstanding Award without the consent of the Participant unless necessary to comply with any applicable law, regulation or rule.

17. MISCELLANEOUS PROVISIONS.

17.1 REPURCHASE RIGHTS. Shares issued under the Plan may be subject to one or more repurchase options, or other conditions and restrictions as determined by the Committee in its discretion at the time the Award is granted. The Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

17.2 PROVISION OF INFORMATION. Each Participant shall be given access to information concerning the Company equivalent to that information generally made available to the Company's common stockholders.

17.3 RIGHTS AS EMPLOYEE, CONSULTANT OR DIRECTOR. No person, even though eligible pursuant to Section 5, shall have a right to be selected as a Participant, or, having been so selected, to be selected again as a Participant. Nothing in the Plan or any Award granted under the Plan shall confer on any Participant a right to remain an Employee, Consultant or Director or interfere with or limit in any way any right of a Participating Company to terminate the Participant's Service at any time. To the extent that an Employee of a Participating Company other than the Company receives an Award under the Plan, that Award shall in no event be understood or interpreted to mean that the Company is the Employee's employer or that the Employee has an employment relationship with the Company.

17.4 RIGHTS AS A STOCKHOLDER. A Participant shall have no rights as a stockholder with respect to any shares covered by an Award until the date of the issuance of such shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends,

distributions or other rights for which the record date is prior to the date such shares are issued, except as provided in Section 4.3 or another provision of the Plan.

17.5 FRACTIONAL SHARES. The Company shall not be required to issue fractional shares upon the exercise or settlement of any Award.

17.6 SEVERABILITY. If any one or more of the provisions (or any part thereof) of this Plan shall be held invalid, illegal or unenforceable in any respect, such provision shall be modified so as to make it valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions (or any part thereof) of the Plan shall not in any way be affected or impaired thereby.

17.7 BENEFICIARY DESIGNATION. Subject to local laws and procedures, each Participant may file with the Company a written designation of a beneficiary who is to receive any benefit under the Plan to which the Participant is entitled in the event of such Participant's death before he or she receives any or all of such benefit. Each designation will revoke all prior designations by the same Participant, shall be in a form prescribed by the Company, and will be effective only when filed by the Participant in writing with the Company during the Participant's lifetime. If a married Participant designates a beneficiary other than the Participant's spouse, the effectiveness of such designation may be subject to the consent of the Participant's spouse. If a Participant dies without an effective designation of a beneficiary who is living at the time of the Participant's death, the Company will pay any remaining unpaid benefits to the Participant's legal representative.

17.8 UNFUNDED OBLIGATION. Participants shall have the status of general unsecured creditors of the Company. Any amounts payable to Participants pursuant to the Plan shall be unfunded and unsecured obligations for all purposes, including, without limitation, Title I of the Employee Retirement Income Security Act of 1974. No Participating Company shall be required to segregate any monies from its general funds, or to create any trusts, or establish any special accounts with respect to such obligations. The Company shall retain at all times beneficial ownership of any investments, including trust investments, which the Company may make to fulfill its payment obligations hereunder. Any investments or the creation or maintenance of any trust or any Participant account shall not create or constitute a trust or fiduciary relationship between the Committee or any Participating Company and a Participant, or otherwise create any vested or beneficial interest in any Participant or the Participant's creditors in any assets of any Participating Company. The Participants shall have no claim against any Participating Company for any changes in the value of any assets which may be invested or reinvested by the Company with respect to the Plan.

17.9 CHOICE OF LAW. Except to the extent governed by applicable federal law, the validity, interpretation, construction and performance of the Plan and each Award Agreement shall be governed by the laws of the State of Michigan, without regard to its conflict of law rules.

Exhibit 31

CERTIFICATION

I, R. Douglas Armstrong, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q, as amended, of Aastrom Biosciences, 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(s) 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)) 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) 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
 - (c) 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(s) 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: December 2, 2004

/s/ R. Douglas Armstrong

*R. Douglas Armstrong, Ph.D.
Chief Executive Officer and Chairman
(Principal Executive Officer)*

CERTIFICATION

I, Alan M. Wright, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q, as amended, of Aastrom Biosciences, 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(s) 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)) 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) 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
 - (c) 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(s) 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: December 2, 2004

/s/ Alan M. Wright

Alan M. Wright
Sr. Vice President Administrative & Financial
Operations, Chief Financial Officer
(Principal Financial and Accounting Officer)

End of Filing

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