SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

October 25, 2006
Date of Report (Date of earliest event reported)

Discovery Laboratories, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**000-26422**	**94-3171943**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification Number)

2600 Kelly Road, Suite 100
Warrington, Pennsylvania 18976
(Address of principal executive offices)

(215) 488-9300
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
[ ] Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
[ ] Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
[ ] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On October 25, 2006, Discovery Laboratories, Inc. (the "Company") and PharmaBio Development Inc. d/b/a NovaQuest ("PharmaBio") entered into a Second Amended and Restated Loan Agreement (the "Loan Agreement"), a Second Amended and Restated Security Agreement (the "Security Agreement") and a Warrant Agreement (the "Warrant Agreement") (collectively, the "PharmaBio Transaction") in order to restructure PharmaBio's existing $8.5 million loan to the Company. The maturity date of the loan has been extended by 40 months, from December 31, 2006 to April 30, 2010. Beginning October 1, 2006, interest shall accrue at the prime lending rate of Wachovia Bank, N.A., subject to change when and as such rate changes, compounded annually and shall be payable on the maturity date. The Company may repay the loan, in whole or in part, at any time without prepayment penalty or premium.

Pursuant to the Loan Agreement, the Company has issued to PharmaBio a Second Amended and Restated Promissory Note (the "Note"), which replaces and supersedes the Note dated as of December 10, 2001, which was amended and restated as of November 3, 2004. The Company's obligations to PharmaBio under the Note, the Loan Agreement and the Security Agreement are secured by an interest in substantially all of the assets of the Company, subject to limited exceptions set forth in the Security Agreement (the "Collateral").

On the same date the Company and General Electric Capital Corporation ("GECC") entered into an Amendment No. 5 and Consent (the "Amendment") to the Master Security Agreement dated December 20, 2002 between the Company and GECC. Under the Amendment, GECC consented to the PharmaBio Transaction and, in consideration of the consent and other amendments to the Master Security Agreement, the Company granted to GECC a security interest in the Collateral. In connection therewith, PharmaBio, GECC and the Company entered into an Intercreditor Agreement pursuant to which GECC agreed to subordinate its security interest in the Collateral to the security interest of PharmaBio.

On October 26, 2006, the Company issued a press release announcing the restructuring, which is filed as Exhibit 99.1 to this report and is incorporated herein by reference.

The foregoing description of the transaction does not purport to be complete and is qualified in its entirety by reference to the agreements filed as exhibits to this report and incorporated herein by reference. The agreements have been filed in order to provide investors and the Company's stockholders with information regarding their terms and in accordance with applicable rules and regulations of the Securities and Exchange Commission. Pursuant to the Loan Agreement, the Security Agreement and the Warrant Agreement, each of the Company and PharmaBio made customary representations, warranties and covenants and agreed to indemnify each other for certain losses arising out of breaches of such representations, warranties, covenants and other specified matters. The representations, warranties and covenants were made by the parties to and solely for the benefit of each other and any expressly intended third party beneficiaries in the context of all of the terms and conditions of the agreements and in the context of the specific relationship between the parties. Accordingly, investors and stockholders should not rely on the representations, warranties and covenants. Furthermore, investors and stockholders should not rely on the representations, warranties and covenants as characterizations of the actual state of facts or continuing intentions of the parties, since they were only made as of the date of the agreements. Information concerning the subject matter of such representations, warranties and covenants may change after the date of the agreements, which subsequent information may or may not be fully reflected in the Company's reports or other filings with the Securities and Exchange Commission.

Item 3.02. Unregistered Sales of Equity Securities.

On October 25, 2006, in consideration of the PharmaBio Transaction described in Item 1.01, the Company and PharmaBio entered into the Warrant Agreement whereby PharmaBio has the right to purchase 1,500,000 shares of the Company's common stock, par value $0.001 per share, at an exercise price equal to $3.5813 per share. The warrants have a seven-year term and shall be exercisable for cash, the cancellation of a portion of the Company's indebtedness under the Loan Agreement or a combination of the foregoing in an amount equal to the aggregate purchase price for the shares being purchased upon any exercise. Under the Warrant Agreement, the Company has agreed to file a registration statement with the Securities and Exchange Commission within 45 days of October 25, 2006 with respect to the resale of the shares issuable upon exercise of the warrant. The warrant was issued to PharmaBio in a private transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, as amended. In connection with the issuance of the warrant, the Company expects to recognize deferred financing costs as an intangible asset of approximately $1.9 million, to be amortized to interest expense ratably over the extended term of the loan.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

4.1	Second Amended and Restated Promissory Note, dated as of October 25, 2006, issued to PharmaBio Development Inc.
4.2	Warrant Agreement, dated as of October 25, 2006, by and between and Discovery Laboratories, Inc. and PharmaBio Development Inc.
10.1	Second Amended and Restated Loan Agreement, dated as of December 10, 2001, amended and restated as of October 25, 2006, by and between Discovery Laboratories, Inc. and PharmaBio Development Inc.
10.2	Second Amended and Restated Security Agreement, dated as of December 10, 2001, amended and restated as of October 25, 2006, by and between Discovery Laboratories, Inc. and PharmaBio Development Inc.

10.3 Amendment No. 5 and Consent, dated October 25, 2006, to the Master Security Agreement between General Electric Capital Corporation and Discovery Laboratories, Inc.

99.1 Press Release dated October 26, 2006.

Cautionary Note Regarding Forward-looking Statements:

To the extent that statements in this Current Report on Form 8-K are not strictly historical, including statements as to business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of the Company's product development or otherwise as to future events, such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements contained in this Current Report are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Such risks and others are further described in the Company's filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto.

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 hereunto duly authorized.

Discovery Laboratories, Inc.

Date: October 26, 2006

By: /s/ Robert J. Capetola

Robert J. Capetola, Ph.D.
President and Chief Executive Officer

INDEX TO EXHIBITS

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Exhibit 4.1

EXECUTION COPY

SECOND AMENDED AND RESTATED
PROMISSORY NOTE

$8,500,000 October 25, 2006

FOR VALUE RECEIVED, DISCOVERY LABORATORIES, INC., a Delaware corporation ("Borrower"), hereby promises to pay to the order of PHARMABIO DEVELOPMENT INC., a North Carolina corporation, d/b/a NovaQuest ("Lender"), in lawful money of the United States of America in immediately available funds, the lesser of (i) the principal sum of Eight Million, Five Hundred Thousand Dollars ($8,500,000) and (ii) the aggregate unpaid principal amount of the Loan (as defined in the Loan Agreement referred to below) made by Lender to Borrower pursuant to the Loan Agreement (as defined below), together with interest accrued thereon. Interest shall accrue and compound on the unpaid principal amount of the Loan at the rates and in the manner provided in the Loan Agreement. Payment of the principal amount of this Note and accrued interest on this Note shall be made at the times and in the manner provided in the Loan Agreement.

This Note is made and dated as of December 10, 2001, as amended and restated as of November 3, 2004, and further amended and restated of the date set forth above. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Loan Agreement.

This Note is the Note referenced in the Second Amended and Restated Loan Agreement between Borrower and Lender dated as of December 10, 2001, as amended and restated as of November 3, 2004, and amended and restated as of the date hereof (as same may be amended from time to time, the "Loan Agreement"), and is entitled to the benefits of, and subject to the restrictions provided under, the Loan Agreement. The Loan Agreement, among other things, provides that this Note is secured by, and Borrower has granted a security interest in, certain of its assets as set forth in the Second Amended and Restated Security Agreement between Borrower and Lender dated as of the date hereof.

In case an Event of Default shall occur and be continuing and not cured prior to the expiration of any applicable cure or grace periods set forth in the Loan Agreement, the unpaid principal amount of, and accrued interest on, this Note may be declared to be due and payable in the manner and with the effect provided in the Loan Agreement.

Borrower hereby waives presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of this Note.

This Note may be voluntarily prepaid, in whole or in part, on the terms and conditions set forth in the Loan Agreement. Provided that all obligations under the Loan Agreement have been irrevocably paid in full, the Lender shall, at the request of Borrower, promptly, and in no event later than ten (10) Business Days after notice from Borrower, cancel and return this Note to Borrower.

This Note shall be governed by and construed in accordance with the law of the State of Delaware without regard to the conflicts of law rules of such state.

Lender and Borrower agree that disputes relating to this Note shall be subject to the provisions of the Loan Agreement entitled “Internal Review” and “Arbitration” set forth in Sections 8.14 and 8.15 thereof, respectively.

IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed by its duly authorized officer, as of the date first above written.

DISCOVERY LABORATORIES, INC.

By: /s/ John Cooper

Name: John Cooper
Title: Executive Vice President and Chief Financial Officer

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY APPLICABLE STATE SECURITIES OR "BLUE-SKY" LAWS AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF UNLESS REGISTERED UNDER SUCH ACT OR UNDER SUCH LAWS, OR PURSUANT TO AN EXEMPTION FROM SUCH REGISTRATION.

WARRANT AGREEMENT

This WARRANT AGREEMENT is dated and entered into as of October 25, 2006, by and between DISCOVERY LABORATORIES, INC., a Delaware corporation (the "Company"), and PHARMABIO DEVELOPMENT INC., a North Carolina corporation, doing business as NovaQuest ("NovaQuest"). Capitalized terms herein that are not otherwise defined shall have the respective meanings set forth in the Loan Agreement (as defined below).

WHEREAS, the Company and NovaQuest, have entered into the Amended and Restated Loan Agreement dated as of December 10, 2001, and amended and restated as of the date hereof (as amended, the "Loan Agreement"), and other agreements dated as of the date hereof; and

WHEREAS, the Company desires to grant to NovaQuest the rights set forth in this Warrant Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. The Warrant. The Company hereby agrees to issue and sell to NovaQuest, its designees or assigns (the "Holder") up to One Million Five Hundred Thousand (1,500,000) shares (the "Warrant Shares") of the Company's common stock, par value $0.001 per share ("Common Stock"), at an exercise price equal to Three Dollars and Fifty-Eight and Thirteen One-Hundredths Cents ($3.5813) per share (the "Exercise Price") (such Exercise Price having been calculated as follows: the average of the volume-weighted average price (VWAP) (as reported by Bloomberg, L.P.) for the ten (10) trading days prior to the date hereof, multiplied by 130%), and upon the terms and conditions set forth herein. The Exercise Price and the number of Warrant Shares purchasable upon exercise of this Warrant Agreement are subject to adjustment from time to time as provided in Section 4 of this Warrant Agreement.

2. Expiration Date. This Warrant Agreement, and the Holder's right to purchase any of the Warrant Shares, will expire at 5:00 p.m. Eastern Time on the seventh anniversary of the date of this Warrant Agreement (the "Expiration Date").

3. Exercise of this Warrant Agreement. The Holder may exercise this Warrant Agreement at any time from and after the date hereof and prior to the Expiration Date, in whole or in part, as adjusted from time to time as provided in Section 4 of this Warrant Agreement, by: (a) the surrender of this Warrant Agreement, with the Exercise Form substantially in the form attached hereto as Annex A properly completed and executed, at the principal office of the Company on a Business Day (as defined below), and (b) upon payment by (i) the delivery on a Business Day of a certified check or official bank check or wire transfer of immediately available funds, payable to the order of the Company, (ii) cancellation of an amount of indebtedness of the Company under the Loan Agreement, or (iii) a combination of (i) and (ii), in an amount equal to the aggregate purchase price for the Warrant Shares being purchased upon such exercise. Upon receipt thereof by the Company, the Holder will be deemed to be the holder of record of the Warrant Shares issuable upon such exercise as of the close of business on the date of such receipt by the Company, and the Company will promptly execute or cause to be executed and delivered to the Holder a certificate or certificates representing the aggregate number of Warrant Shares specified in the Exercise Form. If this Warrant Agreement is exercised only in part, the Company will, at the time of delivery of said stock certificate or certificates, deliver to the Holder a new Warrant Agreement of like tenor evidencing the right of the Holder to purchase the remaining Warrant Shares then covered by this Warrant Agreement. Upon exercise of this Warrant Agreement and payment of the purchase price by the Holder, all Warrant Shares deliverable and issued hereunder will be duly authorized, duly and validly issued and outstanding, fully paid and nonassessable, and free from taxes, liens or charges. “Business Day” shall mean any day other than a Saturday, Sunday or legal holiday on which banks in North Carolina and New York are open for the conduct of their banking business.

4. Certain Adjustments. The Exercise Price at which Warrant Shares may be purchased and the number of Warrant Shares to be purchased upon exercise of this Warrant Agreement are subject to change or adjustment from time to time as follows:

(a) Merger, Sale of Assets, etc. If at any time while this Warrant Agreement, or any portion hereof, is outstanding and unexpired there shall be (i) a reorganization (other than a combination, reclassification, exchange or subdivision of shares otherwise provided for herein), (ii) a merger or consolidation of the Company with or into another corporation or entity in which the Company is not the surviving entity, or a share exchange or reverse triangular merger in which the Company is the surviving entity but the shares of the Company’s capital stock outstanding immediately prior to the merger or share exchange are exchanged or converted by virtue of the merger or share exchange into other property, whether in the form of securities, cash, or otherwise, or (iii) a sale, lease, license or other transfer of all or substantially all of the Company’s properties or assets to any other person or entity, then, as a part of such reorganization, merger, consolidation, exchange or transfer, lawful provision shall be made so that the Holder shall thereafter be entitled to receive upon exercise of this Warrant Agreement, during the period specified herein and upon payment of the Exercise Price then in effect, the number of shares of stock or other securities or property resulting from such reorganization, merger, consolidation, exchange or transfer that a holder of the shares deliverable upon exercise of this Warrant Agreement would have been entitled to receive in such reorganization, merger, consolidation, exchange or transfer if this Warrant Agreement had been exercised immediately before the record date of (or the date of, if no record date is fixed) such reorganization, merger, consolidation, exchange or transfer, all subject to further adjustment as provided in this Section 4. The foregoing provisions of this Section 4(a) shall similarly apply to successive reorganizations, consolidations, mergers, exchanges and transfers and to the stock or securities of any other corporation that are at the time receivable upon the exercise of this Warrant Agreement. If the per-share consideration payable to the Holder hereof for shares in connection with any such transaction is in a form other than cash or marketable securities, then the value of such consideration shall be reasonably determined in good faith by the Company’s Board of Directors. In all events, appropriate adjustment (as reasonably determined in good faith by the Company’s Board of Directors) shall be made in the application of the provisions of this Warrant Agreement with respect to the rights and interests of the Holder after the transaction, to the end that the provisions of this Warrant Agreement shall be applicable after that event, as near as reasonably may be, in relation to any shares or other property deliverable after that event upon exercise of this Warrant Agreement.

(b) Reclassification, etc. If the Company, at any time while this Warrant Agreement, or any portion hereof, remains outstanding and unexpired, by reclassification of securities or otherwise, shall change any of the securities as to which purchase rights under this Warrant Agreement exist into the same or a different number of securities of any other class or classes, this Warrant Agreement shall thereafter represent the right to acquire such number and kind of securities as the Holder would have received if this Warrant Agreement had been exercised in full immediately prior to such reclassification or other change or immediately prior to the record date with respect thereto and the Exercise Price therefor shall be appropriately adjusted, all subject to further adjustment as provided in this Section 4. The foregoing provisions of this Section 4(b) shall similarly apply to successive reclassifications or other changes.

(c) Split, Subdivision or Combination of Shares. If the Company, at any time while this Warrant Agreement, or any portion hereof, remains outstanding and unexpired, shall split, subdivide or combine the securities as to which purchase rights under this Warrant Agreement exist, into a different number of securities of the same class, the Exercise Price for such securities shall be proportionately decreased in the case of a split or subdivision or proportionately increased in the case of a combination. Upon each adjustment in the Exercise Price pursuant to this subsection, the number of shares of such securities purchasable hereunder shall be adjusted, to the nearest whole share, to the product obtained by multiplying the number of shares purchasable immediately prior to such adjustment in the Exercise Price by a fraction, the numerator of which shall be the Exercise Price immediately prior to such adjustment and the denominator of which shall be the Exercise Price immediately thereafter.

(d) Adjustments for Dividends in Stock or Other Securities or Property. If while this Warrant Agreement, or any portion hereof, remains outstanding and unexpired, the holders of the securities as to which purchase rights under this Warrant Agreement exist at the time shall have received, or, on or after the record date fixed for the determination of eligible stockholders, shall have become entitled to receive, without payment therefor, other or additional stock or other securities or property (other than cash) by way of dividend, then and in each case, this Warrant Agreement shall represent the right to acquire, in addition to the number of shares of the security receivable upon exercise of this Warrant Agreement and, in addition, without payment of any additional consideration therefor, the amount of such other or additional stock or other securities or property (other than cash) that such holder would hold on the date of such exercise had it been the holder of record of the security receivable upon exercise of this Warrant Agreement on the date hereof and had thereafter, during the period from the date hereof to and including the date of such exercise, retained such shares and/or all other additional stock or other securities or property (other than cash) available by or to it as aforesaid during such period, giving effect to all adjustments called for during such period by the provisions of this Section 4.

(e) Certificate as to Adjustments. Upon the occurrence of each adjustment pursuant to this Section 4, the Company at its expense shall promptly compute such adjustment in accordance with the terms hereof and furnish to each Holder of this Warrant Agreement a certificate signed by its Chief Financial Officer setting forth such adjustment and showing in detail the event requiring the adjustment, the amount of such adjustment, the method by which such adjustment was calculated, the Exercise Price at the time in effect, and the number of shares and the amount, if any, of the property that at the time would be received upon the exercise of this Warrant Agreement, together with the facts upon which such adjustment is based. The Company shall, upon the reasonable written request of any such Holder, furnish or cause to be furnished to such Holder a like certificate setting forth: (i) all such previous adjustments; (ii) the Exercise Price at the time in effect; and (iii) the number of shares and the amount, if any, of other property that at the time would be received upon the exercise of this Warrant Agreement.

