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Item 8. Financial Statements and Supplementary Data.

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2004

Or

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

For the transition period from to

Commission file number: 0-22427

HESKA CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**77-0192527**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
1613 Prospect Parkway Fort Collins, Colorado	**80525**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (970) 493-7272

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, $.001 par value

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes o No ☒

The aggregate market value of voting stock held by non-affiliates of the Registrant was approximately $50,789,565 as of June 30, 2004 based upon the closing price on the Nasdaq SmallCap Market reported for such date. This calculation does not reflect a determination that certain persons are affiliates of the Registrant for any other purpose.

49,419,130 shares of the Registrant's Common Stock, $.001 par value, were outstanding at March 30, 2005.

DOCUMENTS INCORPORATED BY REFERENCE

Items 10 (as to directors), 11, 12, 13 and 14 of Part III incorporate by reference information from the Registrant's Proxy Statement to be filed with the Securities and Exchange Commission in connection with the solicitation of proxies for the Registrant's 2004 Annual Meeting of Stockholders.

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PART I

This Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. Words such as "anticipates," "expects," "intends," "plans," "believes," "seeks," "estimates," variations of such words and similar expressions are intended to identify such forward-looking statements. These statements are not guarantees of future performance and are subject to certain risks, uncertainties and assumptions that are difficult to predict. Therefore, actual results could differ materially from those expressed or forecasted in any such forward-looking statements as a result of certain factors, including those set forth in "Factors that May Affect Results," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Business" and elsewhere in this Form 10-K.

Although we believe that expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in our expectations with regard thereto or any change in events, conditions, or circumstances on which any such statement is based. These forward-looking statements apply only as of the date of this Form 10-K.

Item 1. Business.

We discover, develop, manufacture, market, sell, distribute and support veterinary products. Our core focus is on the canine and feline companion animal health markets. In the past, we have devoted substantial resources to the research and development of innovative products in these areas, where we strive to provide high value products for unmet needs and advance the state of veterinary medicine.

Our business is comprised of two reportable segments, Core Companion Animal Health and Other Vaccines, Pharmaceuticals and Products. The Core Companion Animal Health segment ("CCA") includes diagnostic and monitoring instruments and supplies as well as single use diagnostic and other tests, vaccines and pharmaceuticals, primarily for canine and feline use. These products are sold directly by us as well as through independent third party distributors and other distribution relationships. The Other Vaccines, Pharmaceuticals and Products segment ("OVP"), previously reported as Diamond Animal Health, includes private label vaccine and pharmaceutical production, primarily for cattle but also for other animals including small mammals, horses and fish. All OVP products are sold by third parties under third party labels.

Our principal executive offices are located at 1613 Prospect Parkway, Fort Collins, Colorado 80525, our telephone number is (970) 493-7272 and our internet address is *www.heska.com*. We were incorporated in California in 1988, and we reincorporated in Delaware in 1997.

Background

We have historically been a research and development focused company and have devoted substantial resources to this area, which has contributed to our historical operating losses.

We were incorporated as Paravax, Inc. in California in 1988 and conducted research on vaccines to prevent infections by parasites. In 1991, we moved our headquarters from California to northern Colorado in order to be located closer to the research facilities of the College of Veterinary Medicine and Biomedical Sciences of Colorado State University. In 1995, we changed our name to Heska Corporation. Between 1996 and 1998, we expanded our business, making several acquisitions.

During 1999 and 2000, we restructured and refocused our business. We sold Heska UK, a veterinary diagnostic laboratory in England in January 2000 and Center Laboratories, a FDA and USDA licensed manufacturer of allergy immunotherapy products, in June 2000. We also sold the

worldwide rights to our PERIOCEUTIC Gel product, the first veterinary perioceutic gel for the treatment and control of periodontal disease in dogs, to Pharmacia & Upjohn Animal Health in March 2000.

We continued to pursue operating efficiencies and rationalize our business in 2001 and 2002. In late 2001, we moved our distribution strategy to a distributor-focused model and entered into distribution agreements with over 20 third-party veterinary distributors. We eliminated several direct sales positions as a result. We also consolidated our European operations into one facility in the fourth quarter of 2001. In the first half of 2002, we eliminated several positions, primarily in research and development, to lower our expense base. In July 2002, we licensed to Intervet Inc. certain rights to patents, trademarks and know-how for our Flu AVERT I.N. equine influenza vaccine, the world's first intranasal influenza vaccine for horses. This was the result of a strategic decision to focus our resources on the canine and feline veterinary markets.

Core Companion Animal Health Segment

We presently sell a variety of companion animal health products and services, among the most significant of which are the following:

Medical Instruments

We offer a broad line of veterinary diagnostic, monitoring and other instruments which are described below. We also market and sell consumable supplies for these instruments.

Diagnostic Instruments. Our line of veterinary diagnostic instruments includes the following:

- *Electrolytes and Blood Gases:* The i-STAT Portable Clinical Analyzer is a handheld, portable clinical analyzer that provides quick, easy analysis of blood gases and other key analytes, such as sodium, potassium and glucose, in whole blood. We are supplied this instrument and affiliated cartridges and supplies under a contractual agreement with i-STAT Corporation (acquired in 2004 by Abbott Laboratories).

- *Blood Chemistry:* The SPOTCHEM EZ Automated Dry Chemistry System is a compact benchtop system used to measure common blood chemistry components that are vital to veterinary medical diagnosis. It provides veterinarians with an easy-to-use, flexible and economical in-clinic chemistry system. We are supplied this instrument and affiliated test strips under a contractual agreement with Arkray, Inc.

- *Hematology:* The HESKA CBC-DIFF Veterinary Hematology System is an easy-to-use blood analyzer that measures such key parameters as white blood cell count, red blood cell count, platelet count and hemoglobin levels in animals. We are supplied this instrument and affiliated reagents and supplies under a contractual agreement with Boule Diagnostics International AB.

Monitoring and Other Instruments. The use by veterinarians of the types of patient monitoring products that are taken for granted in human medicine is becoming the state of the art in companion animal health. Our line of veterinary monitoring instruments includes the following:

- The VET/OX G2 DIGITAL Monitor is a veterinary monitor with a "digital-at-the-source" sensor, providing a digital signal starting at the tip of the sensor where the signal is generated (pulse oximetry monitors typically use an analog sensor). It monitors heart rate, oxygen saturation, respiratory rate and body temperature in a portable, rugged, easy-to-use package.

- The VET/IV 2.2 infusion pump is a compact, affordable IV pump that allows veterinarians to easily provide regulated infusion of fluids, drugs or nutritional products for their patients.

Point-of-Care Diagnostic and Other Tests

Heartworm Diagnostic Products. Heartworm infections of dogs and cats are caused by the parasite *Dirofilaria immitis*. This parasitic worm is transmitted in larval form to dogs and cats through the bite of an infected mosquito. Larvae develop into adult worms that live in the pulmonary arteries and heart of the host, where they can cause serious cardiovascular, pulmonary, liver and kidney disease. Our canine and feline heartworm diagnostic tests use monoclonal antibodies or a recombinant heartworm antigen, respectively, to detect heartworm antigens or antibodies circulating in the blood of an infected animal.

We currently market and sell heartworm diagnostic tests for both dogs and cats. SOLO STEP CH for dogs and SOLO STEP FH for cats are available in point-of-care, single use, formats that can be used by veterinarians on site. We also offer SOLO STEP CH Batch Test Strips, a rapid and simple point-of-care antigen detection test for dogs that allows veterinarians in larger practices to run multiple samples at the same time. We obtain SOLO STEP CH, SOLO STEP FH and SOLO STEP Batch Test Strips under a contractual agreement with Quidel Corporation ("Quidel").

Allergy Testing and Diagnostic Products. Allergy is common in companion animals, and it is estimated to affect approximately 10% to 15% of dogs. Clinical symptoms of allergy are variable, but are often manifested as persistent and serious skin disease in dogs and cats. Clinical management of allergic disease is problematic, as there are a large number of allergens that may give rise to these conditions. Although skin testing is often regarded as the most accurate diagnostic procedure, such tests can be painful, subjective and inconvenient. The effectiveness of the immunotherapy that is prescribed to treat allergic disease is inherently limited by inaccuracies in the diagnostic process.

We market two complementary *in vitro* tests for the detection of IgE, the antibody involved in most allergic reactions. We currently market and sell the ALLERCEPT E-SCREEN Test, a rapid in-clinic test that detects the presence of allergen-specific IgE, an antibody associated with allergic disease. Dogs testing positive for allergen-specific IgE are candidates for further evaluation using our ALLERCEPT Definitive Allergen Panels, discussed later in this document, to determine the specific allergens to which the dog is allergic.

Early Renal Damage Detection Products. Renal damage is a leading cause of death in both dogs and cats. Several inflammatory, infectious or neoplastic diseases can damage an animal's kidneys. It is estimated that 70% to 80% of kidney function is already destroyed before veterinarians can detect renal damage using traditional tests. Early detection is key to eliminate the causes and to mitigate the effects of kidney damage. Identification and treatment of the underlying cause of kidney damage can slow the progression of disease and add quality years to an animal's life.

Our E.R.D.-HEALTHSCREEN Canine Urine Test and our E.R.D.-HEALTHSCREEN Feline Urine Test are rapid in-clinic immunoassay tests designed to detect microalbuminuria, the most sensitive indicator of renal damage.

Veterinary Diagnostic Laboratory Services and Products

We have a veterinary diagnostic laboratory at our Colorado facility. We also sell ERD reagent packs used to detect microalbuminuria, the most sensitive indicator of renal damage, to Antech Diagnostics, the laboratory division of VCA Antech, Inc., for use in its veterinary diagnostic laboratories.

Our diagnostic laboratory offers blood testing using our ALLERCEPT Definitive Allergen Panels, which provide the most accurate determination of the specific allergens to which an animal, such as a dog or cat, is reacting. The panels use a highly specific recombinant version of the natural IgE receptor to test the serum of potentially allergic animals for IgE directed against a panel of known allergens. A typical test panel consists primarily of various pollen, grass, mold, insect and mite allergens. The test

results serve as the basis for prescription ALLERCEPT Allergy Treatment Sets, discussed later in this document.

Our diagnostic laboratory currently also offers testing using our canine and feline heartworm diagnostic technology and flea bite allergy assays as well as other diagnostic services including polymerase chain reaction, or PCR, based tests for certain infectious diseases. Our diagnostic laboratory is currently staffed by medical technologists experienced in animal disease and several additional technical staff.

We intend to continue to use our veterinary diagnostic laboratory both as a stand-alone service center for our customers and as an adjunct to our product development efforts. Many of the assays which we intend to develop in a point-of-care format are initially validated and made available in the veterinary diagnostic laboratory. The assay will remain available there after the introduction of the analogous point-of-care test.

Vaccines and other Biologicals

Allergy Treatment. Veterinarians who use our ALLERCEPT Definitive Allergen Panels often purchase ALLERCEPT Allergy Treatment Sets for those animals with positive test results. These prescription immunotherapy treatment sets are formulated specifically for each allergic animal and contain only the allergens to which the animal has significant levels of IgE antibodies. The prescription formulations are administered in a series of injections, with doses increasing over several months, to ameliorate the allergic condition of the animal. Immunotherapy is generally continued for an extended time. We offer both canine and feline immunotherapy treatment products.

Feline Respiratory Disease. The use of injectable vaccines in cats has become controversial due to the frequency of injection site-associated side effects. The most serious of these side effects are injection site sarcomas, tumors which, if untreated, are nearly always fatal. While there is one competitive non-injectable two-way vaccine, all other competitive products are injectable formulations.

We sell the HESKA FELINE ULTRANASAL FVRCP Vaccine, a three-way modified live vaccine combination to prevent disease caused by the three most common respiratory viruses of cats: calicivirus, rhinotracheitis virus and panleukopenia virus. Our two-way modified live vaccine combination, HESKA ULTRANASAL FVRC, prevents disease caused by calicivirus and rhinotracheitis. These vaccines are administered without needle injection by dropping the liquid preparation into the nostrils of cats. Our vaccines avoid injection site side effects, and we believe they are very efficacious. These products were launched to the veterinary marketplace in October 2004.

Pharmaceuticals and Supplements

Heartworm Prevention. We have an agreement with Schering-Plough Animal Health Corporation ("SPAH"), the worldwide animal health care business of Schering-Plough Corporation, granting SPAH the distribution and marketing rights in the United States for TRI-HEART Plus Chewable Tablets, our canine heartworm prevention product. TRI-HEART Plus Chewable Tablets (ivermectin/pyrantel) are indicated for use as a monthly preventive treatment of canine heartworm infection and for treatment and control of ascarid and hookworm infections. We manufacture TRI-HEART Plus Chewable Tablets at our Des Moines, Iowa production facility.

Nutritional Supplements. We sell a novel fatty acid supplement, HESKA F.A. Granules. The source of the fatty acids in this product, flaxseed oil, leads to high omega-3:omega-6 ratios of fatty acids. Diets high in omega-3 fatty acids are believed to lead to lower levels of inflammatory mediators. The HESKA F.A. Granules include vitamins and are formulated in a palatable flavor base that makes the product convenient and easy to administer.