(f) No Impairment. The Company will not, by amendment of its certificate of incorporation or through any reorganization, recapitalization, reclassification, transfer of assets, consolidation, merger, business combination, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the intent of this Section 4 or the observance or performance of any of the terms to be observed or performed by the Company under this Section 4 or the other terms of this Warrant Agreement, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holder of this Warrant Agreement against impairment. In case any event shall occur as to which the other provisions of this Section 4 are not strictly applicable but as to which the failure to make any adjustment would not fairly protect the purchase rights represented by this Warrant Agreement in accordance with the essential intent and principles hereof, then, in each such case, the Board of Directors of the Company shall in good faith determine the adjustment, if any, on a basis consistent with the purchase rights represented by this Warrant Agreement. Upon such determination, the Company will promptly deliver a copy thereof to the Holder and shall make the adjustments described therein.

(g) No Adjustment. No adjustment in the Exercise Price shall be required unless such adjustment would require an increase or decrease of at least $0.05 per share of Common Stock; provided, however, that any adjustments which by reason of this Section 4(g) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 4 shall be made to the nearest cent or to the nearest $1/100^{th}$ of a share, as the case may be.

5. Fractional Shares. Upon the exercise of this Warrant Agreement, fractional shares may be issued by the Company, but the Company may, in lieu of issuing such fractional shares, pay a sum in cash equal to the excess of the fair market value of such fractional share (determined in such reasonable manner as may be prescribed by the Board of Directors of the Company in its discretion) over the proportional part of the per share purchase price represented by such fractional share.

6. Notices of Certain Events.

In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time receivable upon the exercise of this Warrant Agreement) for the purpose of entitling them to receive any dividend or other distribution, or stock subdivision or combination, or any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right; or

(b) of any reorganization or recapitalization of the Company, any reclassification of the capital stock of the Company, any consolidation, merger, share exchange or other business combination of the Company with or into another corporation or entity, or any sale, lease, license or other transfer of all or substantially all of the assets of the Company to another corporation or entity; or

(c) of any voluntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will cause written notice thereof to be delivered to the Holder specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right or (ii) the date on which such reorganization, recapitalization, reclassification, consolidation, merger, share exchange, business combination, transfer, dissolution, liquidation or winding-up is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such stock or securities at the time receivable upon the exercise of this Warrant Agreement) shall be entitled to exchange their shares of Common Stock (or such other stock or securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, consolidation, merger, share exchange, business combination, transfer, dissolution, liquidation or winding-up. Such notice shall be delivered at least fifteen (15) Business Days prior to the date required to be specified therein pursuant to this Section 6(c).

7. Reservation of Shares; Listing. (a) The Company will at all times until the date of exercise of this Warrant Agreement in full (the “Exercise Date”) reserve and keep available out of its authorized but unissued stock, for the purpose of effecting the exercise of this Warrant Agreement, such number of its duly authorized shares of capital stock for which this Warrant Agreement is exercisable, and such number of shares of any stock into which such stock is convertible, if applicable, as will from time to time be sufficient to effect the exercise of this Warrant Agreement. The Company will from time to time take all steps necessary to amend its certificate of incorporation to provide at all times prior to the Exercise Date sufficient reserves of shares of capital stock issuable upon exercise of this Warrant Agreement and the conversion of such stock, if applicable. If the number of authorized but unissued shares of capital stock shall not be sufficient to effect the exercise the entire amount of this Warrant Agreement on the Exercise Date or the conversion of such stock, if applicable, then in addition to such other remedies as shall be available to the Holder, the Company shall take all such corporate action as is necessary to increase its authorized but unissued shares of capital stock to such number of shares as shall be sufficient for such purposes.

(b) The Company will at all times use its best efforts to keep the Warrant Shares authorized for listing on the NASDAQ Global Select Market, NASDAQ Global Market (formerly the NASDAQ National Market) or the NASDAQ Capital Market (formerly the NASDAQ Small Cap Market), or any national securities exchange on which its Common Stock is traded.

8. No Rights as Stockholder; Limitation of Liability. This Warrant Agreement, as distinct from the shares for which this Warrant Agreement is exercisable, will not entitle the Holder to any of the rights of a stockholder of the Company, including without limitation any right to vote on or consent to or receive notice as a stockholder of the Company, as such, in respect of any matters whatsoever. No provision of this Warrant Agreement, prior to the exercise of this Warrant Agreement, and no mere enumeration herein of the rights or privileges of the Holder, will give rise to any liability of the Holder for the purchase price or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

9. Transfer Restriction. Neither this Warrant Agreement nor the securities issuable upon exercise hereof have been registered under the Securities Act of 1933, as amended (the "Securities Act"), or the securities or "blue sky" laws of any state. Neither this Warrant Agreement nor the securities issuable upon exercise hereof nor any interest or participation herein or therein may be sold, assigned, pledged, hypothecated, encumbered or in any other manner transferred or disposed of except in compliance with the Securities Act and the securities laws of each relevant state. Notwithstanding anything in this Warrant Agreement to the contrary, the Holder may pledge the Warrant Agreement and the Warrant Shares in connection with bona fide loan transactions in which the Holder or its affiliate is the borrower, provided that no such pledge shall occur knowingly, after reasonable investigation and inquiry, to any person or entity which actively sells, distributes, markets, develops, or produces a pharmaceutical product or device which directly competes with the Product.

10. Registration Rights.

(a) Required Registration. Not later than forty-five (45) days following the date hereof (the "Filing Date"), the Company shall prepare and file with the Securities and Exchange Commission ("SEC") a registration statement on Form S-3 (except if the Company is not then eligible to use Form S-3, in which case such registration statement shall be on another appropriate form) (the "Registration Statement") covering the resale of all of the Registrable Securities (as defined below) in an offering to be made on a continuous basis pursuant to Rule 415 of the Securities Act. The Company shall use its commercially reasonable best efforts to cause such registration statement to become effective as soon as practicable and in any event not later than ninety (90) days following the date hereof and remain effective for the period specified in Section 10(d) below. Subject to any modifications that are responsive to comments, rules or regulations of the SEC, the Registration Statement will include a Plan of Distribution, which shall be no more restrictive than that included in the Company's registration statement on Form S-3, SEC File No. 333-121297. For purposes of this Agreement, the term "Registrable Securities" means the Warrant Shares, together with any securities issued or issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to any Registrable Securities. Until such time as the Registration Statement is effective, the Company shall not grant any registration rights or other rights to register securities under the Securities Act that are senior to the rights of the Holder under this Section 10(a) or that have the effect of delaying a sale or limiting the number of securities which may be sold by the Holder pursuant to the Registration Statement or otherwise adversely affect the rights of the Holder under this Section 10(a); provided, however, that the foregoing shall not affect any pre-existing rights granted to any persons or entities.

(b) Registration Expenses. The Company shall pay all Registration Expenses (as defined below) in connection with any registration, qualification or compliance hereunder. At any time during the ninety (90) days following the effective date of the Registration Statement (and provided that the Registration Statement has not been withdrawn, suspended or otherwise become not effective), the Company may present to the Holder an accounting of its reasonable "Registration Expenses and, within thirty (30) days thereafter, the Holder shall reimburse the Company for such expenses up to an aggregate amount not to exceed Twenty Thousand Dollars ($20,000). "Registration Expenses" shall mean all expenses incurred by the Company in complying with the registration provisions herein described, including without limitation all registration, qualification, notification and filing fees, printing expenses, fees and disbursements of counsel and accountants for the Company, and blue sky fees and expenses.

(c) Holder Review of Registration Statement. Upon request received by the Company from the Holder within a reasonable time in advance, the Company shall, on or prior to the third trading day prior to the filing of the Registration Statement or any related prospectus or any amendment or supplement thereto, (i) furnish to the Holder copies of all such documents proposed to be filed (including documents incorporated or deemed incorporated by reference to the extent requested by such person), which documents will be subject to the review of the Holder, and (ii) cause its officers and directors, counsel and independent certified public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel, to conduct a reasonable investigation within the meaning of the Securities Act.

(d) Certain Company Obligations During Effectiveness of Registration Statement. From the date of effectiveness of the Registration Statement, the Company will use its best efforts to: (i) keep such registration effective until the earlier of (A) such date as all of the Registrable Securities have been resold or (B) such date as all Registrable Securities may be sold pursuant to Rule 144(k) (or any successor rule) (collectively, the "Effectiveness Period"); (ii) promptly prepare and file with the SEC such amendments and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by the Registration Statement; (iii) furnish such number of prospectuses and other documents incident thereto, including any amendment of or supplement to the prospectus, as the Holder from time to time may reasonably request; (iv) cause the Registrable Securities to be quoted or listed on each stock market or stock exchange on which the Common Stock of the Company is then quoted or listed; (v) provide a transfer agent and registrar for all securities registered pursuant to the Registration Statement and a CUSIP number for all such securities; (vi) avoid the issuance of, or, if issued, promptly notify the Holder and obtain the withdrawal of, any order suspending the effectiveness of a Registration Statement; (vii) promptly notify the Holder of the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (viii) promptly notify the Holder of the occurrence of any event or passage of time that makes the financial statements included in the Registration Statement ineligible for inclusion therein or any statement made in the Registration Statement or prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to the Registration Statement, prospectus or other documents so that, in the case of the Registration Statement or the prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (ix) promptly furnish to the Holder, without charge, at least one conformed copy of the Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such person, and all exhibits to the extent requested by such person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC, provided, that if such documents are available on the Internet free of charge, then the Company instead may satisfy the requirement of this Section 10(d) (ix) by promptly notifying the Holder of the availability of such documents (other than periodic financial statements, reports of quarterly conference calls and press releases); and (x) file the documents required of the Company and otherwise use its best efforts to maintain any required blue sky clearance in North Carolina and such other states of the United States specified in writing by the Holder; provided, however, that the Company shall not be required to qualify to do business in any state in which it is not now so qualified or has not so consented.

(e) Suspension of Use of Prospectus. The Holder hereby acknowledges that there may occasionally be times when the Company must suspend the use of the prospectus forming a part of the Registration Statement until such time as an amendment to the Registration Statement has been filed by the Company and declared effective by the SEC or until the Company has amended or supplemented such prospectus. The Holder hereby covenants that it will not sell any securities pursuant to said prospectus during the period commencing at the time at which the Company gives the Holder notice of the suspension of the use of said prospectus and ending at the time the Company gives the Holder notice that Holder thereafter may effect sales pursuant to said prospectus. Notwithstanding anything herein to the contrary, the Company shall not suspend use of the prospectus forming a part of the Registration Statement by the Holder unless in the good faith opinion of the Company (after consultation with its counsel) or its counsel such suspension is required by the federal securities laws, including without limitation, the rules and regulations promulgated thereunder; provided, however, that in the event that such suspension is required by the need for an amendment or supplement to the Registration Statement or the prospectus forming a part thereof, the Company shall use its best efforts to file as soon as practicable such required amendments or supplements as shall be necessary for the disposition of the Registrable Securities to recommence.

(f) Holder Information for Registration Statement. As a condition to the inclusion of its Registrable Securities, the Holder shall furnish to the Company such information regarding the Holder and the distribution proposed by the Holder as the Company may reasonably request in order to comply with any applicable law or regulation in connection with any registration, qualification or compliance referred to in this Section 10.

(g) Indemnification and Contribution.

(1) To the extent permitted by applicable law, the Company will indemnify and hold harmless each seller of Registrable Securities that were registered pursuant to the Registration Statement, each underwriter of such Registrable Securities thereunder and each other person, if any, who controls such seller or underwriter within the meaning of Section 5 of the Securities Act, against any losses, claims, damages or liabilities, joint or several, to which such seller, underwriter or controlling person may become subject under the Securities Act or other applicable federal or state securities or "blue sky" laws, to the extent that such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement under which such Registrable Securities were registered under the Securities Act, any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereof, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each such seller, each such underwriter and each such controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable, to any such indemnitee if and to the extent that any such loss, claim, damage or liability arises out of or is based upon an (i) untrue statement or alleged untrue statement or omission or alleged omission so made in conformity with information furnished by or on behalf of such indemnitee in writing specifically for use in such registration statement or prospectus or (ii) such untrue statement or alleged untrue statement or omission or alleged omission was contained in a preliminary or earlier effective prospectus and corrected in a final or amended prospectus, and such holder of Registrable Securities failed to deliver a copy of the final or amended prospectus at or prior to the confirmation of the sale of the Registrable Securities to the buyer of such Registrable Securities; provided, further, that the indemnity agreement contained in this Section 10(g)(1) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, provided that such consent shall not be required if the settlement shall include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release of the Company from all liability in respect of such claim or litigation.

(2) To the extent permitted by applicable law, each seller of Registrable Securities that were registered pursuant to the Registration Statement, severally and not jointly, will indemnify and hold harmless the Company, each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act, each officer of the Company who signs the Registration Statement, each director of the Company, each underwriter and each person who controls any underwriter within the meaning of the Securities Act, against all losses, claims, damages or liabilities, joint or several, to which the Company or such officer, director, underwriter or controlling person may become subject under the Securities Act or other applicable federal or state securities or "blue sky" laws, to the extent that such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement under which such Registrable Securities were registered under the Securities Act, any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereof, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company and each such officer, director, underwriter and controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that such seller will be liable hereunder in any such case if and only to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information pertaining to such seller, as such, furnished in writing to the Company by or on behalf of such seller specifically for use in such registration statement or prospectus, and provided, further, that the indemnity agreement contained in this Section 10(g)(2) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of such seller, which consent shall not be unreasonably withheld, provided that such consent shall not be required if the settlement shall include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release of such seller from all liability in respect of such claim or litigation; provided, further, that the liability of each seller hereunder shall be limited to the net proceeds received for the account of such seller from the sale of Registrable Securities covered by such registration statement.

(3) Promptly after receipt by an indemnified party hereunder of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party hereunder, notify the indemnifying party in writing thereof, but the omission to so notify the indemnifying party shall not relieve it from any liability which it may have to such indemnified party other than under this Section 10(g) and shall only relieve it from any liability which it may have to such indemnified party under this Section 10(g) if and to the extent the indemnifying party is prejudiced by such omission. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in and, to the extent it shall wish, to assume and undertake the defense thereof with counsel reasonably satisfactory to such indemnified party, and, after notice from the indemnifying party to such indemnified party of its election so to assume and undertake the defense thereof, the indemnifying party shall not be liable to such indemnified party under this Section 10(g) for any legal expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation and of liaison with counsel so selected, provided, however, that, if the defendants in any such action include both the indemnified party and the indemnifying party, and the indemnified party shall have reasonably concluded that there may be reasonable defenses available to it that are different from or additional to those available to the indemnifying party or if the interests of the indemnified party reasonably may be deemed to conflict with the interests of the indemnifying party, the indemnified party shall have the right to select a separate counsel and to assume and undertake such legal defenses and otherwise to participate in the defense of such action, with the reasonable expenses and fees of such separate counsel and other expenses related to such participation to be reimbursed by the indemnifying party as incurred; provided, further, that the Company shall not have any reimbursement obligation for the expenses and fees of more than one such separate counsel for all indemnitees.

(4) In order to provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any holder of Registrable Securities exercising rights under this Agreement, or any controlling person of any such holder, makes a claim for indemnification pursuant to this Section 10(g) but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case notwithstanding the fact that this Section 10(g) provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any such selling holder or any such controlling person in circumstances for which indemnification is provided under this Section 10(g); then, and in each such case, the Company and such holder will contribute to the aggregate losses, claims, damages or liabilities to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other, as well as any other relevant equitable considerations. The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (A) no such holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered by it pursuant to such registration statement; and (B) no person or entity guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

11. Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the SEC that may permit the sale of securities to the public without registration, the Company agrees to use commercially reasonable best efforts to make and keep public information regarding the Company available as contemplated by Rule 144 under the Securities Act and file with the SEC in a timely manner all reports and other documents required to be filed by the Company under the Securities Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and furnish a written report to the Holder upon written request as to the Company's compliance with the reporting requirements of Rule 144 and of the Securities Act and the Exchange Act.

12. SEC and Other Information. So long as this Warrant Agreement is in effect, the Company shall, upon written request, provide to the Holder, within three (3) Business Days of receipt of such written request, a copy of any publicly available forms, reports or other documents filed by the Company with the SEC if such documents are not available on the Internet free of charge. If for any reason at any time the Company is not required to file annual, quarterly and other periodic reports with the SEC pursuant to the terms of the Exchange Act, then the Company shall make available at no charge to the Holder financial statements no later than the time they would be filed with the SEC if the Company was required to file such annual, quarterly and other periodic reports.

13. Additional Provisions. (a) The Holder represents, by accepting this Warrant Agreement, that it understands that this Warrant Agreement and any securities obtainable upon exercise of this Warrant Agreement have not been registered for sale under federal or state securities or "blue sky" laws and are being offered and sold to the Holder pursuant to one or more exemptions from the registration requirements of such securities laws. In the absence of an effective registration of such securities or an exemption therefrom, any certificates for such securities shall bear a legend substantially similar to the legend set forth on the first page of this Warrant Agreement. The Holder understands that it must bear the economic risk of its investment in this Warrant Agreement and any securities obtainable upon exercise of this Warrant Agreement for an indefinite period of time, as this Warrant Agreement and such securities have not been registered under federal or state securities or blue sky laws and therefore cannot be sold unless subsequently registered under such laws, unless an exemption from such registration is available.