Hypothyroid Treatment. We also sell a chewable thyroid supplement, THYROMED Chewable Tablets, for treatment of hypothyroidism in dogs. Hypothyroidism is one of the most common endocrine conditions diagnosed in older dogs, treatment of which requires a daily hormone supplement for the lifetime of the animal. THYROMED Chewable Tablets contain the active ingredient *Levothyroxine Sodium*, which is a clinically proven replacement for the naturally occurring hormone secreted by the thyroid gland. The chewable formulation makes this daily supplement convenient and easy to administer.

Other Vaccines, Pharmaceuticals and Products Segment

We have developed our own line of bovine vaccines that are licensed by the United States Department of Agriculture, or USDA. We have a long-term agreement with a distributor, Agri Laboratories, Ltd., ("AgriLabs"), for the marketing and sale of certain of these vaccines which are sold primarily under the Titanium® and MasterGuard® brands—registered trademarks of AgriLabs. AgriLabs has rights to sell these bovine vaccines in the United States, Africa, China, Mexico and Taiwan to December 2013. Subject to minimum purchase requirements, AgriLabs' rights in these regions will be exclusive at least to December 2009 and could remain exclusive up to December 2013 based on other contractual arrangements. We have the right to sell these bovine vaccines to any party of our choosing in other regions of the world. AgriLabs has non-exclusive rights to these vaccines in Canada to December 2009. We also manufacture other bovine products not covered under the agreement with AgriLabs.

We manufacture biological and pharmaceutical products for a number of other animal health companies. We manufacture products for animals including small mammals, horses and fish. Our offerings range from providing complete turnkey services which include research, licensing, production, labeling and packaging of products to providing any one of these services as needed by our customers as well as validation support and distribution services.

In July 2002, we made a strategic decision to focus on the canine and feline animal health markets. At that time, we licensed certain of our Flu AVERT I.N. vaccine rights to Intervet Inc., a unit of Akzo Nobel. As part of the agreement, we are currently manufacturing this product for Intervet Inc., although Intervet Inc. is free to manufacture the product itself in the future. Intervet Inc. now has global distribution rights to this product. All sales of this product after July 2002 have been reported as revenue for the OVP segment.

Marketing, Sales, Distribution and Customer Support

We estimate that there are approximately 35,000 veterinarians in the United States whose practices are devoted principally to small animal medicine. Those veterinarians practice in approximately 18,000 clinics in the United States. In 2004, our products were sold to approximately 14,000 such clinics in the United States. All our Core Companion Animal Health Products are ultimately sold to or through veterinarians. In many cases, veterinarians will markup their costs to the end user. The acceptance of our products by veterinarians is critical to our success.

We currently market our Core Companion Animal Health products in the United States to veterinarians through a direct sales force, a telephone sales force, independent third-party distributors, as well as through trade shows and print advertising and SPAH in the case of our heartworm preventive. Our direct sales force currently consists of 38 territory managers and 5 regional managers responsible for sales in various parts of the United States. Our inside sales force consists of 20 persons.

Our independent third-party distributors in the U.S. purchase and market our products utilizing their direct sales forces. We currently have agreements with 24 regional distributors with approximately 700 representatives. We believe that one of our largest competitors, IDEXX Laboratories, Inc. ("IDEXX"), effectively prohibits its distributors from selling competitors' products, including our

diagnostic instruments and heartworm diagnostic tests. As a result, 13 of these 24 regional distributors with approximately 225 representatives carry our full product line. We believe the IDEXX restrictions limit our ability to engage national distributors to sell our full line of products and significantly restricts our ability to market our products to veterinarians. To be successful, we will need to continue to attract and retain sufficient independent distributors and train the sales personnel of our distributors about our products.

We have a full staff dedicated to customer and product support including veterinarians, technical support specialists and service technicians. Individuals from our research and development group may also be used as a resource in responding to certain inquiries.

Internationally, we market our products to veterinarians primarily through corporate agreements and independent third-party distributors. Novartis Agro K.K. (Novartis Animal Health K.K. Tokyo) exclusively markets and distributes SOLO STEP CH in Japan. Leo Animal Health A/S currently exclusively distributes our E.R.D.-HEALTHSCREEN Urine Tests and SOLO STEP CH in Europe.

All OVP products are marketed and sold by third parties under third party labels. AgriLabs currently has exclusive sales and marketing rights to certain of our bovine vaccines, which are sold primarily under the Titanium® and MasterGuard® labels, in the United States and certain international regions.

We have granted third parties substantial marketing rights to certain of our existing products as well as products under development. Our agreements with our corporate partners generally contain no or very small minimum purchase requirements in order for them to maintain their exclusive or co-exclusive marketing rights. For example, we have entered into agreements with Novartis and Nestle Purina Petcare Company, a unit of Nestle, to market or co-market certain of the products that we have developed or are currently developing.

Manufacturing

Our products are manufactured by third-party manufacturers and/or in our Des Moines, Fribourg, Switzerland and Colorado facilities. Our facility in Des Moines, Iowa is an USDA, Food and Drug Administration, or FDA, and Drug Enforcement Agency, or DEA, licensed biological and pharmaceutical manufacturing facility. We expect that we will manufacture most or all of our biological and pharmaceutical products at this facility, as well as most or all of our recombinant proteins and other proprietary reagents for our diagnostic tests. We currently manufacture our canine heartworm prevention product and our Feline ULTRANASAL Vaccines at our Des Moines facility. We manufacture our various allergy diagnostic products at our Des Moines facility, our Colorado facility and our Fribourg, Switzerland, facility. Quidel and we, at our Des Moines facility, manufacture our heartworm point-of-care diagnostic tests.

Third parties manufacture our veterinary diagnostic and patient monitoring instruments, including our various analyzers and veterinary sensors and affiliated consumable supplies, as well as other products including our allergy treatment products and our E.R.D.-HEALTHSCREEN Urine Tests. Our handheld analyzers and affiliated supplies are supplied under a contractual agreement with i-STAT Corporation (acquired in 2004 by Abbott Laboratories), our chemistry analyzers and affiliated supplies are supplied under a contractual agreement with Arkray, Inc., our hematology analyzers and affiliated supplies are supplied under a contractual agreement with Boule Diagnostics International AB, and our digital monitor and affiliated supplies are supplied under a contractual agreement with Dolphin Medical, Inc. (a majority-owned subsidiary of OSI Systems, Inc.). ALK-Abello, Inc. and Greer Laboratories, Inc. manufacture our immunotherapy treatment products. Diagnostic Chemicals, Ltd. manufactures our E.R.D.- HEALTHSCREEN Urine Test and our ERD reagent packs used to detect microalbuminuria for use in veterinary diagnostic laboratories.

OVP manufactures animal health vaccine and pharmaceutical products for marketing and sale by other companies. Our Des Moines facility currently has the capacity to manufacture more than 50 million doses of vaccine each year. OVP's customers purchase products in both bulk and finished format, and OVP performs all phases of manufacturing, including growth of the active bacterial and viral agents, sterile filling, lyophilization and packaging.

Product Development

We are committed to providing innovative products to address significant unmet health needs of companion animals. We may obtain such products from external sources, external collaboration or internal research and development.

We are committed to identifying external product opportunities and creating business and technical collaborations that lead to high value veterinary products. We believe that our active participation in scientific networks and our reputation for investing in research enhances our ability to acquire external product opportunities. We have collaborated, and continue to do so, with a number of companies and universities. Examples of such collaborations include:

- Quidel for the development of SOLO STEP CH Cassettes, SOLO STEP CH Batch Test Strips and SOLO STEP FH Cassettes;
- Diagnostic Chemicals, Ltd., for the development of the canine and feline E.R.D.-HEALTHSCREEN Urine Tests and ERD reagent packs to detect microalbuminuria;
- Boule Diagnostics International AB for the development of veterinary applications for the HESKA CBC-DIFF Hematology System and associated reagents.

Internal research is managed by multidisciplinary product-associated project teams that consist of microbiologists, immunologists, geneticists, biochemists, molecular biologists, parasitologists and veterinarians, as appropriate. We have historically been an R&D-driven company and currently employ approximately 41 scientists, of whom over 35% hold doctoral degrees. We incurred expenses of $8.6 million, $6.8 million, and $6.6 million in the years ended December 31, 2002, 2003 and 2004, respectively, in support of our research and development activities.

Intellectual Property

We believe that patents, trademarks, copyrights and other proprietary rights are important to our business. We also rely upon trade secrets, know-how, continuing technological innovations and licensing opportunities to develop and maintain our competitive position. The proprietary technologies of our OVP segment and our European subsidiary, Heska AG, are primarily protected through trade secret protection of, for example, their manufacturing processes.

We actively seek patent protection both in the United States and abroad. Our issued and pending patent portfolios primarily relate to allergy, flea control, heartworm control, infectious disease vaccines, diagnostic and detection tests, immunomodulators, instrumentation, nutrition, pain control and vaccine delivery technologies. As of December 31, 2004, we owned, co-owned or had rights to 197 issued U.S. patents and 67 pending U.S. patent applications expiring at various dates from February 2010 to July 2021. Applications corresponding to pending U.S. applications have been or will be filed in other countries. Our foreign patent portfolio as of December 31, 2004 included 203 issued patents and 163 pending applications in various foreign countries.

We have entered into a number of out licensing agreements to realize additional value in certain of our intellectual property assets in fields outside of our core focus. For example, in 1998 we obtained rights from ImmuLogic Pharmaceutical Corporation to an intellectual property portfolio including a number of major allergens and the genes that encode them for use in veterinary as well as human

allergy applications. In order to realize additional value from that portfolio, we have granted licenses and options for licenses to several companies, including ALK-Abello A/S, Circassia, Ltd., Meiji Milk Products Company, Ltd., Pharmacia Diagnostics AB and Powderject Technologies, Ltd. (now part of PowderMed Ltd.), for the use of those allergens in the fields of diagnosis and treatment of human allergy.

We also have obtained exclusive and non-exclusive licenses for numerous other patents held by academic institutions and biotechnology and pharmaceutical companies.

Seasonality

Certain portions of our business are subject to seasonality. The fourth quarter tends to be our best quarter, both in terms of revenue and profitability. For example, in our Core Companion Animal Health segment, sales of both our veterinary instruments and our heartworm diagnostic tests tend to be highest in the fourth quarter. In our other segment, OVP, sales of livestock vaccines tend to be higher in the second half of the year than in the first half of the year.

Government Regulation

Many of the products that we may develop are subject to extensive regulation by governmental authorities in the United States, including the USDA and the FDA, and by similar agencies in other countries. These regulations govern, among other things, the development, testing, manufacturing, labeling, storage, pre-market approval, advertising, promotion, sale and distribution of our products. Satisfaction of these requirements can take several years to achieve and the time needed to satisfy them may vary substantially, based on the type, complexity and novelty of the product. Any product that we develop must receive all relevant regulatory approval or clearances, if required, before it may be marketed in a particular country. The following summarizes the U.S. government agencies that regulate animal health products:

- *USDA.* Vaccines and certain single use, point-of-care diagnostics are considered veterinary biologics and are therefore regulated by the Center for Veterinary Biologics, or CVB, of the USDA. Industry data indicate that it takes approximately four years and $1.0 million to license a conventional vaccine for animals from basic research through licensing. In contrast to vaccines, single use, point-of-care diagnostics can typically be licensed by the USDA in about two years, at considerably less cost. However, vaccines or diagnostics that use innovative materials, such as those resulting from recombinant DNA technology, usually require additional time to license. The USDA licensing process involves the submission of several data packages. These packages include information on how the product will be manufactured, information on the efficacy and safety of the product in laboratory animal studies and information on performance of the product in field conditions.

- *FDA.* Pharmaceutical products, which generally include synthetic compounds, are approved and monitored by the Center for Veterinary Medicine of the FDA. Industry data indicate that developing a new drug for animals requires approximately 11 years from commencement of research to market introduction and costs approximately $5.5 million. Of this time, approximately three years is spent in animal studies and the regulatory review process. However, unlike human drugs, neither preclinical studies nor a sequential phase system of studies are required. Rather, for animal drugs, studies for safety and efficacy may be conducted immediately in the species for which the drug is intended. Thus, there is no required phased evaluation of drug performance, and the Center for Veterinary Medicine will review data at appropriate times in the drug development process. In addition, the time and cost for developing companion animal drugs may be significantly less than for drugs for livestock animals, as food safety issues relating to tissue residue levels are not applicable.

- *EPA*. Products that are applied topically to animals or to premises to control external parasites are regulated by the Environmental Protection Agency, or EPA.

After we have received regulatory licensing or approval for our products, numerous regulatory requirements typically apply. Among the conditions for certain regulatory approvals is the requirement that our manufacturing facilities or those of our third-party manufacturers conform to current Good Manufacturing Practices or other manufacturing regulations, which include requirements relating to quality control and quality assurance as well as maintenance of records and documentation. The USDA, FDA and foreign regulatory authorities strictly enforce manufacturing regulatory requirements through periodic inspections.

A number of our animal health products are not regulated. For example, certain products such as our E.R.D.- HEALTHSCREEN Urine Tests and our ALLERCEPT panels, as well as other reference lab tests, are not regulated by either the USDA or FDA. Similarly, none of our veterinary diagnostic instruments or patient monitoring instruments requires regulatory approval to be marketed and sold. Additionally, various botanically derived products, various nutritional products and supportive care products are exempt from significant regulation as long as they do not bear a therapeutic claim that represents the product as a drug.

We have pursued regulatory approval outside the United States based on market demographics of foreign countries. For marketing outside the United States, we are subject to foreign regulatory requirements governing regulatory licensing and approval for many of our products. Licensing and approval by comparable regulatory authorities of foreign countries must be obtained before we can market products in those countries. Product licensing approval processes and requirements vary from country to country and the time required for such approvals may differ substantially from that required in the United States. We cannot be certain that approval of any of our products in one country will result in approvals in any other country. To date, we or our distributors have sought regulatory approval for certain of our products in Canada, which is governed by the Canadian Food Inspection Agency, or CFIA, in Japan, which is governed by the Japanese Ministry of Agriculture, Forestry and Fisheries, or MAFF, and in certain European countries requiring such approval.

The status of regulatory approval for our major products and products in development both in the United States and elsewhere is summarized below.

Products	Country	Regulated	Agency	Status
Veterinary Medical Instrumentation	United States	No		
	EU	No		
ALLERCEPT Definitive Allergen Panels	United States	No		
	EU	No		
ALLERCEPT E-SCREEN Test	United States	To require registration		Pending
	EU	No—in most countries		
E.R.D.-HEALTHSCREEN Canine Urine Test	United States	No		
	EU	No—in most countries		
	Canada	No		
E.R.D.-HEALTHSCREEN Feline Urine Test	United States	No		
	EU	No—in most countries		
	Canada	No		
FELINE ULTRANASAL (FVRC) Vaccine	United States	Yes	USDA	Licensed
FELINE ULTRANASAL (FVRCP) Vaccine	United States	Yes	USDA	Licensed
HESKA F.A. Granules	United States	No		
SOLO STEP CH	United States	Yes	USDA	Licensed
	Canada	Yes	CFIA	Licensed
	Japan	Yes	MAFF	Licensed
SOLO STEP CH Batch Test Strips	United States	Yes	USDA	Licensed
	Canada	Yes	CFIA	Licensed
SOLO STEP FH	United States	Yes	USDA	Licensed
TRI-HEART Plus Heartworm Preventive	United States	Yes	FDA	Approved

Competition

The market in which we compete is intensely competitive. Our competitors include independent animal health companies and major pharmaceutical companies that have animal health divisions. We also compete with independent, third party distributors, including distributors who sell products under their own private labels. In the point-of-care diagnostic testing market, our major competitors include IDEXX, Abaxis, Inc., AGEN Biomedical, Ltd. and Synbiotics Corporation. Other companies with a significant presence in the animal health market such as Bayer AG, Intervet International B.V. (a unit of Akzo Nobel), Merial Ltd., Novartis AG, Pfizer Inc. and Schering-Plough Corporation, Virbac S.A. and Wyeth (formerly American Home Products) may be marketing or developing products that compete with our products or would compete with them if successfully developed. These and other competitors may have substantially greater financial, technical, research and other resources and larger, more established marketing, sales, distribution and service organizations than us. Our competitors may offer broader product lines and have greater name recognition than we do. Novartis has a marketing agreement with us but the agreement does not restrict its ability to develop and market competing products. We believe that one of our largest competitors, IDEXX, effectively prohibits its distributors from selling competitive products, including our diagnostic instruments and heartworm diagnostic tests.

The products manufactured by OVP for sale by third parties compete with similar products offered by a number of other companies, some of which have substantially greater financial, technical, research and other resources than us and may have more established marketing, sales, distribution and service organizations than OVP's customers.

Environmental Regulation

In connection with our product development activities and manufacturing of our biological, pharmaceutical and diagnostic and detection products, we are subject to federal, state and local laws, rules, regulations and policies governing the use, generation, manufacture, storage, handling and disposal of certain materials, biological specimens and wastes. Although we believe that we have complied with these laws, regulations and policies in all material respects and have not been required to take any significant action to correct any noncompliance, we may be required to incur significant costs to comply with environmental and health and safety regulations in the future. Although we believe that our safety procedures for handling and disposing of such materials comply with the standards prescribed by state and federal regulations, the risk of accidental contamination or injury from these materials cannot be eliminated. In the event of such an accident, we could be held liable for any damages that result and any such liability could exceed our resources.

Employees

As of December 31, 2004, we and our subsidiaries employed 303 people, of whom 100 were in sales, marketing and customer support, 82 were in manufacturing and materials management, 65 were in management and administration, 47 were in research, development, and regulatory affairs, and 9 were in our veterinary diagnostic laboratory. We believe that our ability to attract and retain skilled personnel is critical to our success. None of our employees is covered by a collective bargaining agreement, and we believe our employee relations are good.

Available Information

Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended, are available on our website at *www.heska.com*, when such reports are available on the Securities and Exchange Commission website.

Item 2. Properties.

Our principal administrative and research and development activities are located in Fort Collins, Colorado. We currently lease an aggregate of approximately 64,000 square feet of administrative, laboratory and warehousing space in four buildings located in Fort Collins under leases expiring May 31, 2005. In the second quarter of 2005, we are planning to move to an approximately 60,000 square foot facility in Loveland, Colorado, which is currently under construction, under an 18-year lease agreement. Our principal production facility located in Des Moines, Iowa, consists of 168,000 square feet of buildings on 34 acres of land, which we own. We also own a 175-acre farm used principally for testing products, located in Carlisle, Iowa. Our European facility in Fribourg, Switzerland, is leased.

Item 3. Legal Proceedings.

From time to time, we may be involved in litigation relating to claims arising out of our operations. As of December 31, 2004, we were not party to any legal proceedings that are expected, individually or in the aggregate, to have a material effect on our business, financial condition or operating results.

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

No matters were submitted to a vote of stockholders during the fourth quarter ended December 31, 2004.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Our common stock is quoted on the Nasdaq SmallCap Market under the symbol "HSKA." The following table sets forth the intraday high and low prices for our common stock as reported by the Nasdaq SmallCap Market for the periods indicated below.

	High	Low
2003		
First Quarter	$ 1.18	$ 0.32
Second Quarter	1.82	0.83
Third Quarter	2.15	0.98
Fourth Quarter	3.52	1.56
2004		
First Quarter	3.25	1.75
Second Quarter	2.59	1.18
Third Quarter	1.99	0.92
Fourth Quarter	1.93	0.99
2005		
First Quarter (through March 30)	1.34	0.67

On March 30, 2005, the last reported sale price of our common stock was $0.82 per share. As of March 14, 2005, there were approximately 325 holders of record of our common stock and approximately 4,100 beneficial stockholders. We have never declared or paid cash dividends on our capital stock and do not anticipate paying any cash dividends in the near future. In addition, we are restricted from paying dividends, other than dividends payable solely in stock, under the terms of our credit facility. We currently intend to retain future earnings, if any, for the development of our business.

Equity Compensation Plan Information

The following table sets forth information about our common stock that may be issued upon exercise of options and rights under all of our equity compensation plans as of December 31, 2004, including the 1988 Stock Option Plan, the 1997 Stock Incentive Plan, the 2003 Stock Incentive Plan and the 1997 Employee Stock Purchase Plan. Our stockholders have approved all of these plans.

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options and Rights	Weighted-Average Exercise Price of Outstanding Options and Rights	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (excluding securities reflected in column (a))
Equity Compensation Plans Approved by Stockholders	9,350,959	$ 1.45	4,618,209(1)
Equity Compensation Plans Not Approved by Stockholders	None	None	None
Total	9,350,959	$ 1.45	4,618,209

(1) Shares authorized for issuance in connection with our 1997 Stock Incentive Plan are subject to an automatic annual increase of 1,500,000 shares.

Item 6. Selected Consolidated Financial Data.

The following consolidated statement of operations and consolidated balance sheet data have been derived from our consolidated financial statements. The information set forth below is not necessarily indicative of the results of future operations and should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the Consolidated Financial Statements and related Notes included as Items 6 and 7 in this Form 10-K.

	Year Ended December 31,				
	2000	2001	2002	2003	2004
	(in thousands, except per share amounts)				
Consolidated Statement of Operations Data:					
Revenue:					
Products, net of sales returns and allowances	$ 49,549	$ 46,386	$ 50,095	$ 63,950	$ 65,557
Research, development and other	3,126	1,897	1,231	1,375	2,134
Total revenue	52,675	48,283	51,326	65,325	67,691
Cost of products sold	33,299	28,655	30,201	38,399	42,253
	19,376	19,628	21,125	26,926	25,438
Operating expenses:					
Selling and marketing	14,788	13,981	13,128	15,750	15,616
Research and development	14,929	13,565	8,570	6,772	6,620
General and administrative	10,360	8,181	6,755	7,083	7,442
Restructuring expenses, loss on sale of assets and other	639	2,023	1,007	515	—
Total operating expenses	40,716	37,750	29,460	30,120	29,678
Loss from operations	(21,340)	(18,122)	(8,335)	(3,194)	(4,240)
Other expense, net	(530)	(569)	(334)	(214)	(575)
Loss before income taxes	(21,870)	(18,691)	(8,669)	(3,408)	(4,815)
Income tax expense	—	—	—	51	—
Net loss	$ (21,870)	$ (18,691)	$ (8,669)	$ (3,459)	$ (4,815)
Basic and diluted net loss per share	$ (0.65)	$ (0.48)	$ (0.18)	$ (0.07)	$ (0.10)
Shares used for basic and diluted net loss per share	33,782	38,919	47,720	48,115	49,029
Consolidated Balance Sheet Data:					
Cash and cash equivalents	$ 5,658	$ 5,710	$ 6,026	$ 4,877	$ 4,982
Total current assets	23,549	25,675	24,700	28,717	28,442
Total assets	39,160	37,757	35,585	38,896	38,724
Line of credit	—	5,737	7,596	7,528	10,375
Current portion of long-term debt and capital leases	2,146	815	2,338	783	302
Total current liabilities	10,242	17,460	19,274	18,516	23,269
Long-term debt and capital leases	2,808	2,109	770	1,746	1,466
Deferred revenue and other	1,011	1,022	6,331	11,978	11,410
Total stockholders' equity	25,100	17,166	9,210	6,656	2,579

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with "Selected Consolidated Financial Data" and the Consolidated Financial Statements and related Notes included in Item 7 of this Form 10-K.

This discussion contains forward-looking statements that involve risks and uncertainties. Such statements, which include statements concerning future revenue sources and concentration, gross profit margins, selling and marketing expenses, research and development expenses, general and administrative expenses, capital resources, additional financings or borrowings and additional losses, are subject to risks and uncertainties, including, but not limited to, those discussed below and elsewhere in this Form 10-K, particularly in "Factors that May Affect Results," that could cause actual results to differ materially from those projected. The forward-looking statements set forth in this Form 10-K are as of March 31, 2005, and we undertake no duty to update this information.

Overview

We discover, develop, manufacture, market, sell, distribute and support veterinary products. Our business is comprised of two reportable segments, Core Companion Animal Health, which represented 80% of 2004 product revenue, and Other Vaccines, Pharmaceuticals and Products, previously reported as Diamond Animal Health, which represented 20% of 2004 product revenue.

The Core Companion Animal Health segment includes diagnostic and monitoring instruments and supplies as well as single use diagnostic and other tests, vaccines and pharmaceuticals, primarily for canine and feline use. In July 2002, we made a strategic decision to focus our resources on the canine and feline veterinary markets. Accordingly, we licensed certain product rights to our equine influenza vaccine to Intervet Inc. at that time. Revenue through July 2002 for this product has been included in this segment.

Diagnostic and monitoring instruments and supplies represented approximately 45% of our 2004 product revenue. Many products in this area involve placing an instrument in the field and generating future revenue from consumables, including items such as supplies and service, as that instrument is used. A loss of or disruption in supply of consumables we are selling to an installed base of instruments could substantially harm our business. Historically, most revenue growth from consumables has resulted from an increased number of instruments in the field and not greater revenue per instrument. Major products in this area include our handheld electrolyte instrument, our chemistry instrument and our hematology instrument and their affiliated consumables. All products in this area are supplied by third parties, who typically own the product rights and supply the product to us under marketing and/or distribution agreements. In many cases, we have collaborated with a third party to adapt a human instrument for veterinary use.

Single use diagnostic and other tests, vaccines and pharmaceuticals represented approximately 35% of our 2004 product revenue, with the majority of revenue coming from diagnostic and other tests. Since items in this area are single use by their nature, our aim is to build customer satisfaction and loyalty for each product, generate repeat annual sales from existing customers and expand our customer base in the future. Major products in this area include our heartworm diagnostic tests, our heartworm preventive, our allergy diagnostic tests and our allergy immunotherapy. Products in this area are both supplied by third parties and manufactured by us.

We consider the Core Companion Animal Health segment to be our core business and devote most of our management time and other resources to improving the prospects for this segment. Maintaining a continuing, reliable and economic supply of products we currently obtain from third parties is critical to our success in this area. Virtually all of our sales and marketing expenses are in the Core Companion Animal Health segment. The majority of our research and development spending is

dedicated to this segment, as well. We have devoted substantial resources to the research and development of innovative products in Core Companion Animal Health, where we strive to provide high value products for unmet needs and advance the state of veterinary medicine.