(b) The Holder agrees and acknowledges that this Warrant Agreement, or any portion hereof, and any such securities will not be sold, transferred, assigned, hypothecated or otherwise disposed of unless (i) a registration statement with respect to such transfer is effective under the Securities Act and any applicable state securities or blue sky laws or (ii) such sale or transfer is made pursuant to one or more exemptions from the Securities Act.

(c) The Holder represents that it has been afforded (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of this Warrant Agreement or the exercise of this Warrant Agreement and the finance operations and business of the Company and (ii) the opportunity to request such additional information which the Company possesses or can acquire without unreasonable effort or expense. Nothing contained in this Section 11(c) shall alter, amend or change the Holder's reliance on the representations, covenants or warranties contained herein.

(d) The Holder represents that it did not (i) receive or review any advertisement, article, notice or other communication published in a newspaper or magazine or similar media or broadcast over television or radio, whether closed circuit, or generally available; or (ii) attend any seminar, meeting or investor or other conference whose attendees were, to such Holder's knowledge, invited by any general solicitation or general advertising.

(e) The Holder represents that it is an "accredited investor" within the meaning of Regulation D promulgated under the Act. Such Holder is acquiring this Warrant Agreement for its own account and not with a present view to, or for sale in connection with, any distribution thereof in violation of the registration requirements of the Act.

(f) The Holder represents that it, either by reason of the Holder's business or financial experience or the business or financial experience of its professional advisors (who are unaffiliated with and who are not compensated by the Company or any affiliate, finder or selling agent of the Company, directly or indirectly), has such sophistication, knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment in the Company.

(g) The Holder represents that it has the ability to bear the economic risks of its investment for an indefinite period of time and could afford a complete loss of its investment.

(h) The Holder agrees and acknowledges that the representations and warranties made by the Holder in this Section 13 shall be deemed also to be made at the time of the exercise of this Warrant Agreement.

(i) Nothing in this Section 13 shall affect in any way the Holder's obligations under any agreement to comply with all applicable securities laws upon resale of the Warrant Shares.

14. Miscellaneous.

(a) Amendments and Waivers. This Warrant Agreement and any provision hereof may be amended, changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the same is sought.

(b) Successors and Assigns. This Warrant Agreement is binding upon, and inures to the benefit of, the parties and their respective successors and assigns, provided that the Holder shall not assign or transfer any or all of its rights under this Warrant Agreement, knowingly, after reasonable investigation and inquiry, to any person or entity which actively sells, distributes, markets, develops, or produces a pharmaceutical product or device which directly competes with the Product. Any assignment or attempted assignment in violation of this Section 14(b) shall be null and void.

(c) Loss, Theft, Destruction or Mutilation. Upon receipt by the Company of evidence reasonably satisfactory to it that this Warrant Agreement has been lost, stolen, destroyed or mutilated, and in the case of any lost, stolen or destroyed Warrant Agreement, an indemnity reasonably satisfactory to the Company, or in the case of a mutilated Warrant Agreement, upon surrender and cancellation hereof, the Company will execute and deliver in the name of the registered holder of this Warrant Agreement, in exchange and substitution for the Warrant Agreement so lost, stolen, destroyed or mutilated, a new Warrant Agreement of like tenor and amount.

(d) Warrant Exchangeable for Different Denominations. This Warrant Agreement is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company for new Warrant Agreements of like tenor representing in the aggregate the right to purchase the number of shares which may be purchased hereunder, each of such new Warrant Agreements to represent the right to purchase such number of Warrant Shares as shall be designated by said Holder hereof at the time of such surrender.

(e) Law Governing. This Warrant Agreement will be governed by, and construed and enforced in accordance with, the internal laws of the State of Delaware. The Holder and the Company waive their respective rights to a jury trial with respect to any action, claim, or other proceeding arising out of any dispute in connection with this Warrant Agreement, any rights or obligations hereunder, or the performance of such rights and obligations. The Holder and the Company agree that disputes relating to this Warrant Agreement shall be subject to the provisions of the Loan Agreement entitled "Internal Review" and "Arbitration" set forth in Sections 8.14 and 8.15 thereof, respectively, after modifying such Sections so that any references to "Loan Documents" or the "Agreement" shall mean this Warrant Agreement and any references to the "Borrower" or "Lender" shall mean the Company or the Holder, respectively.

(f) Entire Agreement. This Warrant Agreement constitutes the full and entire understanding and agreement among the parties with regard to the subject matter of this Warrant Agreement, and supersedes all prior agreements, understandings, inducements or conditions, express or implied, oral or written, with respect to the subject matter of this Warrant Agreement.

(g) Notices. Unless otherwise provided herein, all notices, requests, demands and other communications required or permitted under this Warrant Agreement shall be in writing and will be deemed to have been duly made and received: (i) upon personal delivery; (ii) three (3) Business Days after deposit with the United States Post Office, by registered or certified mail or by first class mail, postage prepaid, addressed as set forth below; or (iii) one (1) Business Day after deposit with a nationally recognized, overnight courier (for next business day delivery), shipping prepaid, addressed as set forth below:

(i) If to the Company, then to:

Discovery Laboratories, Inc.
2600 Kelly Road, Suite 100
Warrington, Pennsylvania 18976-3622
Attn: Chief Executive Officer and General Counsel

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

Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas
New York, NY 10036-2714
Attn: Ira L. Kotel

(ii) If to NovaQuest, then to:

PharmaBio Development Inc. (d/b/a NovaQuest)
4709 Creekstone Drive
Riverbirch Building
Suite 200
Durham, NC 27703
Attn: President

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

PharmaBio Development Inc. (d/b/a NovaQuest)
4709 Creekstone Drive
Riverbirch Building
Suite 200
Durham, NC 27703
Attn: General Counsel

Either party may change the address to which communications are to be sent by giving five (5) Business Days' advance notice of such change of address to the other party in conformity with the provisions of this Section 14(g).

(h) Execution; Counterparts. This Warrant Agreement may be executed in counterparts, each of which will be deemed to be an original, and all of which will together constitute one and the same instrument. The exchange of copies of this Warrant Agreement or amendments thereto and of signature pages by facsimile transmission or by email transmission in portable digital format, or similar format, shall constitute effective execution and delivery of such instrument(s) as to the parties and may be used in lieu of the original Warrant Agreement or amendment for all purposes. Signatures of the parties transmitted by facsimile or by email transmission in portable digital format, or similar format, shall be deemed to be their original signatures for all purposes.

[Rest of page intentionally left blank; signatures on following page]

IN WITNESS WHEREOF, the parties have caused this Warrant Agreement to be duly executed and delivered as of the day and year first written above.

DISCOVERY LABORATORIES, INC.

By: /s/ John G. Cooper
Name: John G. Cooper
Title: Executive Vice President and Chief Financial Officer

PHARMABIO DEVELOPMENT INC.
(d/b/a NovaQuest)

By: /s/ Tom Perkins
Name: Tom Perkins
Title: Senior Vice President, Corporate Development

ANNEX A

EXERCISE FORM

TO BE EXECUTED BY THE REGISTERED HOLDER
TO EXERCISE THE ATTACHED WARRANT AGREEMENT OF

DISCOVERY LABORATORIES, INC.

SUBSCRIPTION

The undersigned, _____, pursuant to the provisions of the foregoing Warrant Agreement, hereby elects to exercise such Warrant Agreement by agreeing to subscribe for and purchase _____ shares (the "Warrant Shares") of Common Stock, par value $0.001 per share, of Discovery Laboratories, Inc. (the "Company"), and hereby (i) makes payment of $_____ by certified or official bank check in payment of the exercise price therefor, and (ii) agrees to cancel indebtedness of the Company under the Loan Agreement in an amount equal to $_____.

As a condition to this subscription, the undersigned hereby represents and warrants to the Company that the representations and warranties of Section 13 of the Warrant Agreement are true and correct as of the date hereof as if they had been made on such date with respect to the Warrant Shares. The undersigned further acknowledges that the sale, transfer, assignment or hypothecation of the Warrant Shares to be issued upon exercise of the Warrant Agreement is subject to the terms and conditions contained in Sections 4, 9 and 13 of the Warrant Agreement.

Dated:_____ Signature: _____
Address: _____
_____

ASSIGNMENT

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto _____ the foregoing Warrant Agreement and all rights evidenced thereby, and does irrevocably constitute and appoint _____, attorney, to transfer said Warrant Agreement on the books of Discovery Laboratories, Inc. (the "Company"). As a condition to this assignment, the Holder acknowledges that its assignee must deliver a written instrument to the Company that the representations and warranties of Section 13 of the Warrant Agreement are true and correct as of the date hereof as if they had been made by such assignee on such date.

Dated:_____ Signature: _____
Address: _____
_____

PARTIAL ASSIGNMENT

FOR VALUE RECEIVED _____ hereby assigns and transfers unto _____ the right to purchase _____ shares of the Common Stock, par value $.001 per share, of Discovery Laboratories, Inc. (the "Company"), as set forth in the foregoing Warrant Agreement, and a proportionate part of said Warrant Agreement and the rights evidenced thereby, and does irrevocably constitute and appoint _____, attorney, to transfer that part of said Warrant Agreement on the books of the Company. As a condition to this assignment, the Holder acknowledges that its assignee must deliver a written instrument to the Company that the representations and warranties of Section 13 of the Warrant Agreement are true and correct as of the date hereof as if they had been made by such assignee on such date.

Dated:_____ Signature: _____
Address: _____
_____

SECOND AMENDED AND RESTATED
LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") is dated as of December 10, 2001, and amended and restated as of October 25, 2006 (the "Restatement Date"), by and between DISCOVERY LABORATORIES, INC., a Delaware corporation ("Borrower"), and PHARMABIO DEVELOPMENT INC., a North Carolina corporation, d/b/a NovaQuest ("Lender").

WHEREAS, Borrower and Lender entered into the Loan Agreement dated as of December 10, 2001 (the "Original Date"), as amended by the Amended and Restated Loan Agreement (the "Amended and Restated Loan Agreement") dated as of November 3, 2004;

WHEREAS, Lender has advanced to Borrower an aggregate principal amount of Eight Million, Five Hundred Thousand Dollars ($8,500,000) under the terms of the Amended and Restated Loan Agreement, all of which, together with accrued interest in the amount of $222,652.78 as of September 30, 2006, remains outstanding and payable to Lender as of the Restatement Date (such principal and interest, the "Loan");

WHEREAS, Borrower and Lender wish to amend and restate the Amended and Restated Loan Agreement in its entirety as set forth in this Agreement; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby amend and restate the Amended and Restated Loan Agreement in its entirety and hereby agree as follows:

ARTICLE I
DEFINITIONS

1.01 Definitions. Capitalized terms used but not defined in the text of this Agreement shall have the meanings ascribed to them on Exhibit A attached hereto and incorporated herein by reference.

ARTICLE II
AMOUNT AND TERMS OF LOAN

2.01 Term Loan.

(a) Subject to and upon the terms and conditions set forth herein, Lender agrees to continue to make the Loan available to Borrower as of the Restatement Date. Borrower acknowledges that the Loan satisfies Lender's obligation to make available loans or advances, and Lender has no obligation under the terms of this Agreement to make any additional future loans or advances to Borrower.

2.02 [Intentionally Omitted.]

2.03 Note. Borrower's obligation to pay the principal of, and interest on, the Loan made by Lender shall be evidenced by a single promissory note (the "Note") duly executed and delivered by Borrower in the form of Exhibit B attached hereto dated as of the Original Date and amended and restated as of the Restatement Date. Any prepayments made by Borrower to Lender shall be recorded by Lender and shall be endorsed on the grid attached to the Note.

2.04 Repayment; Interest; Prepayments.

(a) Borrower shall pay the aggregate outstanding principal amount of the Loan and all accrued interest on or before April 30, 2010 (the "Maturity Date"), unless any such amount becomes due and payable sooner pursuant to the provisions of this Agreement. Borrower may prepay all or a portion of the Loan at any time and from time to time without penalty, on the following terms and conditions: (i) Borrower shall give Lender at least three (3) Business Days' prior notice of its intent to prepay and of the amount of the prepayment and (ii) each prepayment shall not be less than $250,000. Any prepayments shall be credited first to accrued and unpaid interest and then to principal.

(b) Interest on the Loan shall accrue beginning October 1, 2006, and be payable at a rate per annum (the "Base Rate") equal to the Prime Rate in effect from time to time, or, if less, the maximum rate permitted by law. Interest shall be calculated on the basis of a 360-day year for the actual number of days elapsed. All interest shall compound annually and be payable on the Maturity Date.

(c) The outstanding principal amount of the Loan and any accrued interest thereon that are not paid when due shall accrue interest on a daily basis at the lesser of (i) three percent (3.00%) in excess of the Base Rate, or (ii) the maximum rate permitted by law, such accrual beginning on the date payment is due and continuing until the date payment is made in full. All such interest shall compound as set forth in Section 2.04(b).

(d) All payments of principal and interest described above shall be made to Lender in lawful money of the United States of America in immediately available funds.

ARTICLE III
CONDITIONS PRECEDENT

3.01 Conditions Precedent to this Agreement. The obligation of Lender to execute and deliver this Agreement to Borrower is subject to the conditions precedent that Lender shall have received from Borrower each of the following documents on the Restatement Date:

(a) The Note duly executed by Borrower;

(b) A Security Agreement in a form acceptable to the parties (the "Security Agreement"), the related financing statement and one or more appropriate instruments to be recorded with the United States Patent and Trademark Office, each in a form acceptable to the parties, in each case duly executed by Borrower;

(c) A Warrant Agreement in a form acceptable to the parties and dated as of the Restatement Date (the "Warrant"), duly executed by Borrower;

(d) Copies of resolutions of the Board of Directors of Borrower approving this Agreement, the Note, the Security Agreement, the Warrant and any other documents required or necessary to consummate the transactions contemplated in this Agreement (the Agreement, the Note, and the Security Agreement (including any amendment, modification, extension, refinancing, or restructuring thereof) shall be referred to, collectively, as the "Loan Documents"; the Loan Documents and the Warrant shall be referred to, collectively, as the "Transaction Documents"), certified by an appropriate officer of Borrower;

(e) A certificate of the appropriate officers of Borrower certifying (i) that the representations and warranties contained in Article IV are true and correct in all material respects, (ii) that Borrower has performed, satisfied and complied with, in all material respects, all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with on or prior to the date of this Agreement, and (iii) that no event has occurred and is continuing, which constitutes an Event of Default or would constitute an Event of Default but for the requirement that notice be given or time elapse or both;

(f) A certificate of good standing (or comparable document) regarding Borrower from the State of Delaware; and

(g) A subordination agreement in a form acceptable to Lender and executed by Borrower and General Electric Capital Corporation.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF BORROWER

For purposes of this Agreement and the Security Agreement, with respect to Borrower, all references to "knowledge", "knowingly" and similar words should be construed to refer to the knowledge of the executive officers of Borrower (including the Chief Executive Officer, Chief Financial Officer, General Counsel, and Executive Vice Presidents or any comparable officer), after reasonable investigation and inquiry. Borrower represents, warrants and covenants to Lender, as of the Restatement Date, as follows:

4.01 Corporate Status. Borrower is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and Borrower is qualified to do business as a foreign corporation in each jurisdiction in which qualification is required, except where failure to so qualify will not violate any provision of the organizational documents of Borrower, and would not have a material adverse effect on the financial condition, properties, business or results of operations of Borrower (a "Material Adverse Effect"). Except for Acute Therapeutics, Inc., a wholly owned subsidiary of Borrower that is presently inactive and has no material assets ("ATI"), Borrower does not own or control, directly or indirectly, any interest in any other corporation, partnership, limited liability company, association, or other business entity. Except as set forth in the SEC Reports, Borrower is not a participant in any joint venture, partnership, or similar arrangement. Borrower has all requisite corporate power and authority to carry on its business as now conducted.

4.02 Issuance, Sale and Delivery of the Securities. The Warrant is, and the Warrant Shares, when issued and paid for pursuant to the terms of the Warrant, will be, duly and validly authorized, duly issued and outstanding, fully paid, nonassessable and free and clear of all pledges, liens, encumbrances and restrictions (other than restrictions arising under federal or state securities or "blue sky" laws). The issuance of the Warrant is not, and the issuance of the Warrant Shares by Borrower (hereinafter such securities are sometimes collectively referred to as the "Securities") will not be, subject to any preemptive or other similar rights. No further approval or authority of the stockholders or the Board of Directors of Borrower will be required for the issuance and sale of the Securities to be sold by Borrower as contemplated herein.

4.03 Due Execution, Delivery and Performance of the Agreements. Borrower has full legal right, corporate power and authority to enter into the Transaction Documents and to perform the transactions contemplated under the Transaction Documents. The Transaction Documents have been duly authorized, executed and delivered by Borrower. Except as set forth herein, the making and performance of the Transaction Documents by Borrower and the consummation of the transactions contemplated therein will not result in the creation of any lien, charge, security interest or encumbrance upon any assets of Borrower pursuant to the terms or provisions of, or will not conflict with, result in the breach or violation of, or constitute, either by itself or upon notice or the passage of time or both, a default under any agreement, mortgage, deed of trust, lease, franchise, license, indenture, permit or other instrument to which Borrower is a party or by which Borrower or its properties may be bound or affected and in each case which would have a Material Adverse Effect or violate any statute or any authorization, judgment, decree, order, rule or regulation of any court or any regulatory body, administrative agency or other governmental body, applicable to Borrower or any of its properties. Except for any required notifications or qualifications under the federal and state securities or "blue sky" laws and regulations with respect to the issuance of the Warrant, the Warrant Shares and the Note, no consent, approval, authorization or other order of any court, regulatory body, administrative agency or other governmental body, or any other party, is required for the execution and delivery of the Transaction Documents or the consummation in the U.S. of the transactions contemplated thereby. The Transaction Documents constitute valid and binding obligations of Borrower, enforceable in the U.S. in accordance with their respective terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and as to limitations on the enforcement of the remedy of specific performance and other equitable remedies.