All our Core Companion Animal Health products are ultimately sold to or through veterinarians. In many cases, veterinarians will markup their costs to the end user. The acceptance of our products by veterinarians is critical to our success. Core Companion Animal Health products are sold directly by us as well as through independent third party distributors and other distribution relationships. In 2002, we implemented a new distribution model for our Core Companion Animal Health products which relies on third party distributors for a greater portion of our sales. We believe that one of our largest competitors, IDEXX Laboratories, Inc. ("IDEXX"), effectively prohibits its distributors from selling competitors' products, including our diagnostic instruments and heartworm diagnostic tests. We believe the IDEXX restrictions limit our ability to engage national distributors to sell our full line of products and significantly restrict our ability to market our products to veterinarians.

While we have decreased operating expenses over the past several years and intend to continue to exercise disciplined expense control, we expect operating expenses to increase as we grow our business in the intermediate term. We intend to reach sustained profitability through a combination of revenue growth and expense control. Accordingly, we closely monitor product revenue growth trends in our Core Companion Animal Health segment. Product revenue in this segment grew 11% in 2004 as compared to 2003 and has grown at a compounded annual growth rate of over 22% since 1998, our first full year as a public company.

The Other Vaccines, Pharmaceuticals and Products segment ("OVP") includes our 168,000 square foot USDA- and FDA-licensed production facility in Des Moines, Iowa. We view this facility as a strategic asset which will allow us to control our cost of goods on any vaccines and pharmaceuticals that we may commercialize in the future. We are increasingly integrating this facility with our operations elsewhere. For example, virtually all our U.S. inventory is now stored at this facility and fulfillment logistics are handled there. Core Companion Animal Health segment products manufactured at this facility are transferred at cost and are not recorded as revenue for OVP. We view OVP reported revenue as revenue primarily to cover the overhead costs of the facility and to generate incremental cash flow to fund our Core Companion Animal Health segment.

OVP includes private label vaccine and pharmaceutical production, primarily for cattle but also for other animals including small mammals, horses and fish. All OVP products are sold by third parties under third party labels.

We have developed our own line of bovine vaccines that are licensed by the USDA.We have a long-term agreement with a distributor, Agri Laboratories, Ltd., ("AgriLabs"), for the marketing and sale of certain of these vaccines which are sold primarily under the Titanium® and MasterGuard® brands which are registered trademarks of AgriLabs. This agreement generates a significant portion of OVP's revenue. Subject to certain purchase minimums, under our long term agreement AgriLabs has the exclusive right to sell the aforementioned bovine vaccines in the United States, Africa, China, Mexico and Taiwan until at least December 2009. OVP manufactures the equine influenza vaccine discussed above and revenue from sales of the product have been included in the OVP segment beginning in August 2002. OVP also produces vaccines and pharmaceuticals for other third parties.

Additionally, we generate non-product revenues from sponsored research and development projects for third parties, licensing of technology and royalties. We perform these sponsored research and development projects for both companion animal and livestock product purposes.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations is based upon the consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities as of the date of the financial statements, and the reported amounts of revenue and expense during the periods. These estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances. We have identified those critical accounting policies used in reporting our financial position and results of operations based upon a consideration of those accounting policies that involve the most complex or subjective decisions or assessment. We consider the following to be our critical policies.

Revenue Recognition

We generate our revenue through sale of products, licensing of technology, royalties and sponsored research and development. Our policy is to recognize revenue when the applicable revenue recognition criteria have been met, which generally include the following:

- Persuasive evidence of an arrangement exists;
- Delivery has occurred or services rendered;
- Price is fixed or determinable; and
- Collectibility is reasonably assured.

Revenue from the sale of products is generally recognized after both the goods are shipped to the customer and acceptance has been received, if required, with an appropriate provision for estimated returns and allowances. Revenue from both direct sales to veterinarians and sales to independent third-party distributors are generally recognized when goods are shipped. Our products are shipped complete and ready to use by the customer. The terms of the customer arrangements generally pass title and risk of ownership to the customer at the time of shipment. Certain customer arrangements within OVP provide for acceptance provisions. Revenue for these arrangements is not recognized until the acceptance has been received or the acceptance period has lapsed. We reduce our product revenue by the estimated cost of any rebates, allowances or similar programs, which are used as promotional programs.

Recording revenue from the sale of products involves the use of estimates and management judgment. We must make a determination at the time of sale whether the customer has the ability to make payments in accordance with arrangements. While we do utilize past payment history, and, to the extent available for new customers, public credit information in making our assessment, the determination of whether collectibility is reasonably assured is ultimately a judgment decision that must be made by management. We must also make estimates regarding our future obligation relating to returns, rebates, allowances and similar other programs. The estimate of these obligations is partially based on historical experience, but it also requires management to estimate the amount of product that particular customers will purchase in a given period of time.

License revenue under arrangements to sell or license product rights or technology rights is recognized as obligations under the agreement are satisfied, which generally occurs over a period of time. Generally, licensing revenue is deferred and recognized over the estimated life of the related agreements, products, patents or technology. Nonrefundable licensing fees, marketing rights and milestone payments received under contractual arrangements are deferred and recognized over the remaining contractual term using the straight-line method.

Recording revenue from license arrangements involves the use of estimates. The primary estimate made by management is determining the useful life of the related product or technology. In some cases revenue is recognized over the defined legal patent life and in other cases it is recognized over the estimated remaining useful life of the technology. We evaluate all of our licensing arrangements, determining the useful life of either the product, the technology or the agreement, and defer the revenue for recognition over the appropriate period.

We recognize revenue from sponsored research and development over the life of the contract as research activities are performed. The revenue recognized is the lesser of revenue earned based on total expected revenues or actual non-refundable cash received to date under the agreement.

Recognizing revenue for sponsored research and development requires us to make several estimates. The determination of revenue earned is generally based on actual hours incurred by research and development personnel and actual expenses incurred compared to total estimated hours and costs to be incurred. We believe that this proportional performance model is an appropriate method of determining the amount of service that has been delivered to the customer, and the amount of revenue that has been earned. These estimates must be updated each reporting period based on new information available to management. The estimates are generally based on historical experience and management's judgment. However, it is possible that there is little to no comparability between projects and we must make estimates based on our understanding of the contractual arrangement and actual experience on the contract to date. We recognize revenue on these sponsored research and development arrangements only to the extent that the revenue has been earned and cash has been received.

Occasionally we enter into arrangements that include multiple elements. Such arrangements may include the licensing of technology and manufacturing of product. In these situations we must determine whether the various elements meet the criteria to be accounted for as separate elements. If the elements cannot be separated, revenue is recognized once revenue recognition criteria for the entire arrangement have been met. If the elements are determined to be separable, the revenue is allocated to the separate elements based on relative fair value and recognized separately for each element when the applicable revenue recognition criteria have been met. In accounting for these multiple element arrangements, we must make determinations about whether elements can be accounted for separately and make estimates regarding their relative fair values.

Allowance for Doubtful Accounts

The Company maintains an allowance for doubtful accounts receivable based on client-specific allowances, as well as a general allowance. Specific allowances are maintained for clients which are determined to have a high degree of collectibility risk based on such factors, among others, as: (i) the aging of the accounts receivable balance; (ii) the client's past payment experience; (iii) a deterioration in the client's financial condition, evidenced by weak financial condition and/or continued poor operating results, reduced credit ratings, and/or a bankruptcy filing. In addition to the specific allowance, the Company maintains a general allowance for all its accounts receivables which are not covered by a specific allowance. The general allowance is established based on such factors, among others, as: (i) the total balance of the outstanding accounts receivable, including considerations of the aging categories of those accounts receivable; (ii) past history of uncollectible accounts receivable write-offs; and (iii) the overall creditworthiness of the client base. A considerable amount of judgment is required in assessing the realizability of accounts receivable. Should any of the factors considered in determining the adequacy of the overall allowance change, an adjustment to the provision for doubtful accounts receivable may be necessary.

Inventories

Inventories are stated at the lower of cost or market, cost being determined on the first-in, first-out method. Inventories are written down if the estimated net realizable value of an inventory item is less than its recorded value. We review the carrying cost of our inventories by product each quarter to determine the adequacy of our reserves for obsolescence. In accounting for inventories we must make estimates regarding the estimated net realizable value of our inventory. This estimate is based, in part, on our forecasts of future sales and shelf life of product.

Capitalized Patent Costs

The Company defers and capitalizes certain costs, paid to third-party law firms, associated with the prosecution and maintenance of certain patents which are related to a variety of long-term licensing arrangements. No internal costs are capitalized. The costs are being amortized over the same period as the licensing revenue related to those patents is being recognized. Costs in excess of the amount of remaining related deferred licensing revenue are not capitalized but, are expensed as incurred. The Company capitalized approximately $443,000, $420,000 and $541,000 of such costs in the fiscal years ended December 31, 2002, 2003 and 2004, respectively. During the years ended December 31, 2002, 2003 and 2004, the Company amortized approximately $62,000, $101,000 and $393,000, respectively.

Results of Operations

The following table summarizes our results of operations for the three most recent fiscal years.

	Year Ended December 31,		
	2002	2003	2004
	(in thousands)		
Consolidated Statement of Operations Data:			
Revenue:			
Product revenue, net:			
Core companion animal health	$ 35,914	$ 47,630	$ 52,657
Other vaccines, pharmaceuticals and products	14,181	16,320	12,900
Total product revenue	50,095	63,950	65,557
Research, development and other	1,231	1,375	2,134
Total revenue, net	51,326	65,325	67,691
Cost of products sold	30,201	38,399	42,253
	21,125	26,926	25,438
Operating expenses:			
Selling and marketing	13,128	15,750	15,616
Research and development	8,570	6,772	6,620
General and administrative	6,755	7,083	7,442
Restructuring expenses, loss on sale of assets and other	1,007	515	—
Total operating expenses	29,460	30,120	29,678
Loss from operations	(8,335)	(3,194)	(4,240)
Other expense	(334)	(214)	(575)
Loss before income taxes	(8,669)	(3,408)	(4,815)
Income tax expense	—	51	—
Net loss	$ (8,669)	$ (3,459)	$ (4,815)
Basic and diluted net loss per share	$ (0.18)	$ (0.07)	$ (0.10)

Revenue

Total revenue, which includes product revenue, sponsored research and development and other revenue, increased 4% to $67.7 million in 2004 compared to $65.3 million in 2003. Total revenue for 2003 increased 27% to $65.3 million from $51.3 million in 2002. Product revenue increased 3% to $65.6 million in 2004 compared to $64.0 million in 2003. Product revenue increased 28% to $64.0 million in 2003 compared to $50.1 million in 2002. No single customer represented 10% or more of total revenue in 2004. Sales to one customer, AgriLabs, represented 15% and 17% of total revenue in 2003 and 2002, respectively.

Core Companion Animal Health segment product revenue increased 11% to $52.7 million in 2004 compared to $47.6 million in 2003. The increase in 2004 was driven by increased sales of our canine heartworm preventive, which was launched in the fourth quarter of 2003; our instrument consumables, primarily as a result of new instrument placements rather than greater usage per instrument; and our new hematology analyzer. These increases were somewhat offset by lower sales of our canine heartworm diagnostic test domestically.

2003 product revenue from our Core Companion Animal Health segment increased 33% to $47.6 million compared to $35.9 million in 2002. The increase in 2003 was driven by increased sales of our instrument consumables; our canine heartworm preventive, which was launched in the fourth quarter of 2003; our canine heartworm diagnostic test domestically; and our hematology analyzer. These increases were somewhat offset by the loss of equine influenza vaccine revenue due to the licensing of certain product rights to Intervet Inc. in July 2002.

Other Vaccines, Pharmaceuticals and Products segment ("OVP") product revenue decreased 21% to $12.9 million in 2004 compared to $16.3 million in 2003. The decrease in 2004 was due to decreased sales of our bovine vaccines under our contract with AgriLabs and a customer who had purchased for European distribution in 2003, but not in 2004, somewhat offset by increased sales of small mammal vaccines and bulk bovine biologicals.

2003 product revenue from OVP increased 15% to $16.3 million compared to $14.2 million in 2002. The increase in 2003 was driven by sales of small mammal vaccines to a new customer, small mammal pharmaceuticals and increased sales of our bovine vaccines under our contract with AgriLabs, somewhat offset by a decline in Canadian sales of vaccines for the prevention of bovine respiratory disease.

Revenue from sponsored research and development and other increased by 55% to $2.1 million in 2004 from $1.4 million in 2003. This increase primarily reflects license fees received in prior years which are deferred and recognized over several years. The 2003 increase of 12% to $1.4 million from $1.2 million in 2002 also reflects increases in license fees received in prior years which are being recognized over several years.

In 2005, we expect continued growth in our Core Companion Animal Health segment. We anticipate OVP revenue of approximately $12 million, a slight decline from 2004. We expect research, development and other revenue to decline slightly in 2005.

Cost of Products Sold

Cost of products sold totaled $42.3 million in 2004, $38.4 million in 2003 and $30.2 million in 2002. Gross profit on product sales was $23.3 million in 2004, $25.6 million in 2003 and $19.9 million in 2002.