4.04 Financial Statements and Reports. Unless available on the Internet free of charge, Borrower has made available to Lender true and complete copies of the SEC Reports. As of their respective filing dates, the SEC Reports were prepared in all material respects in accordance with the requirements of the Securities Act or the Exchange Act, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such SEC Reports. The SEC Reports, when read as a whole, do not contain any untrue statements of a material fact and do not omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The audited consolidated financial statements and unaudited interim financial statements of Borrower included in the SEC Reports have been prepared in accordance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis (except as may be indicated therein or in the notes thereto) and fairly present, in all material respects, the financial position of Borrower as at the dates thereof and the results of its operations and cash flows for the periods then ended subject, in the case of the unaudited interim financial statements, to normal year-end adjustments and any other adjustments described in such financial statements. Since January 1, 2006, Borrower has filed with the SEC on a timely basis, or received a valid extension of such time of filing, all forms, reports and documents required to be filed by it under the Exchange Act.

4.05 No Defaults. Except as to defaults, violations and breaches which individually or in the aggregate would not have a Material Adverse Effect, Borrower is not in violation or default of any provision of its certificate of incorporation or bylaws, or other organizational documents, or in breach of or default with respect to any provision of any agreement, judgment, decree, order, mortgage, deed of trust, lease, franchise, license, indenture, permit or other instrument to which it is a party or by which it or any of its properties are bound; and there does not exist any state of fact which, with notice or lapse of time or both, would constitute an event of default or default on the part of Borrower as defined in such documents, except such defaults which individually or in the aggregate would not have a Material Adverse Effect.

4.06 Contracts.

(a) The contracts and agreements of Borrower described in the SEC Reports and in Schedule 3(e)(ii) and Schedule 3(e)(iii) of the Security Agreement, including without limitation Borrower's licenses and options for licenses, are in full force and effect as of the Restatement Date and Borrower is not, nor to Borrower's knowledge is any other party, in breach of or default under any of such contracts or agreements which would have a Material Adverse Effect, except such contracts or agreements as may have expired in accordance with their terms. All such contracts and agreements constitute valid and binding obligations of Borrower, enforceable in accordance with their respective terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and as to limitations on the enforcement of the remedy of specific performance and other equitable remedies.

(b) Without limiting the generality of Section 4.06(a), Borrower makes the following representations and warranties in this Section 4.06(b) regarding (i) the Sublicense Agreement dated October 28, 1996 (as in effect on the Restatement Date, the "Sublicense") among Johnson & Johnson and Ortho Pharmaceutical Corporation, as licensors (collectively, "Licensor"), and ATI, as licensee, and (ii) the Research Funding and Option Agreement dated March 1, 2000 (the "Research Agreement") between the Scripps Research Institute and Borrower:

(1) Borrower is the successor to ATI under the Sublicense.

(2) The Sublicense is in full force and effect, and Borrower is not, nor to Borrower's knowledge is the Licensor, in breach or default under the Sublicense in any material respect or in any manner that would permit a party to terminate the Sublicense. To Borrower's knowledge, no event or condition exists or has occurred which would permit a party to terminate the Sublicense. The Sublicense is a valid and binding agreement, enforceable in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and as to limitations on the enforcement of the remedy of specific performance and other equitable remedies. Borrower has not received any notice or other communication from the Licensor under the Sublicense regarding any actual, alleged or potential violation, breach, default or termination of the Sublicense or any material change in the rights of Borrower under the Sublicense.

(3) To Borrower's knowledge, (x) the representations and warranties of the Licensor under Section 12 of the Sublicense are true and correct and (y) the Scripps Agreement (as defined in the Sublicense) is in full force and effect.

(4) Borrower has achieved all milestones required to be achieved under the Sublicense by the dates required thereunder (including without limitation under Section 6.2 of the Sublicense), taking into account any valid and binding extensions obtained by Borrower.

(5) The Research Agreement is not a material contract of Borrower with respect to its financial condition, results of operations, prospects, or products. Borrower has not exercised any option under the Research Agreement.

4.07 No Actions. Except as set forth on Schedule 4.07, there are no legal or governmental actions, suits, proceedings, arbitrations or investigations pending or, to Borrower's knowledge, threatened, to which Borrower is or may be a party or of which property owned, leased or licensed by Borrower is or may be the subject, or related to environmental or discrimination matters, which actions, suits, proceedings or investigations, individually or in the aggregate, might prevent or might reasonably be expected to have a material adverse effect on the transactions contemplated by this Agreement or result in a material adverse change in the financial condition, properties, business, or results of operations of Borrower (a "Material Adverse Change"); and no labor disturbance by the employees of Borrower exists or is imminent, to Borrower's knowledge, which might reasonably be expected to have a Material Adverse Effect. Borrower is not a party to or subject to the provisions of any material injunction, judgment, decree or order of any court, regulatory body administrative agency or other governmental body.

4.08 Properties. Borrower has good and marketable title to all the properties and assets reflected as owned by it in the SEC Reports, subject to no lien, mortgage, pledge, charge or encumbrance of any kind except Permitted Liens. Borrower holds its leased properties under valid and binding leases. Borrower owns, leases or licenses all such properties necessary for the conduct of its business (as described in the SEC Reports).

4.09 No Material Change. Except as disclosed in the SEC Reports, since June 30, 2006: (i) Borrower has not incurred any material liabilities or obligations, indirect, or contingent, or entered into any material verbal or written agreement or other transaction which is not in the ordinary course of business or which could reasonably be expected to result in a material reduction in the future earnings of Borrower; (ii) Borrower has not sustained any material loss or interference with its business or properties from fire, flood, windstorm, accident or other calamity not covered by insurance; (iii) Borrower has not paid or declared any dividends or other distributions with respect to its capital stock and Borrower is not in default in the payment of principal or interest on any outstanding debt obligations; (iv) except as disclosed in the SEC Reports and on Schedule 4.09, there has not been any change in the capital stock of Borrower, other than options issued pursuant to employee equity incentive plans or purchase plans approved by Borrower's Board of Directors (including the issuance of capital stock under Borrower's 401(k) Plan), or indebtedness material to Borrower; and (v) except for the operating losses and negative cash flow Borrower has continued to incur, there has not been any Material Adverse Change.

4.10 Intellectual Property.

(a) Borrower owns or has obtained valid rights to use the Intellectual Property necessary for the conduct of Borrower's business (as described in the SEC Reports).

(b) To Borrower's knowledge: (i) there are no third parties who have any ownership rights to any Intellectual Property that is owned by, or has been licensed to, Borrower for the product indications described in the SEC Reports that would preclude Borrower from conducting its business (as described in the SEC Reports), except for the ownership rights of the owners of the Intellectual Property licensed or optioned by Borrower; (ii) there are currently no sales of any products that would constitute an infringement by third parties of any Intellectual Property owned, licensed or optioned by Borrower; (iii) there is no pending or threatened action, suit, proceeding or claim by others challenging the rights of Borrower in or to any Intellectual Property owned, licensed or optioned by Borrower; (iv) there is no pending or threatened action, suit, proceeding or claim by others challenging the validity or scope of any Intellectual Property owned, licensed or optioned by Borrower; (v) there is no pending or threatened action, suit, proceeding or claim by others that Borrower infringes or otherwise violates any patent, trademark, copyright, trade secret or other proprietary right of others; and (vi) Borrower is not subject to any judgment, order, writ, injunction or decree of any court or any Federal, state, local, foreign or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or any arbitrator, and Borrower has not entered into or is a party to any contract which restricts or impairs the use of any such Intellectual Property in a manner which would have a Material Adverse Effect.

4.11 Compliance. Borrower has been and is in compliance with, in all material respects, all applicable laws, rules, regulations and orders, in respect of the conduct of its business and the ownership of its properties, including without limitation with respect to the FFDCA, environmental issues, and taxes and other governmental charges.

4.12 Taxes. Borrower has filed all federal, state, local and foreign income and other tax returns required to be filed by it and has paid or accrued all taxes shown as due thereon, and, except as set forth on Schedule 4.12, Borrower has no knowledge of a tax deficiency which has been or might be asserted or threatened against it.

4.13 Insurance. Borrower maintains insurance with sound and reputable insurance companies of the types and in the amounts that Borrower reasonably believes is adequate for its business, including, but not limited to, insurance covering all real and personal property owned or leased by Borrower against all risks customarily insured against by similarly situated companies, all of which insurance is in full force and effect.

4.14 No Undisclosed Liabilities.

(a) Neither Borrower nor any of its subsidiaries has any liabilities, obligations, claims or losses (whether liquidated or unliquidated, secured or unsecured, absolute, accrued, contingent or otherwise) that would be required to be disclosed on a balance sheet of Borrower or any subsidiary (including the notes thereto) in accordance with GAAP and are not disclosed in the SEC Reports other than those incurred in the ordinary course of Borrower's or its subsidiaries' respective businesses since June 30, 2006, and which, individually or in the aggregate, do not or would not have a Material Adverse Effect.

(b) Set forth on Schedule 6.03(e) attached hereto is a true and complete list and description of all Debt of Borrower and its subsidiaries outstanding on the Restatement Date.

(c) Set forth on Schedule 6.04(i) attached hereto is a true and complete list and description of all Liens of Borrower and its subsidiaries outstanding on the Restatement Date, other than Liens existing under Sections 6.04(a), 6.04(b), 6.04(c), 6.04(g) or 6.04(h).

4.15 No Undisclosed Events or Circumstances. To Borrower's knowledge, no event or circumstance has occurred or exists with respect to Borrower or its subsidiaries or their respective businesses, properties, operations or financial condition, which, under applicable law, rule or regulation, requires public disclosure or announcement by Borrower but which has not been so publicly announced or disclosed and which, individually or in the aggregate, do not or would not have a Material Adverse Effect.

4.16 Disclosure. To Borrower's knowledge, as of the Restatement Date, the Transaction Documents contain no untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made herein or therein, in the light of the circumstances under which they were made herein or therein, not misleading.

4.17 Material Non-Public Information. Except for this Agreement and the transactions contemplated hereby, neither Borrower nor its agents have disclosed to Lender any material non-public information that, according to applicable law, rule or regulation, should have been disclosed publicly by Borrower prior to the Restatement Date but which has not been so disclosed.

4.18 Fixed Assets. Set forth on Schedule 4.18 attached hereto is a true and complete list and description, including the book value, of all material fixed assets of Borrower.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF LENDER

Lender represents and warrants to Borrower, as of the Restatement Date as follows:

5.01 Corporate Status. Lender is a corporation duly organized, validly existing and in good standing under the laws of the State of North Carolina. Lender has all requisite corporate power and authority to carry on its business as now conducted.

5.02 Due Execution, Delivery and Performance of Agreement. Lender and its Affiliates have full legal right, corporate power and authority to enter into the Transaction Documents and to perform the transactions contemplated thereunder. This Agreement has been duly authorized, executed and delivered by Lender. This Agreement constitutes the valid and binding obligation of Lender enforceable in accordance with its terms.

5.03 Investment. Lender is acquiring the Note, the Warrant and the Warrant Shares for Lender's own account, and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act. Lender acknowledges having access to the SEC Reports. Lender has been afforded (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of Borrower concerning the business affairs and financial condition of Borrower and (ii) the opportunity to request such additional documents and information which Borrower possesses or can acquire without unreasonable effort or expense and has had access to and has acquired sufficient information about Borrower to reach an informed and knowledgeable decision to acquire the Securities to be purchased hereunder. Lender, either by reason of its own business or financial experience or the business or financial experience of its professional advisors (who are unaffiliated with and who are not compensated by Borrower or any Affiliate, finder or selling agent of Borrower, directly or indirectly), has such business and financial experience as is required to give it the capacity to utilize the information received, to evaluate the risks involved in purchasing such securities, to make an informed decision about purchasing the Securities and is able to bear the risks of an investment in the Securities. Lender is able to bear the economic risk of holding the Securities for an indefinite period of time and can afford a complete loss of its investment. Lender is not a "broker" or a "dealer" as defined in the Exchange Act and is not an "affiliate" of Borrower as defined in Rule 405 promulgated under the Securities Act.

5.04 Accredited Investor. Lender is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated under the Securities Act.

5.05 Note, the Warrant and the Warrant Shares Not Registered. Lender understands that the Note, the Warrant and the Warrant Shares are not registered under the Securities Act or registered or qualified under any state securities or "blue sky" laws in reliance on specific exemptions therefrom. Lender acknowledges and agrees that it shall not directly or indirectly, offer, sell, pledge, transfer or otherwise dispose of (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of) the Note, the Warrant and the Warrant Shares, except in compliance with the Securities Act and state securities or "blue sky" laws and the rules and regulations promulgated thereunder and with this Agreement and the Warrant. Lender understands that unless and until the Warrant and the Warrant Shares have been registered for resale by Borrower or Lender in compliance with applicable securities laws, the certificates evidencing the Warrant and the Warrant Shares will be imprinted with a legend (in accordance with Section 5.06) that prohibits the transfer of the Warrant and the Warrant Shares unless (a) such transaction is registered or such registration is not required or (b) if the transfer is pursuant to an exemption from registration, upon the reasonable request of Borrower, an opinion of counsel reasonably satisfactory to Borrower is obtained to the effect that the transaction is not required to be registered or is so exempt. Notwithstanding anything in this Agreement to the contrary, Lender may pledge the Note, the Warrant, and the Warrant Shares in connection with bona fide loan transactions in which Lender or its Affiliate is the borrower, provided that no such pledge shall occur knowingly, after reasonable investigation and inquiry, to any person or entity which actively sells, distributes, markets, develops, or produces a pharmaceutical product or device which directly competes with the Product.

5.06 Legend. To the extent applicable, each certificate evidencing the Warrant and the Warrant Shares, shall be endorsed with the legend substantially in the form set forth below:

> "THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY APPLICABLE STATE SECURITIES OR "BLUE-SKY" LAWS AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF UNLESS REGISTERED UNDER SUCH ACT OR UNDER SUCH LAWS, OR PURSUANT TO AN EXEMPTION FROM SUCH REGISTRATION."

ARTICLE VI
COVENANTS OF BORROWER

So long as any or all of the Loan or other obligations of Borrower under the Loan Documents shall remain unpaid, Borrower shall comply with the following covenants:

6.01 Compliance with Laws. Borrower shall comply, and cause each of its subsidiaries-to comply, in all material respects with all applicable laws, rules, regulations and orders, in respect of the conduct of its business and the ownership of its properties, including without limitation with respect to the FFDCA, environmental issues, and taxes and other governmental changes, where the failure to so comply would have a Material Adverse Effect.

6.02 Transfers of Assets. Borrower shall not, and shall not permit any of its subsidiaries to, sell, convey, transfer, lease, license, assign or otherwise dispose of (whether in one transaction or in a series of transactions) (a) all or substantially all of its assets or properties (whether now owned or hereafter acquired) to any entity or person, (b) without Lender's written consent (which consent shall not be unreasonably withheld), any material assets, properties or rights relating to the Product, or (c) any of its assets or properties except in the ordinary course of business and, in the case of this clause (c), so long as such action is not likely to have a Material Adverse Effect or a material adverse effect on Lender's rights hereunder.

6.03 Debt. Borrower shall not create or incur or allow to be created, incurred or exist, or permit any of its subsidiaries to create or incur or allow to be created, incurred or exist, any Debt, except each of the following forms of Debt, individually and not in the aggregate:

(a) accounts payable incurred or created in the ordinary course of Borrower's business;

(b) Debt incurred or created in the ordinary course of Borrower's business and which does not exceed $5,000,000 in the aggregate (which shall not include any Debt described in clauses (c) and (d));

(c) Debt incurred or created solely for the purpose of financing the acquisition of property (other than real property), leasehold improvements and equipment for use in Borrower's business and which does not exceed $15,000,000 in the aggregate;

(d) Debt which is junior and subordinate in right of payment to Borrower's obligations to Lender under the Loan Documents ("Junior Debt") so long as, prior to the creation of such Junior Debt, unless such Junior Debt is described in clauses (a) through (c) above, Lender has consented in writing to such Junior Debt (such consent not to be unreasonably withheld), and Lender and the holder of such Junior Debt have entered into a subordination agreement in form and substance reasonably satisfactory to Lender providing for the subordination of the Junior Debt to the obligations of Borrower under the Loan Documents; and

(e) Debt existing on the Restatement Date and set forth on Schedule 6.03(e) attached hereto. For the avoidance of doubt, Schedule 6.03(e) includes a true and complete list and description of all Debt of Borrower existing on the Restatement Date, regardless of whether any such Debt is permitted by clauses (a) through (d) above.