Gross margin on product sales, i.e. gross profit on product sales divided by product sales, declined to 35.5% in 2004 compared to 40.0% in 2003. The decline was principally due to significantly lower gross margins on OVP product sales, lower gross margins on sales of diagnostic instruments, the loss of relatively high margin consumable sales to the installed base of end users of our previous hematology

instrument, price increases on certain products we purchase and lower gross margins on sales of our heartworm diagnostic products. Significantly lower OVP gross margins were due to sales from a greater proportion of relatively lower gross margin products as compared to 2003. A significant reason for the decline in gross margin in new instrument product sales was an offer to certain customers who had previously purchased a hematology analyzer from us to upgrade to our new hematology analyzer, which was launched in January 2004. We initially made a decision to make this offer to certain customers in January 2004 and subsequently extended the period the offer was available through the second quarter as business conditions changed. We settled litigation with the supplier of our previous hematology instrument and agreed not to sell certain consumables to the installed base of end users of our previous hematology instrument until December 2004. This, as well as competition from the supplier of our previous hematology instrument, has reduced our sales of relatively high margin consumables to the installed base of end users of our previous hematology instrument. The price increases on certain products we purchase referred to above were the result of a contract renegotiation. Lower gross margins on sales of our heartworm diagnostic products were primarily the result of increased competition, a trend we expect to continue in the future. Gross margin on product sales increased to 40.0% in 2003 from 39.7% in 2002. Increased sales of our heartworm diagnostic tests and instrument consumables were contributors to the higher gross margin percentage compared to 2002.

We expect our gross margin on product sales will increase in 2005 as compared to 2004 as we expect to sell a greater proportion of total sales in relatively higher margin products.

Operating Expenses

Selling and marketing expenses decreased by 1% to $15.6 million in 2004 compared to $15.8 million in 2003 due to lower personnel costs at our European subsidiary. Selling and marketing expenses increased by 20% to $15.8 million in 2003 as compared to $13.1 million in 2002 due to higher commissions on increased sales and complete staffing for a full year. Selling and marketing expenses consist primarily of salaries, commissions and benefits for sales and marketing personnel and expenses related to product advertising and promotion.

Research and development expenses decreased by 2% to $6.6 million in 2004 from $6.8 million in 2003 due primarily to lower personnel costs. Research and development expenses decreased by 21% to $6.8 million in 2003 from $8.6 million in 2002. This decrease was due primarily to lower personnel costs, largely as a result of restructurings, and lower costs for clinical trials as we focused our efforts on the development of a smaller number of canine and feline companion animal health products.

General and administrative expenses increased by 5% to $7.4 million in 2004 from $7.1 million in 2003. General and administrative expenses increased by 6% to $7.1 million in 2003 from $6.8 million in 2002. The increase in both cases was primarily due to the increased usage of consultants for various projects, including business advisory services in 2003 and compliance with the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") in 2004. Our audit fees also increased in both years as compared to the immediately preceding years.

During 2002, we recorded restructuring charges of $386,000. The restructuring costs relate primarily to involuntary employee termination benefits and facilities abandonments. During 2002, we recorded a restructuring charge for personnel severance costs and other expenses related to 32 individuals. We also reversed approximately $330,000 of a restructuring charge recorded in the fourth quarter of 2001 due to the favorable settlement of certain liabilities.

We recorded other operating expenses of approximately $515,000 and $621,000 in 2003 and 2002, respectively. These other operating expenses were related to settlement costs associated with the resolution of litigation in 2003 and personnel severance costs in 2002.

In 2005, we expect total operating expenses to remain at essentially the same level as in 2004. We expect operating expenses generally will increase more slowly than increases in revenue.

Other

Interest income decreased to $25,000 in 2004 as compared to $71,000 in 2003 and $92,000 in 2002 as we continued to fund our operations with available cash. Interest income is expected to continue to decrease in the future as we continue to use cash to fund our business operations. Interest expense increased to $690,000 in 2004 from $459,000 in 2003 and $426,000 in 2002. The increase in interest expense reflects the higher usage of our line of credit for operations as well as higher interest rates resulting from increases in Wells Fargo's prime rate plus a negotiated rate increase during the fourth quarter of 2004. Our revolving credit facility is our major source of borrowing and results in a significant portion of our interest expense. We expect net interest expense to increase in 2005 as we use our revolving credit facility more extensively as we fund our growth.

Net Loss

Our net loss increased to $4.8 million in 2004 compared to $3.5 million in 2003 and $8.7 million in 2002. The increase in our net loss was due primarily to our lower gross profit percentage on product sales in 2004 compared to 2003. The improvement in 2003 from 2002 was the result of increased product revenue, a higher gross profit percentage on product sales and operating expenses growing more slowly than revenue. In 2005, we expect increased revenue and an improved gross margin on product sales to contribute to a lower net loss as compared to 2004.

Liquidity, Capital Resources and Financial Condition

We have incurred negative cash flow from operations since inception in 1988. For the year ended December 31, 2004, we had total revenue of $67.7 million and a net loss of $4.8 million. In 2004, net cash used by operations was $1.1 million. At December 31, 2004, we had $5.0 million of cash and cash equivalents, working capital of $5.2 million, $10.4 million of outstanding borrowings under our credit facility and $1.2 million of additional available borrowing capacity.

At December 31, 2004, we had outstanding obligations for long-term debt and capital leases totaling $1.8 million primarily related to two term loans with Wells Fargo Business Credit, Inc. ("Wells Fargo") and a subordinated promissory note with a significant customer with the proceeds used for facilities enhancements. One of these two term loans is secured by real estate at our Des Moines facility and had an outstanding balance at December 31, 2004 of $1.12 million due in monthly installments of $17,658 plus interest, with a balloon payment of approximately $834,000 due on May 31, 2006. The other term loan is secured by machinery and equipment at our Des Moines facility and had an outstanding balance at December 31, 2004 of approximately $16,000 which was paid in full in January 2005. Both loans had a stated interest rate of prime plus 2.5% effective as of December 31, 2004. The subordinated promissory note with a remaining balance of $500,000 is secured by our Des Moines facility, is payable in May 2006 and has a stated interest rate of prime plus 1.0%. In addition, we have a promissory note with the City of Des Moines with an outstanding balance at December 31, 2004 of $102,000 due in monthly installments through June 2006. The promissory note has a stated interest rate of 3.0%. The note is secured by first security interests in essentially all of our Des Moines facility's assets and the lender has subordinated its first security interest to Wells Fargo. Our capital lease obligations totaled $33,000 at December 31, 2004. The current portion of these long term obligations is approximately $302,000 and the non-current portion is approximately $1.5 million at December 31, 2004. The terms of our credit facility agreement with Wells Fargo which includes the real estate-secured loan and the machinery and equipment-secured loan as well as a revolving line of credit discussed below, include provisions where non-compliance with certain covenants could, in specified circumstances, result in acceleration of the repayment of all of these borrowings. Due to the waiver of

the event of non-compliance under the credit facility, which is discussed below, and our expectation of continued compliance under existing covenants, management has concluded that these borrowings are properly classified at December 31, 2004, in accordance with their terms, and that acceleration of repayment is unlikely.

At December 31, 2004, we also had a $12.0 million asset-based revolving line of credit with Wells Fargo which expires on May 31, 2006. At December 31, 2004, $10.4 million was outstanding under this line of credit. At December 31, 2004, our remaining available borrowing capacity under the line of credit was approximately $1.2 million. On February 21, 2005, we signed an amended agreement that established our financial covenants through May 2006 and decreased our stated rate of interest from prime plus 3.50% to prime plus 2.50%, retroactive to December 15, 2004. On March 22, 2005, we signed an amended agreement that waived our non-compliance of a covenant at December 31, 2004 and increased our stated rate of interest from prime plus 2.50% to prime plus 2.75%, retroactive to January 1, 2005. Our ability to borrow under this line of credit varies based upon available cash, eligible accounts receivable and eligible inventory. Interest is charged at a stated rate of prime plus 2.75% and is payable monthly. We are required to comply with various financial and non-financial covenants, and we have made various representations and warranties. Among the financial covenants is a requirement to maintain a minimum liquidity (cash plus excess borrowing base) of $1.5 million. Additional requirements include covenants for minimum capital monthly and minimum net income quarterly. Failure to comply with any of the covenants, representations or warranties could result in our being in default on the loan and could cause all outstanding amounts payable to Wells Fargo, including those discussed above, to become immediately due and payable or impact our ability to borrow under the agreement. Based on our projections, we believe we will be in compliance with these new covenants through at least December 31, 2005.

Net cash used by operating activities was $1.1 million in 2004, compared to providing cash of $570,000 in 2003 and using cash in 2002 of $6.5 million. Our net use of cash for operations in 2004 as compared to the net cash provided in 2003 was due to product rights and licensing arrangements generating $4.6 million less in cash in 2004 than 2003; accounts payable increasing by $1.3 million less in 2004 compared to 2003; increased net loss of $1.4 million; somewhat offset by $5.1 million less in accounts receivable increase due to the lower fourth quarter sales in 2004 as compared to 2003. The improvement in 2003 as compared to 2002 is primarily attributable to our lower net loss and up-front fees for product rights and licensing received. During 2003, we recorded deferred revenue from various transactions of approximately $6.3 million related primarily to the sale or licensing of product rights or technology rights to third parties. The related deferred revenue will be recognized on a straight-line basis over the remaining lives of the contracts, products or patents, which approximates the period over which we will complete our obligations under these agreements. Also, accounts payable and accrued liabilities increased by $1.2 million in 2003 due to higher inventory levels and accrued sales commissions as compared to a decrease of $1.6 million in 2002 related to the payments of the majority of the $2.0 million of restructuring expense and other which was accrued or payable at December 31, 2001. Accounts receivable increased by nearly $3.0 million in 2003 as a result of the record fourth quarter revenue.

Net cash flows from investing activities used cash of $1.4 million in 2004, used cash of $1.8 million in 2003 and provided cash of $4.6 million in 2002. Expenditures for property and equipment totaled approximately $1.3 million, $1.4 million and $1.2 million in 2004, 2003 and 2002, respectively. In 2004, approximately $1.9 million in capital expenditures and capitalized patent costs were somewhat offset by approximately $400,000 of proceeds from the licensing of certain rights related to one of our products. In 2003, approximately $1.8 million in capital expenditures and capitalized patent costs were somewhat offset by approximately $35,000 of proceeds from the disposition of property and equipment. In 2002, the cash provided was primarily from licensing fees received during the year related to certain product

rights and technology rights and was somewhat offset by the costs of replacing the roof on our manufacturing facility in Des Moines, Iowa.

Net cash flows from financing activities provided cash of $2.5 million in 2004 as compared to using $28,000 in 2003 and providing $2.2 million in 2002. In 2004, borrowings under our revolving credit facility and proceeds from the exercise of stock options provided cash of $3.3 million. In 2003, proceeds from the exercise of stock options and a new loan from the City of Des Moines related to our Des Moines facility provided cash of $819,000. Cash was used to reduce the outstanding balances of debt and capital leases in 2003. In 2002, our primary sources of financing cash flows were $2.9 million of borrowings under our revolving credit facility and from a significant customer for the roof replacement project at Diamond.

Our primary short-term need for capital, which is subject to change, is to fund our operations, which consist of continued research and development efforts, our sales, marketing and administrative activities, working capital associated with increased product sales and capital expenditures relating to maintaining, developing and expanding our manufacturing operations. Our future liquidity and capital requirements will depend on numerous factors, including the extent to which our present and future products gain market acceptance, the extent to which products or technologies under research or development are successfully developed, the timing of regulatory actions regarding our products, the costs and timing of expansion of sales, marketing and manufacturing activities, the cost, timing and business management of current and potential acquisitions, if any, and contingent liabilities associated with such acquisitions, and the procurement and enforcement of patents important to our business and the results of competition.

Our financial plan for 2005 indicates that our available cash and cash equivalents, together with cash from operations and borrowings expected to be available under our revolving line of credit, will be sufficient to fund our operations through 2005 and into 2006. Our financial plan for 2005 expects that we will have positive cash flow from operations, primarily through increased revenue, improved gross margins and limiting any increase in operating expenses to a modest degree. However, our actual results may differ from this plan, and we may be required to consider alternative strategies. We may be required to raise additional capital in the future. If necessary, we expect to raise these additional funds through one or more of the following: (1) sale of equity or debt securities; (2) obtaining new loans secured by unencumbered assets, or refinancing loans currently outstanding on properties with historical appraised values significantly in excess of related debt; (3) sale of assets, products or marketing rights; and (4) licensing of technology. There is no guarantee that additional capital will be available from these sources on acceptable terms, if at all, and certain of these sources may require approval by existing lenders. If we cannot raise the additional funds through these options on acceptable terms or with the necessary timing, management could also reduce discretionary spending to decrease our cash burn rate through actions such as delaying or canceling research projects or marketing plans. These actions would likely extend the then available cash and cash equivalents, and then available borrowings. See "Factors that May Affect Results."

At December 31, 2004, we had intangible assets of approximately $1.5 million related to deferred patent costs. These deferred patent costs are being recognized as research and development costs on a straight-line basis over the remaining lives of the agreements, products, patents or technology. We also had deferred revenue and other long term liabilities, net of current portion, of approximately $11.4 million. Included in this total is approximately $11.2 million of deferred revenue related to up-front fees that have been received for certain product rights and technology rights out-licensed. These deferred amounts are being recognized on a straight-line basis over the remaining lives of the agreements, products, patents or technology. Approximately $142,000 related to pension liabilities for a defined benefit pension plan which was frozen in October 1992 is also included in deferred revenue and other long term liabilities, net of current portion.