6.04 Liens, Etc. Borrower shall not create or incur or allow to be created, incurred or exist, or permit any of its subsidiaries to create or incur or allow to be created, incurred or exist, any Lien upon or with respect to any of Borrower's or its subsidiaries' assets or properties, except each of the following (collectively, "Permitted Liens"):

(a) Liens for taxes, assessments or other governmental charges in the ordinary course of business and for which no interest, late charge or penalty is attaching or which are being contested in good faith by appropriate proceedings;

(b) Liens, not delinquent, created by statute in connection with worker's compensation, unemployment insurance, social security and similar statutory obligations;

(c) Liens of mechanics, materialmen, carriers, warehousemen or other like statutory or common law liens securing obligations incurred in good faith in the ordinary course of business that are not due and payable or which are being contested in good faith; provided that Borrower has set aside reserves reasonable under the circumstances for any such liens being contested in good faith;

(d) Purchase money Liens upon property and equipment of Borrower acquired for use in Borrower's business, securing the purchase price thereof or securing Debt incurred solely for the purpose of financing the acquisition thereof, and all of which Liens in the aggregate do not secure Debt in excess of $15,000,000 at any time outstanding;

(e) Liens securing capital lease obligations under which the lessor's recourse is limited to the leased property;

(f) Liens securing indebtedness which is junior and subordinate in right of payment to Borrower's obligations to Lender under the Loan Documents ("Junior Liens") so long as, prior to the creation of such Junior Liens, unless such Junior Liens are described in clauses (a) through (e) above, Lender has consented in writing to such Junior Liens (such consent not to be unreasonably withheld), and Lender and the holder of such Junior Liens have entered into a subordination agreement in form and substance reasonably satisfactory to Lender providing for the subordination of the indebtedness secured by the Junior Liens to the obligations of Borrower under the Loan Documents;

(g) any rights reserved to or vested in any municipality or public authority to control or regulate the use of the real property used and occupied by Borrower in any manner; easements, rights-of-way, servitudes, restrictions and other defects, encumbrances and irregularities in title to the real property used and occupied by Borrower which could not, individually or in the aggregate, materially and adversely affect the condition or operation of such real property; rights of landlords under real property leases; so long as, in any case under this clause (g), any lienholder's recourse is limited to the related real property;

(h) statutory purchase-money Liens, including without limitation under Article 2 of the Uniform Commercial Code securing obligations related to the acquisition of goods and services incurred in good faith in the ordinary course of business that are not due and payable or which are being contested in good faith; provided that Borrower has set aside reserves reasonable under the circumstances for any such liens being contested in good faith; and

(i) Liens, other than Liens existing under clauses (a) through (c) and (g) and (h) above, existing on the Restatement Date and set forth on Schedule 6.04(i) attached hereto; provided, however, that no such Liens may be modified, extended, or otherwise amended in any way that adversely affects, including by reason of delay, the perfection or priority of Borrower's security interest in the Collateral unless Lender has consented to such amendment in writing. For the avoidance of doubt, Schedule 6.04(i) includes a true and complete list and description of all Liens of Borrower existing on the Restatement Date, other than Liens existing under clauses (a) through (c) and (g) and (h) above, regardless of whether any such Lien is permitted by clauses (d) through (f) above.

6.05 Corporate Existence; Business. Borrower will (i) maintain and preserve in full force and effect its corporate existence, and (ii) continue to engage in the business in which it is engaged on the Restatement Date.

6.06 Exchange Act Registration. Borrower will cause the Common Stock to continue to be registered under Section 12(g) of the Exchange Act, will comply in all material respects with its reporting and filing obligations under the Exchange Act, and will not take any action or file any documents to terminate or suspend such registration or terminate or suspend its reporting or filing obligations under the Exchange Act.

6.07 SEC and Other Information.

(a) Upon written request, Borrower will provide to Lender, within three (3) Business Days of receipt of such written request, a copy of any publicly available forms, reports or other documents filed by Borrower with the SEC if such documents are not available on the Internet free of charge. If for any reason at any time Borrower is not required to file annual, quarterly and other periodic reports with the SEC pursuant to the terms of the Exchange Act, then Borrower shall make available at no charge to Lender financial statements no later than the time they would be filed with the SEC if Borrower was required to file such annual, quarterly and other periodic reports. Any audited consolidated financial statements and unaudited interim financial statements prepared pursuant to the preceding sentence shall be prepared in accordance with GAAP applied on a consistent basis (except as may be indicated therein or in the notes thereto) during the periods involved, and shall fairly present in all material respects the financial position of Borrower as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited interim financial statements, to normal year-end audit adjustments).

(b) Borrower will permit officers and designated representatives of Lender, at reasonable times and intervals during normal business hours, and upon reasonable prior notice, to visit and inspect, under guidance of officers of Borrower and in accordance with Borrower's quality and standard operating procedures, any of the properties of Borrower, and to examine the Collateral and the books of record and account of Borrower and discuss the affairs, finances and accounts of Borrower with, and be advised as to the same by, Borrower's officers; provided, that (i) so long as Lender shall not have any reasonable basis for insecurity with respect to Borrower, the Loan or the Collateral, such visitations and inspections shall not occur more than twice in any fiscal year of Borrower, and (ii) Lender shall, in accordance with the Confidentiality and Non-Disclosure Agreement, dated July 11, 2006, between Lender and Borrower (the "Confidentiality Agreement"), cause its Affiliates and representatives to, treat all nonpublic information made available to it in strict confidence and disclose such information only on a need-to-know basis to Affiliates, subcontractors and employees who are under a written obligation to maintain the confidentiality of the information. Lender shall be responsible for any disclosure of such information by its Affiliates, subcontractors and employees.

6.08 Notice of Certain Events. Promptly, and in any event within five (5) Business Days after an executive officer of Borrower obtains knowledge thereof, Borrower will notify Lender of (a) the occurrence of an Event of Default, (b) any litigation, governmental proceeding or investigation or other event that is likely to materially and adversely affect the financial condition, properties, business, or results of operations of Borrower, or (c) any Change of Control.

6.09 Compliance with Certain Agreements. Borrower shall perform and fulfill all of its obligations under the Sublicense as necessary to maintain Borrower's rights in such agreement in full force and effect in all material respects. Borrower shall provide written notice to Lender within five (5) Business Days of Borrower's receipt of any notice from any other parties to the Sublicense proposing or threatening to terminate any such agreement.

6.10 Insurance. Borrower shall maintain in full force and effect insurance with sound and reputable insurance companies of the types and in the amounts that Borrower reasonably believes is adequate for its business, including, but not limited to, insurance covering all real and personal property owned or leased by Borrower against all risks customarily insured against by similarly situated companies.

ARTICLE VII
EVENTS OF DEFAULT

7.01 Events of Default. The occurrence of each of the following events shall be considered an event of default (each an "Event of Default"):

(a) Borrower shall fail to pay all principal and interest due under this Agreement on or before the Maturity Date;

(b) Any representation or warranty made by Borrower under this Agreement or any other Transaction Document shall prove to have been incorrect or untrue when made or deemed made and such incorrect or untrue representation or warranty has a Material Adverse Effect;

(c) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Agreement required to be performed or observed by Borrower (other than Section 6.02, 6.03 or 6.04) and such failure to perform or observe such term, covenant or agreement has a Material Adverse Effect and is not cured within thirty (30) days after receipt of notice thereof by Borrower;

(d) Borrower shall fail to perform or observe the provisions of Section 6.02, 6.03 or 6.04, except, in the case of Section 6.04, if an Event of Default is based on a tax lien, judgment lien or materialman's lien, such lien shall continue without discharge or stay for a period of sixty (60) days;

(e) One or more judgments, decrees or orders for the payment of money shall be entered against Borrower or any of its subsidiaries involving in the aggregate a liability of $300,000 or more in excess of any applicable insurance proceeds (or, in the case of shareholder class actions, $600,000 or more), and any such judgment, decree or order shall continue without discharge or stay for a period of sixty (60) days;

(f) Borrower shall (i) commence a voluntary case under the federal bankruptcy laws (as now or hereafter in effect), (ii) file a petition seeking to take advantage of any other laws relating to bankruptcy, insolvency, reorganization, winding up or composition for adjustment of debts, (iii) consent to or fail to contest in a timely manner any petition filed against it in an involuntary case under such bankruptcy laws or other laws, (iv) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, (v) admit in writing its inability to pay its debts as they become due, (vi) make a general assignment for the benefit of creditors, or (vii) take any corporate action for the purpose of authorizing or effecting any of the foregoing;

(g) A case or other proceeding shall be commenced against Borrower or any of its subsidiaries in any court of competent jurisdiction seeking (i) relief under the federal bankruptcy laws (as now or hereafter in effect) or under any other laws relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts, or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like for Borrower or any of its subsidiaries or for all or any substantial part of their respective assets, and such case or proceeding shall continue without dismissal or stay for a period of sixty (60) consecutive days, or an order granting the relief requested in such case or proceeding (including, but not limited to, an order for relief under such federal bankruptcy laws) shall be entered;

(h) A Change of Control shall occur; provided, however, that a Change of Control, as defined in clauses (ii) and (iii) of the definition of Change of Control, shall not be an Event of Default if Lender shall have consented to such Change of Control in writing (such consent not to be unreasonably withheld and taking into account, without limitation, the business strategy and adequacy of collateral for the Loan following such Change of Control);

(i) Borrower or any of its subsidiaries shall default in the performance or observance of any agreement or instrument relating to any Debt, or any other event shall occur or condition exist, and the effect of such default, event or condition is to cause or permit the holder of any such Debt to cause any such Debt to become due prior to its stated maturity;

(j) Borrower shall fail to perform or observe any term, covenant or agreement under the Security Agreement in any material respect, or the Security Agreement or any material provision thereof shall cease to be in full force and effect;

(k) There shall have been a Material Adverse Change (other than with respect to matters relating to general economic conditions on Borrower's industry as a whole) which, taken as a whole, materially adversely affects Borrower's ability to satisfy its obligations under the Loan Documents; provided, however, that in no event shall a Material Adverse Change be deemed to have occurred by virtue of the incurrence by Borrower or its Affiliates of any debt or other obligations permitted by this Agreement;

(l) the Common Stock shall not be listed or quoted on an Eligible Market;

(m) The Sublicense shall have been terminated or expired, or cease to be in full force and effect for the benefit of Borrower;

(n) Borrower shall withdraw, terminate, or abandon the NDA to market the Product for the indication prevention of respiratory distress syndrome in premature infants (RDS);

(o) The Product Launch Date for the indication prevention of RDS shall not have occurred within one hundred eighty (180) days after the related FDA Approval Date;

(p) Following the Product Launch Date, Borrower shall withdraw the Product for the indication prevention of RDS from the market; or

(q) Borrower shall receive a Not Approvable Letter.

7.02 Effect of Event of Default. If any Event of Default shall occur and be continuing, then Lender (i) may, by notice to Borrower, declare the Loan to be terminated, whereupon the same shall forthwith terminate, (ii) may, by notice to Borrower, declare the Note, all interest thereon and all other amounts payable under this Agreement to be forthwith due and payable, whereupon the Note, all such interest and all such amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by Borrower, and (iii) exercise any rights or remedies under the Security Agreement; provided, however, that if an Event of Default specified in Section 7.01(f) or (g) shall occur, (A) the Loan shall automatically be terminated and (B) the Note, all such interest and all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by Borrower.

ARTICLE VIII
MISCELLANEOUS

8.01 Amendments. No amendment or waiver of any provision of this Agreement or the Note, nor consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower and Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

8.02 Notices. All notices and other communications provided for hereunder shall be in writing, shall specifically refer to this Agreement, shall be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and shall be deemed to have been sufficiently given for all purposes if (i) mailed by first class certified or registered mail, postage prepaid, (ii) sent by nationally recognized overnight courier for next Business Day delivery, (iii) personally delivered, or (iv) made by telecopy or facsimile transmission with confirmed receipt.

If to Borrower: Discovery Laboratories, Inc.
2600 Kelly Road, Suite 100
Warrington, PA 18976
Attn: Chief Executive Officer and General Counsel
Facsimile: (215) 488-9301

with a copy to:	Dickstein Shapiro LLP 1177 Avenue of the Americas New York, NY 10036-2714 Attn: Ira L. Kotel Facsimile: (212) 277-6501
If to Lender:	PharmaBio Development Inc. d/b/a NovaQuest 4709 Creekstone Drive Riverbirch Bldg., Suite 200 Durham, NC 27703 Attn: President Facsimile: (919) 998-2090
with a copy to:	Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P. 2500 Wachovia Capitol Center Raleigh, NC 27601 Attn: Christopher B. Capel Facsimile: (919) 821-6800

8.03 No Waiver; Remedies. No failure on the part of Lender to exercise, and no delay in exercising, any right hereunder or under the Notes shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

8.04 Attorneys' Fees. In the event that any dispute among the parties to the Loan Documents should result in litigation, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses enforcing any right of such prevailing party under or with respect to the Loan Documents, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expense of appeals.

8.05 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and permitted assigns, provided that (a) Borrower shall not assign or transfer any or all of its rights or obligations under any of the Loan Documents, and (b) so long as no Event of Default shall have occurred, Lender shall not assign or transfer any or all of its rights or obligations under the Loan Documents, provided, however, that the foregoing shall not limit Lender's right to assign or transfer the right to receive money or proceeds under the Loan Documents or any comparable arrangement so long as Lender remains the party to the Loan Documents and provided that Borrower shall continue to deal solely and directly with Lender in connection with Lender's rights and obligations under the Loan Documents. Lender shall not assign or transfer any or all of its rights or obligations under the Warrant or the Warrant Shares knowingly, after reasonable investigation and inquiry, to any person or entity which actively sells, distributes, markets, develops, or produces a pharmaceutical product or device which directly competes with the Product. Notwithstanding the foregoing, Lender may assign any or all of its rights or obligations under any of the Loan Documents to an Affiliate of Lender, provided, that any such Affiliate shall agree in writing to be subject to the foregoing limitations. Any assignment or attempted assignment in violation of this Section 8.05 shall be null and void.

8.06 Severability. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

8.07 Entire Agreement. This Agreement, the other Transaction Documents and the Confidentiality Agreement embody the entire agreement and understanding between the parties hereto with respect to the subject matter thereof and supersede all prior oral or written agreements and understandings relating to the subject matter thereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Transaction Documents shall affect, or be used to interpret, change or restrict, the express terms and provisions of the Transaction Documents. If any provision contained in this Agreement shall be deemed to conflict with any provision of any of the other Transaction Documents, then the provision contained in this Agreement shall be controlling.

8.08 Further Action. Each party shall, without further consideration, take such further action and execute and deliver such further documents as may be reasonably requested by the other party in order to carry out the provisions and purposes of the Transaction Documents.

8.09 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one and the same instrument. This Agreement may be executed and delivered by telecopy or facsimile transmission and any execution by such means shall be deemed an original.

8.10 Publicity. Except as otherwise required by applicable law or by obligations pursuant to any listing agreement with or rules of any securities exchange or automated quotation system, each party shall, and shall cause its respective Affiliates to, not, issue any press release or make any other public statement relating to, connected with or arising out of this Agreement or the matters contained herein without the other parties' prior written approval of the contents and the manner of presentation and publication thereof (which approval shall not be unreasonably withheld or delayed).

8.11 Termination by Borrower. At such time that the Loan and accrued interest have irrevocably been paid in full and Borrower has satisfied all of its obligations under the Loan Documents, Lender shall, at the request and expense of Borrower, promptly, and in no event later than ten (10) Business Days thereafter, make, execute, endorse, acknowledge, file and/or deliver to Borrower any and all agreements, certificates, instruments or other documents, and take all other action, as reasonably requested by Borrower to terminate this Agreement.

8.12 Disclaimer. Neither Lender nor Borrower, nor any of such party's Affiliates, directors, officers, employees, subcontractors or agents shall have, under any legal theory (including, but not limited to, contract, negligence and tort liability), any liability to any other party hereto for any loss of opportunity or goodwill, or any type of special, incidental, indirect or consequential damage or loss, in connection with or arising out of this Agreement.

8.13 Governing Law. This Agreement, including, without limitation, the interpretation, performance, enforcement, breach or termination thereof and any remedies relating thereto, shall be governed by and construed in accordance with the laws of the State of Delaware, United States of America, as applied to agreements executed and performed entirely in the State of Delaware, without regard to conflicts of law rules.

8.14 Internal Review. In the event that a dispute, difference, claim, action, demand, request, investigation, controversy, threat, discovery request or request for testimony or information or other question arises pertaining to any matters which arise under, out of, in connection with, or in relation to this Agreement (a "Dispute") and either party so requests in writing, prior to the initiation of any formal legal action, the Dispute will be submitted to the Chief Executive Officers of Borrower and Lender. For all Disputes referred to the Chief Executive Officers, the Chief Executive Officers shall use their good faith efforts to meet at least two times in person and to resolve the Dispute within ten (10) days after such referral.

8.15 Arbitration.

(a) If the parties are unable to resolve any Dispute under Section 8.14, then either party may require the matter to be settled by final and binding arbitration by sending written notice of such election to the other party clearly marked "Arbitration Demand". Thereupon such Dispute shall be arbitrated in accordance with the terms and conditions of this Section 8.15. Notwithstanding the foregoing, either party may apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm.

(b) The arbitration panel will be composed of three arbitrators, one of whom will be chosen by Borrower, one by Lender, and the third by the two so chosen. If both or either of Borrower or Lender fails to choose an arbitrator or arbitrators within fourteen (14) days after receiving notice of commencement of arbitration, or if the two arbitrators fail to choose a third arbitrator within fourteen (14) days after their appointment, the American Arbitration Association shall, upon the request of both or either of the parties to the arbitration, appoint the arbitrator or arbitrators required to complete the panel. The arbitrators shall have reasonable experience in the matter under dispute. The decision of the arbitrators shall be final and binding on the parties, and specific performance giving effect to the decision of the arbitrators may be ordered by any court of competent jurisdiction.

(c) Nothing contained herein shall operate to prevent either party from asserting counterclaim(s) in any arbitration commenced in accordance with this agreement, and any such party need not comply with the procedural provisions of this Section 8.15 in order to assert such counterclaim(s).

(d) The arbitration shall be filed with the office of the American Arbitration Association ("AAA") located in Wilmington, Delaware or such other AAA office as the parties may agree upon (without any obligation to so agree). The arbitration shall be conducted pursuant to the Commercial Arbitration Rules of AAA as in effect at the time of the arbitration hearing, such arbitration to be completed in a sixty (60) day period. In addition, the following rules and procedures shall apply to the arbitration:

(i) The arbitrators shall have the sole authority to decide whether or not any Dispute between the parties is arbitrable and whether the party presenting the issues to be arbitrated has satisfied the conditions precedent to such party's right to commence arbitration as required by this Section 8.15.

(ii) The decision of the arbitrators, which shall be in writing and state the findings the facts and conclusions of law upon which the decision is based, shall be final and binding upon the parties, who shall forthwith comply after receipt thereof. Judgment upon the award rendered by the arbitrator may be entered by any competent court. Each party submits itself to the jurisdiction of any such court, but only for the entry and enforcement to judgment with respect to the decision of the arbitrators hereunder.

(iii) The arbitrators shall have the power to grant all legal and equitable remedies (including, without limitation, specific performance) and award compensatory damages provided by applicable law, but shall not have the power or authority to award punitive damages. No party shall seek punitive damages in relation to any matter under, arising out of, or in connection with or relating to this Agreement in any other forum.

(iv) The parties shall bear their own costs in preparing for and participating in the resolution of any Dispute pursuant to this Section 8.15, and the costs of the arbitrator(s) shall be equally divided between the parties; provided, however, that each party shall bear the costs incurred in connection with any Dispute brought by such party that the arbitrators determine to have been brought in bad faith.

(e) Except as provided in the last sentence of Section 8.15(a), the provisions of this Section 8.15 shall be a complete defense to any suit, action or proceeding instituted in any federal, state or local court or before any administrative tribunal with respect to any Dispute arising with regard to this Agreement. Any party commencing a lawsuit in violation of this Section 8.15 shall pay the costs of the other party, including, without limitation, reasonable attorney's fees and defense costs.

[Rest of page intentionally left blank; signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective duly authorized officers, as of the date first above written.

BORROWER:

DISCOVERY LABORATORIES, INC.

By: /s/ John G. Cooper
Name: John G. Cooper
Title: Executive Vice President and Chief Financial Officer

LENDER:

PHARMABIO DEVELOPMENT INC.
d/b/a NOVAQUEST

By: /s/ Tom Perkins
Name: Tom Perkins
Title: Senior Vice President, Corporate Development

EXHIBIT A
DEFINITIONS

"Affiliate" shall mean, as to any person or entity, any corporation or business entity controlled by, controlling or under common control with such party or entity. For this purpose, "control" shall mean direct or indirect beneficial ownership of at least fifty percent (50%) of the voting stock or income interest in such corporation or other business entity.

"ATI" shall have the meaning set forth in Section 4.01.

"Business Day" shall mean any day other than a Saturday, Sunday or legal holiday on which banks in North Carolina and New York are open for the conduct of their banking business.

"Change of Control" shall mean the occurrence of any of the following events: (i) the acquisition, whether directly or indirectly, by any person or entity, including a "group" as defined in Section 13(d)(3) of the Exchange Act, of fifty percent (50%) or more of the Common Stock; (ii) Borrower shall merge or consolidate (or engage in any other share exchange, acquisition or business combination transaction) with or into another corporation or other entity, with the effect that the persons who were the shareholders of Borrower immediately prior to the effective time of such transaction hold less than fifty-one percent (51%) of the combined voting power of the outstanding equity securities of the surviving, continuing or acquiring entity in such transaction; (iii) Borrower shall sell, convey, transfer, lease, license, assign or otherwise transfer or dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets or properties (whether now owned or hereafter acquired) to any person or entity, or permit any of its subsidiaries to do so; or (iv) at any time during any calendar year, fifty percent (50%) or more of the members of the full Board of Directors of Borrower shall have resigned or been removed or replaced. The determination of "combined voting power" shall be based on the aggregate number of votes that are attributable to outstanding securities entitled to vote in the election of directors, general partners, managers or persons performing analogous functions to directors of the entity in question, without regard to contractual arrangements or rights accruing in special circumstances.

"Collateral" shall have the meaning set forth in the Security Agreement.

"Common Stock" shall mean the common stock, par value $0.001 per share, of Borrower.

"Debt" shall mean (i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) obligations to pay the deferred purchase price of property or services, (iv) obligations as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases, and (v) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (iv) above; provided, however, Debt shall not include any Debt of Borrower under this Agreement.

"Eligible Market" means any national securities exchange, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market.

"Event of Default" shall have the meaning set forth in Section 7.01.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"FDA" shall mean the United States Food and Drug Administration or its successor.

"FDA Approval Date" shall mean the first date on which the FDA approves an application to market the Product.

"FFDCA" shall mean the United States Federal Food, Drug and Cosmetic Act, as amended from time to time, and all regulations promulgated thereunder.

"Intellectual Property" shall have the meaning set forth in the Security Agreement.

"Liens" shall mean any lien, security interest, mortgage, pledge, encumbrance, charge or claim.

"Loan" shall have the meaning set forth in Section 2.01(a).

"Loan Documents" shall have the meaning set forth in Section 3.01(d).

"Material Adverse Change" shall have the meaning set forth in Section 4.07.

"Material Adverse Effect" shall have the meaning set forth in Section 4.01.

"Maturity Date" shall have the meaning set forth in Section 2.04(a).

"NDA" shall mean a "new drug application" as such term is used under the FFDCA.

"Not Approvable Letter" shall mean a letter from the FDA pursuant to 21 CFR 314.120 with respect to the NDA for the Product that has been filed with the FDA prior to the date hereof, for the indication prevention of respiratory distress syndrome in premature infants (RDS).

"Note" shall have the meaning set forth in Section 2.04.

"Permitted Lien" shall have the meaning set forth in Section 6.04.

"Prime Rate" shall mean the rate which Wachovia Bank, N.A. (or its successor) announces from time to time as its prime lending rate, the Prime Rate to change when and as such prime lending rate changes.

"Product" shall mean the product currently known as Surfaxin, as such name may change from time to time, for any and all formulations and delivery mechanisms, and for any and all indications.

“Product Launch Date” shall mean the first date on which the Product is shipped in the United States for commercial sale.

“SEC” shall mean the United States Securities and Exchange Commission.

“SEC Reports” shall mean Borrower’s most recently filed Annual Report on Form 10-K and the Proxy Statement filed in connection with Borrower’s most recent annual meeting of stockholders and all Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed by Borrower after January 1, 2006.

“Securities” shall have the meaning set forth in Section 4.02.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Agreement” shall have the meaning set forth in Section 3.01(b).

“Sublicense” shall have the meaning set forth in Section 4.06(b).

“Transaction Documents” shall have the meaning set forth in Section 3.01(d).

“Warrant” shall have the meaning set forth in Section 3.01(c).

“Warrant Shares” shall mean the shares issuable by Borrower upon the exercise of the Warrant.

EXHIBIT B
FORM OF NOTE

SECOND AMENDED AND RESTATED
SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement") is dated as of December 10, 2001, and amended and restated as of October 25, 2006 (the "Restatement Date"), by and between DISCOVERY LABORATORIES, INC., a Delaware corporation ("Borrower"), and PHARMABIO DEVELOPMENT INC., a North Carolina corporation, d/b/a NovaQuest ("Lender").

WHEREAS, Borrower and Lender previously entered into that certain Security Agreement dated as of December 10, 2001 (the "Original Security Agreement"), and amended and restated by the Amended and Restated Security Agreement dated as of November 3, 2004 (the "Amended and Restated Security Agreement");

WHEREAS, Borrower and Lender wish to amend and restate the Amended and Restated Agreement in its entirety as set forth in this Agreement;

WHEREAS, Borrower and Lender are parties to the Loan Agreement dated as of December 10, 2001, as amended and restated as of November 3, 2004, and further amended and restated as of the date hereof (as amended, modified or supplemented from time to time, the "Loan Agreement"), pursuant to which, among other things, Borrower is delivering to Lender the Note (as defined in the Loan Agreement); and

WHEREAS, it is a condition precedent to the performance of Lender under the Loan Agreement that Borrower enter into this Agreement;

NOW, THEREFORE, in consideration of the benefits to Borrower, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereby amend and restate the Amended and Restated Security Agreement in its entirety and hereby agree as follows:

1. Definitions. The following terms, as used in this Agreement, shall have the following meanings:

"Cash Proceeds"; "Certificated Securities"; "Chattel Paper"; "Consumer Goods"; "Commercial Tort Claims"; "Commodity Accounts"; "Commodity Contracts"; "Deposit Accounts"; "Documents"; "Electronic Chattel Paper"; "Equipment"; "Financial Assets"; "Fixtures"; "General Intangibles"; "Goods"; "Instruments"; "Inventory"; "Investment Property"; "Letter-of-Credit Rights"; "Letters-of-Credit"; "Negotiable Instruments"; "Noncash Proceeds"; "Payment Intangibles"; Promissory Notes"; Securities"; Securities Accounts"; "Securities Entitlements"; Software"; "Tangible Chattel Paper" and "Uncertificated Securities" shall each have the meaning set forth in the UCC.

"Collateral" shall mean all right, title and interest of Borrower in, to and under any and all of the following, whether now existing or hereafter existing or acquired from time to time: (i) any and all Certificated Securities, Chattel Paper, Consumer Goods, Contracts, Contract Rights, Commercial Tort Claims, Commodity Accounts, Commodity Contracts, Data, Deposit Accounts, Documents, Electronic Chattel Paper, Equipment, Financial Assets, Fixtures, General Intangibles, Goods, Instruments, Intellectual Property, Inventory, Investment Property, Letter-of-Credit Rights, Letters-of-Credit, Marketing Materials, monies, Negotiable Instruments, Payment Intangibles, Promissory Notes, Product Registrations, Receivables, Records, Securities, Securities Accounts, Securities Entitlements, Software, Tangible Chattel Paper and Uncertificated Securities; (ii) to the extent not covered by clause (i) of this definition, all other personal property, whether tangible or intangible, and (iii) any and all Proceeds, including Cash Proceeds and Noncash Proceeds, of any and all of the foregoing; provided, however, for the purposes of this Agreement, the term "Collateral" shall not include, and Borrower shall not be deemed to have granted a security interest in, any of Borrower's rights or interests in (i) any property or equipment acquired by Borrower pursuant to transactions described in Sections 6.04(d) and 6.04(e) of the Loan Agreement; provided, that immediately upon the lapse or termination of any Permitted Lien on such property or equipment, the Collateral shall include, and Borrower shall be deemed to have granted a security interest in, all such property and equipment, or (ii) any license Contract or agreement to which Borrower is a party or any of its rights or interests thereunder to the extent, but only to the extent, that such a grant would, under the terms of such license, Contract or agreement or otherwise, result in a breach of the terms of, or constitute a default under any license, Contract or agreement to which Borrower is a party (other than to the extent that any such term would be rendered ineffective pursuant to the UCC or any other applicable law (including the Bankruptcy Code, 11 U.S.C. Sec. 362(a)) or principles of equity); provided, that immediately upon the ineffectiveness, lapse or termination of any such provision, the Collateral shall include, and Borrower shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect.

"Contracts" shall mean all contracts, agreements, commitments, understandings and arrangements (including without limitation the Sublicense and any other license agreement) between Borrower and one or more other parties, or under or with respect to which Borrower has rights, including, without limitation, those listed on Schedule 3(e)(ii) and Schedule 3(e)(iii) attached hereto.

"Contract Rights" shall mean all rights of Borrower (including, without limitation, all rights to payment or property) under any Contract.

"Copyrights" shall mean, collectively, all copyrights (whether such copyrights are statutory or common law, whether established or registered in the United States or any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished) and all copyright registrations and applications, and in each case, whether now owned or hereafter created or acquired, together with any and all (i) rights and privileges arising under applicable law with respect to the use of such copyrights, (ii) reissues, renewals, continuations and extensions thereof, (iii) income, fees, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof.

"Data" shall mean any and all preclinical, clinical and manufacturing data or results and other similar data.

"Governmental Authority" means any federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory body, including any central bank.

"IND" shall mean an "investigational new drug application," as such term is defined under the FFDCA.

"Intellectual Property" shall mean all intellectual property, proprietary rights and similar property or rights of every kind and nature now owned or hereafter acquired, including, without limitation, Patents, Trademarks, Copyrights, domain names, trade secrets and trade secret rights, inventions, designs, confidential or proprietary technical and business information, Know-How, show-how or other data or information, software and databases and all embodiments or fixations thereof and related documentation, registrations and franchises, and all additions, improvements and accessions to, and books and records describing or used in connection with, any of the foregoing; provided, however, that "Intellectual Property" shall not include any "shrink-wrap" or "off-the-shelf" software, operating programs and "office suites" used by Borrower in its internal operations and which is generally commercially available.

"Know-How" shall mean all know-how and other information, including, without limitation, ideas, discoveries, inventions, data, techniques, specifications, processes, procedures, manufacturing and technical information, results from experiments and tests, instructions, methods, formulae, designs, plans, sketches, records, confidential analyses, interpretations of information, and trade secrets, or any similar items, in any media form, whether or not tangible, including, without limitation, any paper or electronic form.

"Marketing Materials" shall mean marketing materials, advertising materials, training materials, product data, price lists, mailing lists, sales materials, market information (e.g., customer, sales and competitor data), promotional materials, artwork for the production of packaging components, and other materials, and in each case whether now existing or owned or hereafter arising or acquired.

"Obligations" shall mean all indebtedness, obligations and liabilities of Borrower to Lender arising under or in connection with the Note (as defined in the Loan Agreement) and under or in connection with each of the Loan Agreement and this Agreement, including any amendment, modification, extension, refinancing or restructuring thereof.

"Patents" shall mean all of the following whether now owned or hereafter acquired: (a) all patents of the United States or any other country, all registrations and recordings thereof, and all applications for patents of the United States or any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any other country, including, without limitation, those listed on Schedule 3(e)(i) attached hereto, (b) all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof, and the inventions disclosed or claimed therein, including the right to make, use or sell the inventions disclosed or claimed therein and (c) all income, fees, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof.

"Proceeds" shall mean, collectively, all "proceeds," as such term is defined in the UCC, and in any event shall include, without limitation, any consideration received from the sale, exchange, license, lease or other disposition of any asset or property that constitutes Collateral, any value received as a consequence of the possession of any Collateral and any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any asset or property that constitutes Collateral, and shall include (a) any claim against any third party for (and the right to sue and recover for and the rights to damages or profits due or accrued arising out of or in connection with) (i) past, present or future infringement of any Patent now or hereafter owned, (ii) past, present or future infringement or dilution of any Trademark now or hereafter owned or injury to the goodwill associated with or symbolized by any Trademark now or hereafter owned, (iii) past, present or future infringement of any Copyright now or hereafter owned and (b) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"Product" shall mean the product currently known as Surfaxin, as such name may change from time to time, for any and all formulations and delivery mechanisms, and for any and all indications.

"Product Registration" means with respect to any country, the registrations, permits, licenses, consents, authorizations and other approvals and pending applications and requests therefor, required by applicable Governmental Authorities relating to the marketing, sale, distribution, pricing and reimbursement of any products in such country, including, without limitation, INDs and NDAs, marketing authorizations, and any supplements or amendments to any of the foregoing, and any other equivalent of the foregoing, in each case whether now existing or owned or hereafter arising or acquired, and including all filings and files with respect thereto, including, without limitation, all documents referred to in the complete regulatory chronology for any product registration, and including, without limitation, those listed on Schedule 3(e)(v) attached hereto.

"Receivable" shall mean any "account" as such term is defined in the UCC, and, in any event, shall include, but shall not be limited to, all of Borrower's rights to payment for goods sold, leased or licensed or services performed by Borrower, whether now in existence or arising from time to time hereafter, including, without limitation, rights evidenced by an account, note, contract, security agreement, chattel paper or other evidence of indebtedness or security, together with (a) all security pledged, assigned, hypothecated or granted to or held by Borrower to secure the foregoing, (b) all of Borrower's right, title and interest in and to any goods, the sale of which gave rise thereto, (c) all guarantees, endorsements and indemnifications on, or of, any of the foregoing, (d) all powers of attorney for the execution of any evidence of indebtedness or security or other writing in connection therewith, (e) all books, records, ledger cards and invoices relating thereto, (f) all evidences of the filing of financing statements and other statements and the registration of other instruments in connection therewith and amendments thereto, notices to other creditors or secured parties, and certificates from filing or other registration officers, (g) all credit information, reports and memoranda relating thereto and (h) all other writings related in any way to the foregoing.

"Records" shall mean records, documents and files, including files pertaining to Product Registrations, Intellectual Property, drug master files, correspondence with the FDA and other Governmental Authorities, validation documents and data, market studies, sales histories and quality control histories, accounting records, sales records, suppliers lists, price lists, forecasts, market studies, customer service and inquiry or complaint records, laboratory notebooks, quality assurance/control procedures and records, product and raw material specifications, regulatory compliance filings and other regulatory records, product operation manuals and instructions, standard operating procedures and written medical records, and in each case whether now existing or owned or hereafter arising or acquired, in any media form, whether or not tangible, including, without limitation, any paper or electronic form; provided, that, notwithstanding any provision in this Agreement to the contrary, Borrower shall not deliver to Lender any Records the delivery of which would violate applicable patient privacy laws or contractual provisions or written policies or protocols governing the conduct of clinical trials.

"Sublicense" shall mean the Sublicense Agreement dated October 28, 1996, between Johnson & Johnson and Ortho Pharmaceutical Corporation, as licensors, and Borrower (as successor to Acute Therapeutics, Inc.), as licensee (including any amendment, restatement, replacement, etc., thereof).