A summary of our contractual obligations at December 31, 2004 is shown below.

	Payments Due by Period				
	Total	Less Than 1 Year	1-3 Years	4-5 Years	After 5 Years
Contractual Obligations					
Long-term Debt	$ 1,735	$ 296	$ 1,439	$ —	$ —
Capital Lease Obligations	33	6	27	—	—
Interest Payments on Debt	1,604	840	764	—	—
Line of Credit	10,375	10,375	—	—	—
Operating Leases	27,638	1,076	2,478	2,629	21,455
Unconditional Purchase Obligations	6,051	1,483	3,606	962	
Other Long-term Obligations	142	142	—	—	—
Total Contractual Cash Obligations	$ 47,578	$ 14,218	$ 8,314	$ 3,591	$ 21,455

Net Operating Loss Carryforwards

As of December 31, 2004, we had a net domestic operating loss carryforward, or NOL, of approximately $169.5 million, a domestic alternative minimum tax credit of approximately $23,000 and a domestic research and development tax credit carryforward of approximately $584,000. The NOL and tax credit carryforwards are subject to alternative minimum tax limitations and to examination by the tax authorities. In addition, we had a "change of ownership" as defined under the provisions of Section 382 of the Internal Revenue Code of 1986, as amended (an "Ownership Change"). We believe the latest, and most restrictive, Ownership Change occurred at the time of our initial public offering in July 1997. We do not believe this Ownership Change will place a significant restriction on our ability to utilize our NOLs in the future. We also have net operating loss carryforwards in Switzerland of approximately $3.7 million related to losses previously recorded by Heska AG.

Recent Accounting Pronouncements

Recent accounting pronouncements that are relevant to us include Statement of Financial Accounting Standards ("SFAS") No. 123R and SFAS No. 151.

SFAS No. 123R, "Share-Based Payment" (Revised 2004)

Statement of Financial Accounting Standards No. 123 "Share-Based Payments" ("SFAS No. 123R") was revised in December 2004 and we will adopt this standard under the modified prospective method of adoption beginning on July 1, 2005—the first day of our third quarter. Statement of Financial Accounting Standards No. 123, "Accounting For Stock-Based Compensation" ("SFAS No. 123"), which became effective in 1996, allows for the continued measurement of compensation cost for stock-based compensation using the intrinsic value based method under Accounting Principles Board Opinion No. 25 "Accounting for Stock Issued to Employees" ("APB No. 25"), provided that pro forma disclosures are made of net income or loss, assuming the fair value based method of SFAS No. 123 had been applied. We have elected to account for our stock-based compensation plans under APB No. 25 and will continue to do so through the completion of our second quarter ending June 30, 2005. When we adopt SFAS No. 123R effective July 1, 2005, we will be required to recognize compensation expense using the fair value-based model for options that vest after June 30, 2005, including those that were granted prior to the effective date of SFAS No. 123R. This will result in recording compensation expense for periods after June 30, 2005. Historically, under APB No. 25, we recorded minimal amounts of stock-based compensation, and none related to grants of options. On December 2, 2004 the Compensation Committee of our Board of Directors considered the significant impact that the use of fair values, rather than intrinsic values, would have on our future

results of operations, as well as factors including that the management team had requested that their salaries be frozen for 2005, many non-management employees' 2005 raises were to be at below market levels, no management bonus payouts were made for 2004 and the 2005 management incentive plan calls for a performance in excess of our internal budget before any bonus payments are made, and approved an acceleration of vesting of outstanding but unvested stock options with a strike price greater than $1.08. These options were not "in-the-money" at that time, and therefore, there was no compensation expense recorded in accordance with APB No. 25 as a result of this modification. However, for pro forma purposes, in accordance with SFAS No. 123, the remaining unamortized compensation related to these options, calculated under SFAS No. 123 of approximately $2.1 million, was recorded. This action affected approximately 2.2 million options, approximately 1.1 million of which were held by our Directors and Executive Officers. Had this action not been taken, and had all approximately 2.2 million options continued to vest according to the vesting schedules in place prior to the acceleration, we would have recorded incremental compensation related to these options of approximately $485,000 on a pro forma basis for the six months ending June 30, 2005 and approximately $385,000 on an actual basis for the six months ending December 31, 2005. Similarly, on February 24, 2005, our Board of Directors approved that all options granted from that date through June 30, 2005 shall be immediately vested and authorized our Stock Option Committee, which currently consists solely of our Chief Executive Officer, to accelerate the vesting of any outstanding but unvested stock options with a strike price that is not "in-the-money" through June 30, 2005 at its discretion. On March 30, 2005, our Stock Option Committee exercised its discretion and accelerated the vesting of outstanding but unvested stock options with a strike price greater than or equal to $0.82. These options were not "in-the-money" at that time, and therefore, there was no compensation expense recorded in accordance with APB No. 25 as a result of this modification. However, for pro forma purposes, in accordance with SFAS No. 123, the remaining unamortized compensation related to these options will be reported in the footnotes to our first quarter 2005 financial statements. This action effected approximately 750,000 options, approximately 55,000 of which were held by our Directors and Executive Officers. We also have an employee stock purchase plan under which we will recognize compensation expense under SFAS No. 123R beginning on July 1, 2005.

Under current accounting rules for fair value accounting prescribed by SFAS No. 123, an option pricing model is required to be used and we use the Black-Scholes model. Inputs into the Black-Scholes option pricing model require assumptions and estimates regarding dividend yield, risk free rate of interest, volatility and period outstanding. Changes to each estimate or assumption can have a material impact on the resulting fair value calculated for the option. As an example, our input for estimated volatility is obtained using our 2004 option valuation policy which calls for us to average two items: (1) our historical price volatility from a given point and (2) a peer group average volatility (the peer group consists of two companies in our industry which we believe are similar to us in terms of our operating and stock price characteristics, and volatility for each is calculated based on public market option trading when it is available and historical stock price volatility when it is not) to calculate our volatility assumption. This input for estimated volatility differs from our historical volatility, as we believe that the volatility in future periods will be different from our historical volatility. Our input for estimated volatility for option pricing purposes may not be indicative of actual future volatility. Similarly, we have used a software program to determine expected lives for options issued in 2004. Different assumptions could materially impact the resulting option value calculated. The following table represents the approximate relative value, in percent, of "at-the-money" options priced under different volatility and time to expiration assumptions as compared to an "at-the-money" option priced assuming volatility of 76%, time to expiration of 4.5 years, risk free interest rate of 3.62% and dividend yield of 0.0%. For example, if we assume the fair value of our stock to be $1.17 and we value 100,000 options to buy a share at that price (i.e. "at-the-money" options) using a volatility of 76%, a time to expiration of 4.5 years, a risk free interest rate of 3.62% and a dividend yield of 0.0%, we obtain a fair value for the options of approximately $71,800; if we value the options under the same assumptions except we

assume a volatility of 50% rather than 76% and a time to expiration of 6 years instead of 4.5 years, we obtain a value of approximately $60,600, or approximately 84% of the fair value calculated under our original assumptions, as can be seen in the table below.

		Volatility									
		12.5%	25%	37.5%	50%	62.5%	75%	87.5%	100%	112.5%	125%
	1	11%	19%	27%	35%	42%	50%	57%	64%	71%	78%
	2	18%	28%	39%	49%	59%	69%	79%	88%	96%	104%
Time to	3	23%	36%	48%	61%	72%	83%	94%	103%	112%	120%
Expiration	4	29%	42%	56%	70%	82%	94%	105%	115%	123%	131%
(in years)	5	33%	48%	63%	78%	91%	103%	114%	124%	132%	139%
	6	38%	53%	69%	84%	98%	111%	121%	131%	138%	144%
	7	43%	58%	75%	90%	105%	117%	128%	136%	143%	149%
	8	47%	63%	80%	96%	110%	122%	133%	141%	147%	152%
	9	51%	67%	85%	101%	115%	127%	137%	144%	150%	154%
	10	55%	71%	89%	105%	119%	131%	140%	147%	153%	156%

SFAS No. 151 "Inventory Costs"

Statement of Financial Accounting Standards No. 151 is an amendment to ARB No. 43, Chapter 4 that will be effective for us in fiscal 2006. The standard clarifies the accounting for abnormal amounts of idle facility expense, freight, handling costs, and spoilage to require that those costs be expensed currently, as opposed to being included in overhead costs. We are currently evaluating the impact that SFAS No. 151 will have on our financial results when implemented.

Factors That May Affect Results

Our future operating results may vary substantially from period to period due to a number of factors, many of which are beyond our control. The following discussion highlights these factors and the possible impact of these factors on future results of operations. If any of the following factors actually occur, our business, financial condition or results of operations could be harmed. In that case, the price of our common stock could decline and you could experience losses on your investment.

We have historically not generated positive cash flow from operations and may need additional capital and any required capital may not be available on acceptable terms or at all.

Our financial plan for 2005 indicates that our available cash and cash equivalents, together with cash from operations and borrowings expected to be available under our revolving line of credit, will be sufficient to fund our operations through 2005 and into 2006. Our financial plan for 2005 expects that we will have positive operating cash flow, primarily through increased revenue, improved gross margins and limiting any increase in operating expenses to a modest degree. However, our actual results may differ from this plan, and we may be required to consider alternative strategies. We may be required to raise additional capital in the future. If necessary, we expect to raise these additional funds through one or more of the following: (1) sale of equity or debt securities; (2) obtaining new loans; (3) sale of assets, products or marketing rights; and (4) licensing of technology. There is no guarantee that additional capital will be available from these sources on acceptable terms, if at all, and certain of these sources may require approval by existing lenders. If we cannot raise the additional funds through these options on acceptable terms or with the necessary timing, management could also reduce discretionary

spending to decrease our cash burn rate through actions such as delaying or canceling research projects or marketing plans. These actions would likely extend the then available cash and cash equivalents, and then available borrowings.

Additional capital may not be available on acceptable terms, if at all. The public markets may be unreceptive to equity financings and we may not be able to obtain additional private equity or debt financing. Furthermore, amounts we expect to be available under our existing revolving line of credit may not be available and other lenders could refuse to provide us with additional debt financing. Furthermore, any additional equity financing would likely be dilutive to stockholders and additional debt financing, if available, may include restrictive covenants and increased interest rates that would limit our currently planned operations and strategies. Alternatively, we may have to relinquish rights to certain of our intellectual property, products or marketing rights if we are required to obtain funds through collaborative agreements or otherwise. If adequate funds are not available, we may be required to curtail our operations significantly and reduce discretionary spending to extend the currently available cash resources, which would likely have a material adverse effect on our business, financial condition and our ability to continue as a going concern.

Many of our expenses are fixed and if factors beyond our control cause our revenue to fluctuate, this fluctuation could cause greater than expected losses, cash flow and liquidity shortfalls as well as our stock price to decline.

We believe that our future operating results will fluctuate on a quarterly basis due to a variety of factors which are generally beyond our control, including:

- supply of products from third party suppliers or termination of such relationships;
- the introduction of new products by our competitors or by us;
- competition and pricing pressures from competitive products;
- our distribution strategy and our ability to maintain relationships with distributors;
- large customers failing to purchase at historical levels;
- fundamental shifts in market demand;
- manufacturing delays;
- shipment problems;
- regulatory and other delays in product development;
- product recalls or other issues which may raise our costs;
- changes in our reputation and/or market acceptance of our current or new products; and
- changes in the mix of products sold.

We have high operating expenses for personnel, new product development and marketing. Many of these expenses are fixed in the short term. If any of the factors listed above cause our revenues to decline, our operating results could be substantially harmed.

We may be unable to successfully market, sell and distribute our products.

The market for companion animal healthcare products is highly fragmented. Because our Core Companion Animal Health proprietary products are generally available only by prescription and our medical instruments require technical training, we sell our Core Companion Animal Health products only ultimately to or through veterinarians. The acceptance of our products by veterinarians is critical to our success. Therefore, we may fail to reach a substantial segment of the potential market.

We currently market our Core Companion Animal Health products in the United States to veterinarians through approximately 13 independent third-party distributors who carry our full line of companion animal products, approximately 11 independent third-party distributors who carry portions of our companion animal product line and through a direct sales force of approximately 43 individuals. In 2002, we began to rely on distributors for a greater portion of our sales and therefore have needed to increase our training efforts directed at the sales personnel of our distributors. To be successful, we

will have to continue to develop and train our direct sales force as well as sales personnel of our distributors and rely on other arrangements with third parties to market, distribute and sell our products. In addition, most of our distributor agreements can be terminated on 60 days notice and we believe that IDEXX, one of our largest competitors, effectively prohibits its distributors from selling competitive products, including our diagnostic instruments and heartworm diagnostic tests. We believe this restriction significantly limits our ability to engage national distributors to sell our full line of products and significantly restricts our ability to market our products to veterinarians. In 2002, one of our largest distributors informed us that they were going to carry IDEXX products and that they no longer would carry our diagnostic instruments and heartworm diagnostic tests. In late 2004, this distributor acquired another of our distributors. We believe IDEXX effectively prohibits this distributor from carrying our diagnostic instruments and heartworm diagnostic tests as a condition for having access to buy the IDEXX product line.

We may not successfully develop and maintain marketing, distribution or sales capabilities, and we may not be able to make arrangements with third parties to perform these activities on satisfactory terms. If our marketing and distribution strategy is unsuccessful, our ability to sell our products will be negatively impacted and our revenues will decrease.

We rely substantially on third-party suppliers. The loss of products or delays in product availability from one or more third-party supplier could substantially harm our business.

To be successful, we must contract for the supply of, or manufacture ourselves, current and future products of appropriate quantity, quality and cost. Such products must be available on a timely basis and be in compliance with any regulatory requirements. Failure to do so could substantially harm our business.

We currently rely on third party suppliers to manufacture those products we do not manufacture ourselves. We currently rely on third party suppliers for our veterinary diagnostic and patient monitoring instruments and consumable supplies for these instruments, for certain of our point-of-care diagnostic and other tests, for the manufacture of our allergy immunotherapy treatment products as well as other manufacturers for other products. Major suppliers who sell us products responsible for more than 5% or more of our revenue are i-STAT Corporation (acquired in 2004 by Abbott Laboratories), Arkray, Inc., Boule Diagnostics International AB and Quidel. We often purchase products from our suppliers under agreements that are of limited duration or can be terminated on an annual basis. We believe we have agreements in place to ensure supply of our major product offerings through at least the end of 2005 and we believe we are in full compliance with such agreements. There can be no assurance, however, that our suppliers will be able to meet their obligations under these agreements or that we will be able to compel them to do so. Risks of relying on suppliers include:

- *The involuntary or voluntary discontinuation of a product line.* As an example, Quidel, one of our most important suppliers, is currently involved in a legal dispute with Inverness Medical Innovations, Inc. ("Inverness") regarding lateral flow intellectual property. Both Inverness and Quidel claim the other party is infringing one or more of its patents. Should this legal dispute force Quidel to discontinue the sale of our heartworm diagnostic products to us it would significantly damage our business. Similarly, should Quidel voluntarily decide to no longer produce these products, it would significantly damage our business. Unless we are able to find an alternate supply of a similar product in this or similar circumstances with any product, we would not be able to continue to offer our customers the same breadth of products and our sales would likely suffer. Even if we are able to identify an alternate supply, it may take us additional time and expense to gain the necessary approvals and launch an alternative product, especially if the product is discontinued unexpectedly.

- *The loss of product rights upon expiration or termination of an existing agreement.* Unless we are able to find an alternate supply of a similar product, we would not be able to continue to offer

our customers the same breadth of products and our sales and operating results would likely suffer. In the case of an instrument supplier, we could also potentially suffer the loss of sales of consumable supplies, which could be significant if we have built a significant installed base, further harming our sales prospects and opportunities. Even if we were able to find an alternate supply, we would likely face increased competition from the product whose rights we lost being marketed by a third party or the former supplier and it may take us additional time and expense to gain the necessary approvals and launch an alternative product.

- *High switching costs.* If we need to change to other commercial manufacturing contractors for certain of our products, additional regulatory licenses or approvals must be obtained for these contractors prior to our use. This would require new testing and compliance inspections prior to sale thus resulting in potential delays. Any new manufacturer would have to be educated in, or develop substantially equivalent processes necessary for the production of our products. In addition, in certain lines of instruments, we would lose the consumable revenues from the installed base of those instruments if we were to switch to a competitive instrument.

- *Inability to meet minimum obligations.* Current agreements, or agreements we may negotiate in the future, may commit us to certain minimum purchase or other spending obligations. It is possible we will not be able to create the market demand to meet such obligations, which could create an increased drain on our financial resources and liquidity.

- *Loss of exclusivity.* Our agreements with various suppliers of our veterinary instruments often require us to meet minimum annual sales levels to maintain our position as the exclusive distributor of these instruments. We may not meet these minimum sales levels in the future and maintain exclusivity over the distribution and sale of these products. If we are not the exclusive distributor of these products, competition may increase.

- *Limited capacity or ability to scale capacity.* If market demand for our products increases suddenly, our current suppliers might not be able to fulfill our commercial needs, which would require us to seek new manufacturing arrangements and may result in substantial delays in meeting market demand. If we consistently generate more demand for a product than a given supplier is capable of handling, it could lead to large backorders and potentially lost sales to competitive products that are readily available. This could require us to seek or fund new sources of supply.

- *Inconsistent or inadequate quality control.* We may not be able to control or adequately monitor the quality of products we receive from our suppliers. Poor quality items could damage our reputation with our customers.

- *Regulatory risk.* Our manufacturing facility and those of some of our third party suppliers are subject to ongoing periodic unannounced inspection by regulatory authorities, including the FDA, USDA and other federal and state agencies for compliance with strictly enforced Good Manufacturing Practices, regulations and similar foreign standards, and we do not have control over our suppliers' compliance with these regulations and standards. Violations could potentially lead to interruptions in supply that could cause us to lose sales to readily available competitive products.

- *Developmental delays.* We may experience delays in the scale-up quantities needed for product development that could delay regulatory submissions and commercialization of our products in development, causing us to miss key windows of opportunity.

- *Limited intellectual property rights.* We may not have intellectual property rights, or may have to share intellectual property rights, to the products themselves and any improvements to the manufacturing processes or new manufacturing processes for our products.

Potential problems with suppliers such as those discussed above could substantially decrease sales, lead to higher costs, damage our reputation with our customers due to factors such as poor quality

goods or delays in order fulfillment, resulting in our being unable to effectively sell our products and substantially harm our business.

Our common stock is listed on the Nasdaq SmallCap Market and we may not be able to maintain that listing, which may make it more difficult for you to sell your shares.

Our common stock is listed on the Nasdaq SmallCap Market. We have recently not met the $1.00 minimum bid price requirement for our shares. If we trade for 30 consecutive business days below the applicable minimum closing bid price requirement, NASDAQ will send us a deficiency notice, advising us that we have been afforded a "grace period" of 180 calendar days to regain compliance with the applicable requirements. We cannot assure you that we will be able to obtain the minimum bid price requirement or maintain our listing on the Nasdaq stock market, which includes additional quantitative and qualitative requirements in addition to a $1.00 minimum bid price. If we are delisted from the Nasdaq SmallCap Market, our common stock will be considered a penny stock under the regulations of the Securities and Exchange Commission and would therefore be subject to rules that impose additional sales practice requirements on broker-dealers who sell our securities. The additional burdens imposed upon broker-dealers discourage broker-dealers from effecting transactions in our common stock, which could severely limit market liquidity of the common stock and your ability to sell our securities in the secondary market. This lack of liquidity would also make it more difficult for us to raise capital in the future.

We may face costly intellectual property or other legal disputes, or our technology or that of our suppliers or collaborators may become the subject of legal action.

Our ability to compete effectively will depend in part on our ability to develop and maintain proprietary aspects of our technology and either to operate without infringing the proprietary rights of others or to obtain rights to technology owned by third parties. We have United States and foreign-issued patents and are currently prosecuting patent applications in the United States and various foreign countries. Our pending patent applications may not result in the issuance of any patents or any issued patents that will offer protection against competitors with similar technology. Patents we receive may be challenged, invalidated or circumvented in the future or the rights created by those patents may not provide a competitive advantage. We also rely on trade secrets, technical know-how and continuing invention to develop and maintain our competitive position. Others may independently develop substantially equivalent proprietary information and techniques or otherwise gain access to our trade secrets.

We may become subject to additional patent infringement claims and litigation in the United States or other countries or interference proceedings conducted in the United States Patent and Trademark Office, or USPTO, to determine the priority of inventions. The defense and prosecution of intellectual property suits, USPTO interference proceedings, and related legal and administrative proceedings are costly, time-consuming and distracting. We may also need to pursue litigation to enforce any patents issued to us or our collaborative partners, to protect trade secrets or know-how owned by us or our collaborative partners, or to determine the enforceability, scope and validity of the proprietary rights of others. Any litigation or interference proceeding will result in substantial expense to us and significant diversion of the efforts of our technical and management personnel. Any adverse determination in litigation or interference proceedings could subject us to significant liabilities to third parties. Further, as a result of litigation or other proceedings, we may be required to seek licenses from third parties which may not be available on commercially reasonable terms, if at all.

We license technology from a number of third parties, including Synbiotics Corporation, Corixa Corporation, Roche Molecular Systems, Inc., New England Biolabs, Inc. and Hybritech Inc., as well as a number of research institutions and universities. The majority of these license agreements impose due diligence or milestone obligations on us, and in some cases impose minimum royalty and/or sales obligations on us, in order for us to maintain our rights under these agreements. Our products may

incorporate technologies that are the subject of patents issued to, and patent applications filed by, others. As is typical in our industry, from time to time we and our collaborators have received, and may in the future receive, notices from third parties claiming infringement and invitations to take licenses under third party patents. We currently do not have any unresolved notices of infringement. Any legal action against us or our collaborators may require us or our collaborators to obtain one or more licenses in order to market or manufacture affected products or services. However, we or our collaborators may not be able to obtain licenses for technology patented by others on commercially reasonable terms, or at all, we may not be able to develop alternative approaches if unable to obtain licenses, or current and future licenses may not be adequate for the operation of our businesses. Failure to obtain necessary licenses or to identify and implement alternative approaches could prevent us and our collaborators from commercializing our products under development and could substantially harm our business.

As an example, Quidel, one of our most important suppliers, is currently involved in a legal dispute with Inverness regarding lateral flow intellectual property. Both Inverness and Quidel claim the other party is infringing one or more of its patents. Should this legal dispute force Quidel to discontinue the sale of our heartworm diagnostic products to us it would significantly damage our business.

We may also face legal disputes relating to other areas of our business. These disputes may require significant expenditures on our part and could have material adverse consequences on our business in the case of an unfavorable ruling or settlement.

We anticipate future losses and may not be able to achieve sustained profitability.

We have incurred net losses on an annual basis since our inception in 1988 and, as of December 31, 2004, we had an accumulated deficit of $210.1 million. Notwithstanding a profitable quarter in 2002 and 2003, we have never achieved profitability on an annual basis. Our ability to be profitable in future periods will depend, in part, on our ability to increase sales in our Core Companion Animal Health segment, including maintaining and growing our installed base of instruments and related consumables, to maintain or increase gross margins and to limit the increase in our operating expenses to a reasonable level. Even if we achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. If we cannot achieve or sustain profitability for an extended period, we may not be able to fund our expected cash needs or continue our operations.

We operate in a highly competitive industry, which could render our products obsolete or substantially limit the volume of products that we sell. This would limit our ability to compete and achieve profitability.

The market in which we compete is intensely competitive. Our competitors include independent animal health companies and major pharmaceutical companies that have animal health divisions. We also compete with independent, third party distributors, including distributors who sell products under their own private labels. In the point-of-care diagnostic testing market, our major competitors include IDEXX, Abaxis, Inc., AGEN Biomedical, Ltd. and Synbiotics Corporation. Other companies with a significant presence in the companion animal health market, such as Bayer AG, Intervet International B.V., Merial Ltd., Novartis AG, Pfizer Inc., Schering-Plough Corporation, Virbac S.A. and Wyeth (formerly American Home Products), may be marketing or developing products that compete with our products or would compete with them if developed. These and other competitors may have substantially greater financial, technical, research and other resources and larger, more established marketing, sales, distribution and service organizations than we do. Our competitors may offer broader product lines and have greater name recognition than we do. Our competitors may develop or market technologies or products that are more effective or commercially attractive than our current or future products or that would render our technologies and products obsolete. Further, additional competition could come from new entrants to the animal health care market. Moreover, we may not have the financial resources, technical expertise or marketing, distribution or support capabilities to compete

successfully. Novartis has a marketing agreement with us, but the agreement does not restrict its ability to develop and market competing products. We believe that one of our largest competitors, IDEXX, effectively prohibits its distributors from selling competitive products, including our diagnostic instruments and heartworm diagnostic tests. The products manufactured by OVP for sale by third parties compete with similar products offered by a number of other companies, some of which have substantially greater financial, technical, research and other resources than us and may have more established marketing, sales, distribution and service organization's than OVP's customers. Competitors may have facilities with similar capabilities to OVP, which they may operate at a lower unit price to their customers, which could cause us to lose customers. If we fail to compete successfully, our ability to achieve sustained profitability will be limited and sustained profitability, or profitability at all, may not be possible.

We must maintain various financial and other covenants under our credit facility agreement in order to borrow and fund our operations.

Under our credit facility agreement with Wells Fargo, we are required to comply with various financial and non-financial covenants in order to borrow under that agreement. The borrowings under this credit facility are essential to continue to fund our operations. Among the financial covenants is a requirement to maintain minimum liquidity (cash plus excess borrowing base) of $1.5 million in 2005. Additional requirements include covenants for minimum capital monthly and minimum net income quarterly. We were not in compliance with one or more of these covenants as of September 30, 3004, October 31, 2004 and December 31, 2004. Wells Fargo has subsequently granted us a waiver of non-compliance in each case. However, there can be no assurance we will be able to obtain similar waivers or other modifications if needed in the future. On February 21, 2005, we agreed to covenants through May 2006 as proposed by Wells Fargo. We believe we will be able to maintain compliance with all these covenants, although there can be no assurance thereof.