"Trademarks" shall mean all of the following whether now owned or hereafter acquired: (a) all trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office, any State of the United States or any similar offices in any other country or any political subdivision thereof, and all extensions or renewals thereof, including, without limitation, those listed on Schedule 3(e)(iv) attached hereto, (b) all income, fees, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (c) all goodwill associated therewith or symbolized thereby, and (d) all other assets, rights and interests that uniquely reflect or embody such goodwill.

"UCC" shall mean the Uniform Commercial Code as in effect on the date hereof and as in effect from time to time in the State of Delaware.

All capitalized terms not expressly defined herein shall have the meanings set forth in the Loan Agreement.

2. Grant of Security Interests. As security for the prompt and complete payment and performance of all of the Obligations, Borrower does hereby pledge and hypothecate unto Lender, and does hereby grant to Lender a continuing security interest of first priority (except as otherwise provided in this Agreement and the Loan Agreement) in, all of the right, title, and interest of Borrower in, to, and under the Collateral. For the avoidance of doubt, the Collateral described in this Agreement includes the Collateral as defined in the Amended and Restated Security Agreement (the "Existing Collateral"). This Agreement shall not constitute a novation and Borrower and Lender acknowledge that it is the intent of the parties that Lender maintains a continuous perfected first priority security interest in all Existing Collateral pursuant to the Original Security Agreement, the Amended and Restated Security Agreement and this Agreement.

3. Representations and Warranties of Borrower. Borrower represents and warrants to Lender, as of the Restatement Date, as follows:

(a) The execution and delivery by Borrower of this Agreement and the financing statements described herein (collectively, the "Security Documents"), and the performance of the terms and obligations therein, are within Borrower's corporate powers and have been duly authorized by all necessary corporate action on the part of Borrower. The Security Documents have been duly executed and delivered by Borrower and constitute valid and legally binding obligations of Borrower enforceable against Borrower in accordance with their terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and as to limitations on the enforcement of the remedy of specific performance and other equitable remedies.

(b) Borrower is the owner or licensee of the Collateral and has good, valid and marketable title to the Collateral (or, in the case of leased or licensed property, sufficient rights therein to perform its obligations under this Agreement), free and clear of all Liens except for those in favor of Lender and Permitted Liens.

(c) Except for the filing of financing statements with the State of Delaware and, only in the case of any Patent and Trademark matters, filings with the United States Patent and Trademark Office ("PTO") and, only in the case of any Copyright matters, filings with the United States Copyright Office ("Copyright Office"), necessary to perfect the security interests created hereunder, no authorization, approval, or other action by, and no notice to or filing with, any U.S. Governmental Authority is required either for the grant by Borrower of the security interest hereunder or for the execution, delivery, or performance of this Agreement by Borrower or, assuming compliance by Lender with the requirements set forth in the UCC or imposed on Lender by the PTO or Copyright Office with respect to attachment and perfection of security interests, for the perfection of such security interest or the exercise by Lender of its rights hereunder to the Collateral located in the U.S., except for those elements of Collateral that constitute monies or Deposit Accounts. Upon the execution of this Agreement and the completion of such filings in compliance with all applicable legal requirements, Lender will have a perfected security interest in the Collateral located in the U.S. (other than those elements of Collateral that constitute monies or Deposit Accounts) prior to all other Liens except Permitted Liens.

(d) Neither the execution or delivery by Borrower of the Security Documents, nor the performance of their respective terms and obligations, will: (i) violate Borrower's charter or bylaws; (ii) constitute a material breach or default under any agreement or instrument to which Borrower is a party or by which Borrower is bound; (iii) violate any applicable law, rule or regulation; or (iv) violate any order, writ, injunction, decree or judgment of any court or governmental authority applicable to or binding upon Borrower.

(e) Set forth on Schedule 3(e)(i) attached hereto is a true and complete list of all Patents owned by Borrower (including patent/application number, jurisdiction, and brief description). Set forth on Schedule 3(e)(ii) attached hereto is a true and complete list of all Patents licensed by Borrower from any third party (including patent/application number, owner/licensor, jurisdiction, and brief description) and a brief description of the license agreement. Set forth on Schedule 3(e)(iii) attached hereto is a true and complete list of any Contracts or agreements to which Borrower is a party and under which Borrower licenses any Patents, or other Intellectual Property, to or from any third party, which is not set forth on Schedule 3(e)(ii). Set forth on Schedule 3(e)(iv) attached hereto is a true and complete list of Trademarks owned by Borrower (including, if applicable, trademark/application number, jurisdiction, and a brief description). Set forth on Schedule 3(e)(v) attached hereto is a true and complete list of all material Product Registrations. On each schedule prepared pursuant to this clause (e), items that constitute Intellectual Property relating to the Product have been clearly identified as such.

(f) The representations and warranties contained in Article IV of the Loan Agreement are true and correct in all material respects.

4. Transfer of Collateral and Other Liens. The provisions of Sections 6.02 and 6.04 of the Loan Agreement are hereby incorporated herein by reference.

5. Other Financing Statements. Borrower represents and warrants with Lender that, except for the financing statements filed by Borrower in connection with the Original Security Agreement and the Amended and Restated Security Agreement and as set forth on Schedule 5 attached hereto, there exists no financing statement (or similar statement or instrument of registration under the law of any jurisdiction) in the United States or, to Borrower's knowledge, outside the United States covering or purporting to cover any security interest of any kind in the Collateral. Borrower covenants to Lender that it will not execute or authorize to be filed in any public office any financing statement (or similar statement or instrument of registration under the law of any jurisdiction), or file any amendment to any financing statement listed on Schedule 5 not permitted by the Loan Agreement, relating to the Collateral, as applicable, except financing statements (or similar statements or instruments of registration under the law of any jurisdiction) filed or to be filed in respect of Permitted Liens and financing statements covering the security interests granted to Lender by Borrower.

6. Further Assurances.

(a) Borrower, upon reasonable request of Lender, will promptly deliver and execute or cause to be delivered and executed, in form and content satisfactory to Lender, any financing, continuation, termination, or security interest filing statements, security agreement, assignment, or other document or instrument as Lender may reasonably request in order to perfect, preserve, maintain, or continue the perfection of Lender's security interest in the Collateral, or its priority, including without limitation any document or instrument necessary to record Lender's security interest in any state or county of any state, the United States Patent and Trademark Office or the United States Copyright Office. Borrower will pay the reasonable costs of filing any financing, continuation, termination, or security interest filing statement, assignment or other document or instrument as well as any recordation or transfer tax required by law to be paid in connection with the filing or recording thereof. Without limiting the foregoing, Lender is hereby authorized to file one or more financing statements, continuation statements, or other documents for the purpose of perfecting or continuing the security interest granted by Borrower, without the signature of Borrower, and naming Borrower as debtor and Lender as secured party; provided, that Lender shall provide copies of all such documents to Borrower. Lender acknowledges that it has no present intention to file or record any security interest financing statements or other documents or instruments in any jurisdiction outside the United States and agrees to discuss any action otherwise with Borrower prior to taking such action.

(b) Borrower will, at its own expense, make, execute, endorse, acknowledge, file and/or deliver to Lender from time to time such lists, descriptions and designations of its Collateral, documents of title, vouchers, invoices, schedules, confirmatory assignments, conveyances, financing statements, transfer endorsements, powers of attorney, certificates, reports and other assurances or instruments and take such further steps relating to the Collateral and other property or rights covered by the security interest hereby granted, as reasonably requested by Lender or which is necessary to perfect, preserve or protect its security interest in the Collateral.

(c) (i) Upon the irrevocable payment in full of all Obligations, the security interest of Lender in the Collateral shall terminate. In connection with such termination, Lender shall, at the request and expense of Borrower, promptly, and in no event later than ten (10) Business Days thereafter, execute and deliver to Borrower all UCC termination statements and similar documents that Borrower shall reasonably request to evidence such termination or release, including without limitation any document or instrument necessary to record the termination or release of Lender's security interest in any state or county of any state, the United States Patent and Trademark Office or the United States Copyright Office. Any execution and delivery of UCC termination statements and similar documents pursuant to this Section 6(c) shall be without recourse to or warranty by Lender. If Lender shall fail to provide such documents within ten (10) Business Days following payment of all Obligations, Borrower may file one or more UCC termination statements in accordance with the UCC or other documents required by the PTO or Copyright Office to terminate the security interest granted by Borrower to Lender under this Agreement, in each case naming Lender as secured party; provided, that Borrower shall provide copies of all such documents to Lender.

(d) Borrower agrees that it shall use its commercially reasonable best efforts to negotiate terms of any future license, Contract or agreement to which it is a party, including without limitation any Collaboration Arrangement (as defined in Section 13(b)), that will not prohibit, or be breached by, the inclusion of such future license, Contract or agreement in the Collateral.

7. Additional Agreements.

(a) Insurance. Borrower shall maintain in full force and effect insurance with sound and reputable insurance companies of the types and in the amounts that Borrower reasonably believes is adequate for its business, including, but not limited to, insurance covering all real and personal property owned or leased by Borrower against all risks customarily insured against by similarly situated companies.

(b) Ownership and Maintenance of the Collateral. Borrower shall, subject to normal wear and tear, keep all tangible Collateral, if any, in good condition. Borrower shall defend the Collateral against all claims and demands of all persons at any time claiming any interest therein adverse to Lender. Except for Permitted Liens, Borrower shall not make or permit to be made an assignment for security, pledge, or hypothecation of any of the Collateral or shall grant any other Lien in respect of the Collateral other than the security interest securing the Obligations. Notwithstanding the foregoing, Borrower may transfer or otherwise dispose of any of its assets or properties in the ordinary course of business in any transaction permitted by the Loan Agreement.

(c) Taxes. Borrower shall pay as and when due and payable all taxes, levies, license fees, assessments, and other impositions levied on the Collateral or any part thereof for its use and operations, except for all taxes, levies, license fees, assessments, and other impositions levied on the Collateral which are being contested by Borrower in good faith.

(d) Litigation and Proceedings. Borrower shall commence and diligently prosecute in its own name, as the real party in interest, for its own benefit, and at its own expense, such suits, administrative proceedings, or other actions for infringement or other damages as are necessary to protect the Collateral, if failure to prosecute such proceedings would have a Material Adverse Effect. Borrower shall provide to Lender any information with respect thereto reasonably requested by Lender.

8. Power of Attorney. Borrower hereby appoints Lender as Borrower's true and lawful attorney, with full power of substitution, to do any or all of the following, in the name, place, and stead of Borrower, as the case may be: (a) file an abstract of this Agreement (or, if required by law or regulation, this Agreement) or any other document describing Lender's interest in the Collateral with any appropriate governmental office (including, without limitation, the State of Delaware or any political subdivision thereof and the United States Patent and Trademark Office or the United States Copyright Office); and (b) following an Event of Default that has occurred and is continuing and not cured prior to the expiration of any applicable cure or grace periods set forth in the Loan Agreement, (i) endorse Borrower's name on all applications, documents, papers, and instruments necessary for Lender to use or maintain the Collateral, as applicable; (ii) ask, demand, collect, sue for, recover, impound, receive, and give acquittance and receipts for money due or to become due under or in respect of any of the Collateral; (iii) file any claims or take any action or institute any proceedings that Lender may deem necessary or desirable for the collection of any of the Collateral, or otherwise enforce Lender's rights with respect to any of the Collateral; (iv) assign, pledge, convey, or otherwise transfer title in or dispose of the Collateral, to any person; and (v) take any action and execute any instrument that Lender may deem necessary or advisable to accomplish the purposes of this Agreement.

9. Right to Inspect. Section 6.07(b) of the Loan Agreement is hereby incorporated by reference and made a part hereof (*mutatis mutandis*).

10. Name of Borrower, Place of Business, and Location of Collateral. Borrower represents and warrants that its correct legal name is as specified on the signature lines of this Agreement, and each legal or trade name of Borrower for the previous seven (7) years (if different from Borrower's current legal name) is as specified below the signature lines of this Agreement. Without the prior written notice to Lender of at least fifteen (15) Business Days, Borrower will not change its name, change its state of incorporation, dissolve, merge, or consolidate with any other person; provided, that Borrower shall not be required to make any disclosure to Lender hereunder that constitutes material non-public information. Borrower represents and warrants that its state of incorporation is as specified in the preamble to this Agreement and that the address of its chief executive office is as specified below the signature lines of this Agreement. The Collateral and all books and records pertaining thereto will be located at Borrower's chief executive office specified below or at a location of Borrower set forth on Schedule 10. Borrower may establish a new location for the Collateral or any part thereof, or the books and records concerning the Collateral or any part thereof, only if (a) it shall have given to Lender prior written notice of its intention so to do, clearly describing such new location and providing such other information in connection therewith as Lender may reasonably request, and (b) with respect to any such new location, it shall have taken all action necessary to be taken by Borrower to maintain the security interest of Lender in the Collateral intended to be granted hereby at all times in full force and effect and, if such new location is in the United States, fully perfected; provided, that Borrower shall not be required to make any disclosure to Lender hereunder that constitutes material non-public information.

11. Rights and Remedies upon Default.

(a) Borrower agrees that, if any Event of Default (as defined in the Loan Agreement) shall have occurred and is continuing and not cured prior to the expiration of any applicable cure or grace periods set forth in the Loan Agreement, then and in every such case, Lender, in addition to any rights now or hereafter existing under applicable law, and upon written notice to Borrower, shall have all rights as a secured creditor under the UCC in all relevant jurisdictions and may:

(i) personally, or by agents or attorneys, immediately take or retake possession of the Collateral or any part thereof;

(ii) instruct the obligor or obligors on any agreement, instrument or other obligation constituting the Collateral to make any payment required by the terms of such agreement, instrument or obligation directly to Lender;

(iii) sell, assign or otherwise liquidate, or direct Borrower to sell, assign or otherwise liquidate, any or all of the Collateral or any part thereof, and take possession of the proceeds of any such sale or liquidation; and

(iv) take possession of the Collateral or any part thereof by directing Borrower in writing to deliver the same to Lender at any place or places designated by Lender; it being understood that Borrower's obligation so to deliver the Collateral is of the essence of this Agreement and that, accordingly, upon application to a court of equity having jurisdiction, Lender shall be entitled to a decree requiring specific performance by Lender of said obligation.

(b) In the event that an Event of Default has occurred and is continuing and not cured prior to the expiration of any applicable cure or grace periods set forth in the Loan Agreement, Borrower shall pay on demand all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred by or on behalf of Lender (i) in enforcing the Obligations, and (ii) in connection with the taking, holding, preparing for sale or other disposition, selling, managing, collecting, or otherwise disposing of the Collateral. All of such costs and expenses (collectively, the "Liquidation Costs") together with interest thereon at the interest rate specified in the Note, from the date of payment until repaid in full, shall be paid by Borrower to Lender on demand and shall constitute and become a part of the Obligations secured hereby. Any proceeds of sale or other disposition of the Collateral will be applied by Lender to the payment of Liquidation Costs, and any balance of such proceeds will be applied by Lender to the payment of the remaining Obligations in such order and manner of application as Lender may determine. Borrower hereby grants to Lender, as security for the full and punctual payment and performance of the Obligations, a continuing security interest in and lien on all now or hereafter existing balances, credits, accounts, deposits, and all other sums credited by, maintained with, or due from Lender or any affiliate of Lender to Borrower; and regardless of the adequacy of any Collateral or other means of obtaining repayment of the Obligations, Lender may at any time and without notice to Borrower set off the whole or any portion or portions of any or all such balances, credits, accounts, deposits, and other sums against any and all of the Obligations.

(c) If the sale or other disposition of the Collateral fails to satisfy in full the Obligations, Borrower shall remain liable to Lender for any deficiency.

12. Remedies Cumulative. Each right, power, and remedy of Lender as provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Lender of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by Lender of any or all such other rights, powers, or remedies.

13. Amendments, Etc.

(a) No amendment or waiver of any provision of this Agreement, nor consent to any departure by Borrower herefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower and Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(b) In the event that Borrower believes that it is necessary to amend the terms of this Agreement to facilitate a Collaboration Arrangement (as defined below) that Borrower believes is in the best interests of Borrower, then Borrower may present in writing to Lender for Lender's consent (which consent shall not be unreasonably withheld) (i) a summary of the material terms and conditions of the proposed Collaboration Arrangement and (ii) the form of the proposed amendment. Lender shall respond to Borrower's request as promptly as reasonably practicable but in any event within fifteen (15) Business Days. "Collaboration Arrangement" shall mean any future contract, agreement or other arrangement between Borrower and any other party whereby Borrower grants or transfers any rights to such party with respect to development or commercialization of the Product, or any portion or component thereof, or any other similar, comparable, or related contract, agreement, or arrangement.

14. Notices. All notices and other communications provided for hereunder shall be in writing, shall specifically refer to this Agreement, shall be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder and shall be deemed to have been sufficiently given for all purposes if (a) mailed by first class certified or registered mail, postage prepaid, (b) sent by nationally recognized overnight courier for next business day delivery, (c) personally delivered, or (d) made by telecopy or facsimile transmission with confirmed receipt.

If to Lender:
PharmaBio Development Inc.
4709 Creekstone Drive
Riverbirch Bldg., Suite 200
Durham, NC 27703
Attention: President
Facsimile: (919) 998-2090

with a copy to:

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.
2500 Wachovia Capitol Center
Raleigh, NC 27601
Attention: Christopher B. Capel
Facsimile: (919) 821-6800

If to Borrower:

Discovery Laboratories, Inc.
2600 Kelly Road, Suite 100
Warrington, PA 18976
Attn: Chief Executive Officer and General Counsel
Facsimile: (215) 488-9301

with a copy to:

Dickstein Shapiro LLP
1177 Avenue of the Americas
New York, NY 10036-2714
Attention: Ira L. Kotel
Facsimile: (212) 277-6501

15. No Waiver; Remedies. No failure on the part of Lender to exercise, and no delay in exercising, any right hereunder or under the Loan Agreement or the Note shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

16. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and permitted assigns, provided that (i) Borrower may not assign or transfer any or all of its rights or obligations under the Security Documents, and (ii) Lender may not assign or transfer any or all of its rights or obligations under the Security Documents except in connection with an assignment or transfer of the Loan Agreement pursuant to the terms of the Loan Agreement. Any assignment or attempted assignment in violation of this Section 16 shall be null and void.

17. Severability. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

18. Entire Agreement. This Agreement and the other Loan Documents and Security Documents embody the entire agreement and understanding between the parties hereto and supersede all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Loan Documents and Security Documents shall affect, or be used to interpret, change or restrict, the express terms and provisions of the Loan Documents and Security Documents.

19. Further Action. Each party shall, without further consideration, take such further action and execute and deliver such further documents as may be reasonably requested by the other party to carry out the purposes and provisions of the Security Documents.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one and the same instrument. This Agreement may be executed and delivered by telecopy or facsimile transmission and any execution by such means shall be deemed an original.

21. Governing Law. This Agreement, including, without limitation, the interpretation, performance, enforcement, breach or termination thereof and any remedies relating thereto, shall be governed by and construed in accordance with the laws of the State of Delaware, United States of America, as applied to agreements executed and performed entirely in the State of Delaware, without regard to conflicts of law rules.

22. Internal Review. Section 8.14 of the Loan Agreement is hereby incorporated by reference and made a part hereof (*mutatis mutandis*).

23. Arbitration. Section 8.15 of the Loan Agreement is hereby incorporated by reference and made a part hereof (*mutatis mutandis*).

[Rest of page intentionally left blank; signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective duly authorized officers, as of the date first above written.

BORROWER:

DISCOVERY LABORATORIES, INC.

By: /s/ John G Cooper
Name: John G Cooper
Title: Executive Vice President and Chief Financial Officer

Address of chief executive office of Borrower

Discovery Laboratories, Inc.
2600 Kelly Road, Suite 100
Warrington, PA 18976
Attn: Chief Executive Officer and General Counsel

LENDER

PHARMABIO DEVELOPMENT INC.
d/b/a NOVAQUEST

By: /s/ Tom Perkins
Name: Tom Perkins
Title: Senior Vice President, Corporate Development

Schedules

EXECUTION COPY

AMENDMENT NO. 005 AND CONSENT

THIS AMENDMENT NO. 005 AND CONSENT ("Amendment") is made as of this 25th day of October, 2006, between General Electric Capital Corporation ("Secured Party") and Discovery Laboratories, Inc. ("Debtor"), to that certain Master Security Agreement dated as of December 20, 2002 (as amended, modified, restated, supplemented or replaced from time to time, and together with any schedules thereto, collectively, the "Agreement"). The terms of this Amendment No. 005 are hereby incorporated into the Agreement as though fully set forth therein. Secured Party and Debtor mutually desire to amend the Agreement as set forth below. Section references below refer to the section numbers of the Agreement. Unless otherwise defined herein, all capitalized terms herein shall have the respective meanings assigned to such terms in the Agreement.

Background

The Agreement requires that Debtor abide by certain covenants and warranties as more particularly set forth therein. Section 2 of the Agreement prohibits Debtor from, among other things, granting any liens on the Collateral or its Intellectual Property, except for Permitted Liens.

Prior to the date hereof, Debtor entered into a financing transaction with PharmaBio Development Inc. dba NovaQuest ("ParmaBio"), pursuant to that certain Amended and Restated Security Agreement dated December 10, 2001 (as amended and restated as of November 3, 2004, the PharmaBio Agreement"). In connection with a restructuring of its obligations under the PharmaBio Agreement, Debtor has requested that Secured Party (i) consent to its providing PharmaBio additional collateral, including a security interest in Debtor's Intellectual Property, (ii) agree to certain amendments to the Agreement, and (iii) enter into a subordination agreement with PharmaBio (the events set forth in the foregoing clauses (i), (ii), and (iii) are, collectively, the "Event"). Secured Party has agreed to consent to the Event on the terms and subject to the conditions set forth herein.

In consideration of the foregoing, the terms and conditions set forth in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor and Secured Party hereby agree as follows:

I. Consent.

Debtor has requested that Secured Party consent to the Event and Secured Party hereby consents (the "Consent") to the Event subject to the terms and conditions described herein. Except for the Consent and the amendments to the Agreement expressly set forth and referred to in this Amendment, the Agreement shall remain unchanged and in full force and effect, and the Consent shall be limited precisely and expressly as drafted and shall not be construed as a consent to the modification, amendment or supplementation of any other terms or provisions of the Agreement. Nothing in the Consent is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of Debtor's indebtedness under or in connection with the Agreement or any other indebtedness to Secured Party.

II. Amendments to Agreement.

A. Creation of Security Interest. Section 1 of the Agreement is hereby amended and restated in its entirety to read as follows:

"(a) Debtor hereby grants to Secured Party, its successors and assigns, a security interest in and against all property listed on any collateral schedule now, previously or in the future annexed to or made a part of this Agreement (collectively, **"Collateral Schedule"**), and in and against all additions, attachments, accessories and accessions to such property, whether now owned or hereafter acquired or arising, all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof (all such property is individually and collectively called the **"Collateral"**). This security interest is given to secure the payment and performance of all debts, obligations and liabilities of any kind whatsoever of Debtor to Secured Party, now existing or arising in the future, including but not limited to the payment and performance of certain Promissory Notes from time to time identified on any Collateral Schedule (collectively **"Notes"** and each a **"Note"**), and any renewals, extensions and modifications of such debts, obligations and liabilities (such Notes, debts, obligations and liabilities are called the **"Indebtedness"**).

(b) On and as of October 23, 2006, Debtor further grants to Secured Party, its successors and assigns, a security interest in and against all property, and in and against all additions, attachments, accessories and accessions to such property, whether now owned or hereafter acquired or arising, all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof, listed on Collateral Schedule No. 0001(the "**Additional Supplemental Collateral**") and made a part hereof. The Additional Supplemental Collateral shall for all purposes constitute "Collateral" under the terms of the Agreement. This security interest in the Additional Supplemental Collateral is given to secure the payment and performance of all Indebtedness. In the event that PharmaBio consents to Debtor entering into the licensing, sublicensing, partnering, or other similar agreements, strategic alliances and collaborations for the development, marketing and commercialization of the Product, or any portion or component thereof (a "**Permitted Event**"), Secured Party shall be deemed to have consented thereto to the extent of PharmaBio's consent, subject to the terms and conditions thereof and provided that Secured Party's security interest in and lien on the Additional Supplemental Collateral shall continue to be in full force and effect. For the sake of clarity, Permitted Event shall not include any amendments to the definition of Additional Supplemental Collateral or other modifications to what assets constitute Additional Supplemental Collateral ("**Collateral Modification**"). In the event that Debtor requests that Secured Party consent (not to be unreasonably withheld) to a Collateral Modification, Debtor shall provide prior written notice ("**Notice**") to Secured Lender of such Collateral Modification together with a description thereof in reasonable detail. Secured Lender shall have five (5) business days after Secured Party's receipt of such Notice to object to such Collateral Modification. In the event that Secured Lender fails to timely object in writing to the Collateral Modification, Secured Party shall be deemed to have consented to the Collateral Modification. Subject to the foregoing and Section 3(g) of this Agreement, Secured Party's security interest in and lien on the Additional Supplemental Collateral shall continue to be in full force and effect until the earlier of (i) Secured Party's consent under the terms hereof to the release thereof and (ii) all obligations of Debtor to Secured Party, including, without limitation, the Indebtedness, are paid in full and all obligations of Secured Party under this Agreement are terminated. In the event that Secured Party consents to a release of its lien on any property that constitutes Additional Supplemental Collateral or all obligations of Debtor to Secured Party are paid in full in accordance with the terms hereof, Secured Party hereby agrees that it will, at Debtor's expense (and in any event within 15 business days), file termination statements and execute such other documents and acknowledgments that Debtor may reasonably request to effect such release. "**Product**" shall mean the product currently known as Surfaxin, as such name may change from time to time, for any and all formulations and delivery mechanisms, and for any and all indications."

B. Amendment to Section 3. Section 3 is hereby amended to add a new Subsection 3(g) thereto immediately following Subsection 3(f) which shall read as follows:

"(g) Upon the occurrence of (i) receipt by Debtor of regulatory approval by the United States Food and Drug Administration for the indication of respiratory distress syndrome in premature infants for the Product, or (ii) such other events or conditions mutually acceptable to Secured Lender and Debtor (collectively, "**Milestones**"), and, in each case, provided that no default or event of default has occurred and is continuing, Secured Party shall terminate its lien in the Supplemental Collateral and Additional Supplemental Collateral (collectively, the "**Released Collateral**"). In the event that (x) Secured Party and Debtor are unable to agree on mutually acceptable Milestones and (y) Debtor elects to prepay all of the outstanding Indebtedness while Secured Party holds a perfected security interest in the Released Collateral, Debtor shall be entitled to prepay all of the outstanding Indebtedness in full without prepayment penalty. Secured Party agrees that any waiver fee assessed in connection with determining the Milestones hereunder shall not exceed $5,000. Secured Party hereby agrees that it will, upon (A) satisfaction of the provisions set forth in Subsections (i) or (ii) hereof or (B) prepayment in full of the outstanding Indebtedness in accordance with this Section 3(g), and at Debtor's expense, promptly file (and in any event within 15 business days) termination statements and execute such other documents and acknowledgments that Debtor may reasonably request to effect the termination of its lien on the Released Collateral."

III. Acknowledgement of Outstanding Indebtedness; Payment of Obligations; Limitation of Availability.

(a) Debtor hereby acknowledges, confirms and agrees that, as of the close of business on the date hereof, Debtor is indebted to Secured Party in respect of the Indebtedness in the principal amount of $4,701,912, plus interest accrued and accruing thereon, fees, costs, expenses and other charges now or hereafter payable under the Agreement.

(b) Debtor understands, acknowledges and agrees that it shall continue to make all payments when and as due under the terms and conditions of the Agreement.

(c) Debtor hereby acknowledges and agrees that Secured Party has no obligation to make any advances under the Agreement or otherwise in excess of $400,000 in the aggregate on or after the date of this Amendment, and that any such advances shall be made at the sole discretion of Secured Party.

IV. Reaffirmation of Grants of Security Interests; Additional Supplemental Collateral Schedule.

(a) Debtor hereby acknowledges, reaffirms and confirms its grants of security interests in the Collateral under the Agreement or otherwise in favor of Secured Party, including without limitation, the Supplemental Collateral, any Additional Collateral, and all equipment and other property constituting Collateral, including all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof, and agrees that, notwithstanding the effectiveness of this Amendment and the consummation of the transactions contemplated hereby, such grants of security interests shall continue to be in full force and effect and shall accrue to the benefit of the Secured Party.

(b) Collateral Schedule No. 0001 attached hereto as Exhibit A is hereby annexed to and made a part of the Agreement and describes the Additional Supplemental Collateral in which Debtor has granted Secured Party a security interest in connection with the Indebtedness. The Additional Supplemental Collateral shall for all purposes constitute "Collateral" under the terms of the Agreement.

V. Fee

In consideration of Secured Party's agreement to grant the Consent and enter into this Amendment, Debtor unconditionally agrees to pay to Secured Party a fee (the "Fee") equal to Ten Thousand and No/100 Dollars ($10,000.00), which Fee shall (a) be deemed earned and payable by Debtor on the date of the execution and delivery of this Amendment by Debtor, and (b) constitute a portion of the Indebtedness secured by the Agreement.

EXCEPT AS EXPRESSLY AMENDED HEREBY, THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. IF THERE IS ANY CONFLICT BETWEEN THE PROVISIONS OF THE AGREEMENT AND THIS AMENDMENT NO. 005, THEN THIS AMENDMENT NO. 005 SHALL CONTROL.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No.005 by signature of their respective authorized representative set forth below.

General Electric Capital Corporation	**Discovery Laboratories, Inc.**
By: /s/ Diane Earle	By: /s/ John G. Cooper
Name: Diane Earle	Name: John G. Cooper
Title: Duly Authorized Signatory	Title: Executive Vice President and Chief Financial Officer

Exhibit 99.1

Discovery Labs Restructures Loan Arrangement with Quintiles

Warrington, PA - October 26, 2006, -- Discovery Laboratories, Inc. (Nasdaq:DSCO), today announced the restructuring of its $8.5 million loan with PharmaBio Development, Inc., the strategic partnering group of Quintiles Transnational Corp. (Quintiles). Payment of the $8.5 million loan principal that was originally due December 31, 2006, has now been extended as a lump sum payment due on April 30, 2010.

John G. Cooper, Executive Vice President and Chief Financial Officer of Discovery commented, "Restructuring this arrangement to long-term status is a key component of our current financial strategy. Having this capital available allows us to further progress our key Surfactant Replacement Therapy pipeline programs, specifically Surfaxin® and Aerosurf™. Importantly, restructuring this obligation better positions us as we evaluate strategic alternatives intended to enhance the future growth of the Company."

The restructured loan provides that, in addition to the extended principal payment term, interest payments that were previously paid quarterly will now accrue annually and are payable at the loan's maturing in April 2010. Additionally, the loan's interest rate has been reduced and Discovery may repay the loan, in whole or in part, at any time.

In connection with the restructuring, Discovery enhanced the loan's collateral pledge and issued a warrant to PharmaBio to purchase up to 1.5 million shares of Discovery common stock at an exercise price of $3.58 per share. PharmaBio may exercise the warrant for cash or a reduction of the then outstanding loan balance. The term of the warrant is 7 years. In connection with the issuance of the warrant, Discovery expects to recognize deferred financing costs as an intangible asset of approximately $1.9 million, to be amortized to interest expense ratably over the extended term of the loan.

Additional information regarding the loan restructuring is contained on a Current Report on Form 8-K to be filed by Discovery with the Securities and Exchange Commission.

About Discovery Labs
Discovery Laboratories, Inc. is a biotechnology company developing Surfactant Replacement Therapies (SRT) for respiratory diseases. Surfactants are produced naturally in the lungs and are essential for breathing. Discovery's technology produces a precision-engineered surfactant that is designed to mimic the essential properties of natural human lung surfactant. Discovery believes that its proprietary SRT pipeline has the potential to advance respiratory medicine and address a variety of respiratory diseases affecting premature infants, children and adults.

Discovery's lead product candidate, Surfaxin, is the subject of an Approvable Letter from the FDA for the prevention of Respiratory Distress Syndrome in premature infants. Surfaxin® is also being developed to address Bronchopulmonary Dysplasia in premature infants. Aerosurf™, Discovery's aerosolized SRT, is being developed initially to treat premature infants suffering from respiratory disorders and is intended to obviate the need for intubation and conventional mechanical ventilation. Discovery's SRT pipeline also includes programs addressing Acute Lung Injury, Acute Respiratory Failure, Cystic Fibrosis, Acute Respiratory Distress Syndrome, and other respiratory conditions. For more information, please visit our corporate website at www.Discoverylabs.com.

To the extent that statements in this press release are not strictly historical, including statements as to business strategy, outlook, objectives, future milestones, plans, intentions, goals, future financial conditions, future collaboration agreements, the success of Discovery's product development, events conditioned on stockholder or other approval, or otherwise as to future events, all such statements are forward-looking, and are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from the statements made. Among the factors which could affect Discovery's actual results and could cause results to differ from those contained in these forward-looking statements are the risk that financial conditions may change, risks relating to the progress of Discovery's research and development, the risk that Discovery will not be able to raise additional capital or enter into additional collaboration agreements (including strategic alliances for aerosol and Surfactant Replacement Therapies), the risk that Discovery will not be able to develop or otherwise provide for a successful sales and marketing organization in a timely manner, if at all, the risk that approval by the FDA or other health regulatory authorities of any applications filed by Discovery may be withheld, delayed and/or limited by indications or other label limitations, the risk that any such regulatory authority will not approve the marketing and sale of a drug product even after acceptance of an application filed by Discovery for any such drug product, risks that the Chemistry, Manufacturing and Controls (CMC) section of Discovery's New Drug Application will not satisfy the FDA, risk in the FDA or other regulatory agency review process generally, risks relating to the ability of Discovery or Discovery's third party contract manufacturers and development partners to manufacture or provide Discovery with adequate supplies of drug substance, drug products and expertise for completion of any of Discovery's clinical studies, risks relating to drug manufacturing by Discovery, risks relating to the integration of manufacturing operations into Discovery's existing operations, other risks relating to the lack of adequate supplies of drug substance and drug product for completion of any of Discovery's clinical studies, risks relating to the ability of Discovery and its collaborators to develop, manufacture and successfully commercialize products that combine Discovery's drug products with innovative aerosolization technologies, risks relating to the significant, time-consuming and costly research, development, pre-clinical studies, clinical testing and regulatory approval for any products that we may develop independently or in connection with Discovery's collaboration arrangements, and risks relating to the development of competing therapies and/or technologies by other companies. Companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in advanced clinical trials, even after obtaining promising earlier trial results. Data obtained from tests are susceptible to varying interpretations, which may delay, limit or prevent regulatory approval. Those associated risks and others are further described in Discovery's filings with the Securities and Exchange Commission including the most recent reports on Forms 10-K, 10-Q and 8-K, and any amendments thereto.

Company Contact:

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