Failure to comply with any of the covenants, representations or warranties, or failure to modify them to allow future compliance, could result in our being in default under the loan and could cause all outstanding amounts, including amounts currently classified as long-term and loans with our other lenders, to become immediately due and payable or impact our ability to borrow under the agreement. We intend to rely on available borrowings under the credit agreement to fund our operations through May 2006. If we are unable to borrow funds under this agreement, we will need to raise additional capital from other sources to fund our cash needs and continue our operations, which capital may not be available on acceptable terms, or at all.

We have granted third parties substantial marketing rights to certain of our existing products as well as products under development. If the third parties are not successful in marketing our products our sales may not increase.

Our agreements with our corporate marketing partners generally contain no or very small minimum purchase requirements in order for them to maintain their exclusive or co-exclusive marketing rights. We are party to an agreement with SPAH which grants distribution and marketing rights in the U.S. for our canine heartworm preventive product, TRI-HEART Chewable Tablets. Novartis Agro K.K. markets and distributes our SOLO STEP CH heartworm test in Japan. Leo Animal Health A/S currently exclusively distributes both E.R.D.-HEALTHSCREEN Urine Tests and SOLO STEP CH in Europe. In addition, Nestle Purina Petcare has exclusive rights to license our technology for nutritional applications for dogs and cats. In addition, we have entered into agreements granting Novartis certain rights to market or co-market certain of the products that we are currently developing. One or more of these marketing partners may not devote sufficient resources to marketing our products. Furthermore, there is generally nothing to prevent these partners from pursuing alternative technologies or products that may compete with our products. In the future, third-party marketing assistance may not be available on reasonable terms, if at all. If any of these events occur, we may not

be able to commercialize our products and our sales will decline. In addition, our agreement with SPAH requires us to potentially pay termination penalties if we are unable to supply product over an extended period of time.

We often depend on third parties for products we intend to introduce in the future. If our current relationships and collaborations are not successful, we may not be able to introduce the products we intend to in the future.

We are often dependent on third parties and collaborative partners to successfully and timely perform research and development activities to successfully develop new products. For example, we jointly developed point-of-care diagnostic products with Quidel, and Quidel manufactures these products. In other cases, we have discussed Heska marketing in the veterinary market an instrument being developed by a third party for use in the human health care market. In the future, one or more of these third parties or collaborative partners may not complete research and development activities in a timely fashion, or at all. If these third parties or collaborative partners fail to complete research and development activities, or fail to complete them in a timely fashion, our ability to introduce new products will be impacted negatively and our revenues may decline.

The loss of significant customers could harm our operating results.

Revenue from one contract with AgriLabs comprised approximately 17% and 15% of consolidated revenue in 2002 and 2003, respectively. Revenue from this customer represented less than 10% of our consolidated revenue for the year ended December 31, 2004. While we do not have any other customers who have represented more than 10% of revenues over the last three years, the loss of significant customers who, for example, are historically large purchasers or who are considered leaders in their field could damage our business and financial results. As an example, in late 2004 one of our largest distributors who has historically carried our full product line informed us they were being acquired by a distributor who does not carry our full product line. We believe purchases from the acquired distributor will be significantly lower in 2005 than in 2004, which we are unlikely to completely recover through direct sales and sales through other distributors.

We depend on key personnel for our future success. If we lose our key personnel or are unable to attract and retain additional personnel, we may be unable to achieve our goals.

Our future success is substantially dependent on the efforts of our senior management and other key personnel, particularly Dr. Robert B. Grieve, our Chairman and Chief Executive Officer. The loss of the services of members of our senior management or other key personnel may significantly delay or prevent the achievement of product development and other business objectives. Although we have an employment agreement with Dr. Grieve, he is an at-will employee, which means that either party may terminate his employment at any time without prior notice. If we lose the services of, or fail to recruit, key scientific and other personnel, the growth of our business could be substantially impaired. We do not maintain key person life insurance for any of our key personnel.

Interpretation of existing legislation, regulations and rules or implementation of future legislation, regulations and rules could cause our costs to increase or could harm us in other ways.

Sarbanes-Oxley has increased our required administrative actions as a public company. The increase in general and administrative costs of complying with Sarbanes-Oxley will depend on how it is interpreted over time. Of particular concern are the level and timing of standards for internal control evaluation and reporting adopted under Section 404 of Sarbanes-Oxley. If our regulators and/or auditors adopt or interpret more stringent standards than we are anticipating, we and/or our auditors may be unable to conclude that our internal controls over financial reporting are designed and operating effectively, which could adversely affect investor confidence in our financial statements. Even if we and our auditors are able to conclude that our internal controls over financial reporting are

designed and operating effectively in such a circumstance, our general and administrative costs are likely to increase. We may be required to obtain an audit of our internal controls for the year ending December 31, 2005 and, if so, our general and administrative costs are likely to increase. Actions by other entities, such as enhanced rules to maintain our listing on the Nasdaq SmallCap Market could also increase our general and administrative costs, as could further legislative action.

Our stock price has historically experienced high volatility, which may increase in the future, and which could affect our ability to raise capital in the future or make it difficult for investors to sell their shares.

The securities markets have experienced significant price and volume fluctuations and the market prices of securities of many microcap and smallcap companies have in the past been, and can in the future be expected to be, especially volatile. During the past 12 months, our closing stock price has ranged from a low of $0.82 to a high of $2.54. Fluctuations in the trading price or liquidity of our common stock may adversely affect our ability to raise capital through future equity financings. Factors that may have a significant impact on the market price and marketability of our common stock include:

- stock sales by large stockholders or by insiders;
- our quarterly operating results, including as compared to our revenue, earnings or other guidance and in comparison to historical results;
- termination of our third party supplier relationships;
- announcements of technological innovations or new products by our competitors or by us;
- litigation;
- regulatory developments, including delays in product introductions;
- developments in our relationships with collaborative partners;
- developments or disputes concerning patents or proprietary rights;
- releases of reports by securities analysts;
- changes in regulatory policies;
- economic and other external factors; and
- general market conditions.

In the past, following periods of volatility in the market price of a company's securities, securities class action litigation has often been instituted. If a securities class action suit is filed against us, we would incur substantial legal fees and our management's attention and resources would be diverted from operating our business in order to respond to the litigation.

We must obtain and maintain costly regulatory approvals in order to market certain of our products.

Many of the products we develop, market or manufacture are subject to extensive regulation by one or more of the USDA, the FDA, the EPA and foreign regulatory authorities. These regulations govern, among other things, the development, testing, manufacturing, labeling, storage, pre-market approval, advertising, promotion, sale and distribution of our products. Satisfaction of these requirements can take several years and time needed to satisfy them may vary substantially, based on the type, complexity and novelty of the product.

The effect of government regulation may be to delay or to prevent marketing of our products for a considerable period of time and to impose costly procedures upon our activities. We have experienced in the past, and may experience in the future, difficulties that could delay or prevent us from obtaining the regulatory approval or license necessary to introduce or market our products. Such delays in approval may cause us to forego a significant portion of a new product's sales in its first year due to seasonality and advanced booking periods associated with certain products. Regulatory approval of our products may also impose limitations on the indicated or intended uses for which our products may be marketed.

Among the conditions for certain regulatory approvals is the requirement that our facilities and/or the facilities of our third party manufacturers conform to current Good Manufacturing Practices. Our manufacturing facilities and those of our third party manufacturers must also conform to certain other manufacturing regulations, which include requirements relating to quality control and quality assurance as well as maintenance of records and documentation. The USDA, FDA and foreign regulatory authorities strictly enforce manufacturing regulatory requirements through periodic inspections. If any regulatory authority determines that our manufacturing facilities or those of our third party manufacturers do not conform to appropriate manufacturing requirements, we or the manufacturers of our products may be subject to sanctions, including warning letters, manufacturing suspensions, product recalls or seizures, injunctions, refusal to permit products to be imported into or exported out of the United States, refusals of regulatory authorities to grant approval or to allow us to enter into government supply contracts, withdrawals of previously approved marketing applications, civil fines and criminal prosecutions. Any of these events, alone or in unison, could damage our business.

Our future revenues depend on successful research, development, commercialization and market acceptance, any of which can be slower than we expect or may not occur.

The research, development and regulatory approval process for many of our products is extensive and may take substantially longer than we anticipate. Research projects may fail. New products that we are developing for the veterinary marketplace may not perform up to our expectations. Because we have limited resources to devote to product development and commercialization, any delay in the research or development of one product or reallocation of resources to product development efforts that prove unsuccessful may delay or jeopardize the development of other product candidates. If we fail to successfully develop new products and bring them to market in a timely manner, our ability to generate additional revenue will decrease.

Even if we are successful in the research and development of a product, we may experience delays in commercialization and/or market acceptance. For example, there may be delays in producing large volumes of a product or veterinarians may be slow to adopt a product. The latter is particularly likely where there is no comparable product available or historical use of such a product. For example, while we believe our E.R.D.-HEALTHSCREEN urine tests for dogs and cats represent a significant scientific breakthrough in companion animal annual health examinations, market acceptance of the product has been significantly slower than we anticipated. The ultimate adoption of a new product by veterinarians, the rate of such adoption and the extent veterinarians choose to integrate such a product into their practice are all important factors in the economic success of one of our new products and are factors that we do not control to a large extent. If our products do not achieve a significant level of market acceptance, demand for our products will not develop as expected and our revenues will be lower than we anticipate.

Changes to financial accounting standards may affect our results of operations and cause us to change our business practices.

We prepare our financial statements in conformance with United States generally accepted accounting principles, or GAAP. These accounting principles are established by and are subject to interpretation by the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the Securities and Exchange Commission and various bodies formed to interpret and create appropriate accounting policies. A change in those policies can have a significant effect on our reported results and may affect our reporting of transactions completed before a change is made effective. Changes to those rules may adversely affect our reported financial results or the way we conduct our business.

We may face product returns and product liability litigation and the extent of our insurance coverage is limited. If we become subject to product liability claims resulting from defects in our products, we may fail to achieve market acceptance of our products and our sales could decline.

The testing, manufacturing and marketing of our current products as well as those currently under development entail an inherent risk of product liability claims and associated adverse publicity. Following the introduction of a product, adverse side effects may be discovered. Adverse publicity regarding such effects could affect sales of our other products for an indeterminate time period. To date, we have not experienced any material product liability claims, but any claim arising in the future could substantially harm our business. Potential product liability claims may exceed the amount of our insurance coverage or may be excluded from coverage under the terms of the policy. We may not be able to continue to obtain adequate insurance at a reasonable cost, if at all. In the event that we are held liable for a claim against which we are not indemnified or for damages exceeding the $10 million limit of our insurance coverage or which results in significant adverse publicity against us, we may lose revenue, be required to make substantial payments which could exceed our financial capacity and/or lose or fail to achieve market acceptance. Furthermore, our agreements with some suppliers of our instruments contain limited warranty provisions, which may subject us to liability if a supplier fails to meet its warranty obligations if a defect is traced to our instrument or if we cannot correct errors reported during the warranty period. If our contractual limitations are unenforceable in a particular jurisdiction, a successful claim could require us to pay substantial damages.

We may be held liable for the release of hazardous materials, which could result in extensive clean up costs or otherwise harm our business.

Our products and development programs involve the controlled use of hazardous and biohazardous materials, including chemicals, infectious disease agents and various radioactive compounds. Although we believe that our safety procedures for handling and disposing of such materials comply with the standards prescribed by applicable local, state and federal regulations, we cannot eliminate the risk of accidental contamination or injury from these materials. In the event of such an accident, we could be held liable for any fines, penalties, remediation costs or other damages that result. Our liability for the release of hazardous materials could exceed our resources, which could lead to a shutdown of our operations. In addition, we may incur substantial costs to comply with environmental regulations if we choose to expand our manufacturing capacity.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk.

Market risk represents the risk of loss that may impact the financial position, results of operations or cash flows due to adverse changes in financial and commodity market prices and rates. We are exposed to market risk in the areas of changes in United States and foreign interest rates and changes in foreign currency exchange rates as measured against the United States dollar. These exposures are directly related to our normal operating and funding activities.

Interest Rate Risk

The interest payable on certain of our lines of credit and other borrowings is variable based on the United States prime rate and, therefore, is affected by changes in market interest rates. At December 31, 2004, approximately $12.0 million was outstanding on these lines of credit and other borrowings with a weighted average interest rate of 7.69%. We also had approximately $5.0 million of cash and cash equivalents at December 31, 2004, the majority of which was invested in liquid interest bearing accounts. We completed an interest rate risk sensitivity analysis based on the above and an assumed one-percentage point increase/decrease in interest rates. If market rates increase/decrease by one percentage point, we would experience an increase/decrease in annual interest expense of approximately $70,000 based on our outstanding balances as of December 31, 2004.

Foreign Currency Risk

Our investment in foreign assets consists primarily of our investment in our European subsidiary. Foreign currency risk may impact our results of operations. In cases where we purchase inventory in one currency and sell corresponding products in another, our gross margin percentage is typically at risk based on foreign currency exchange rates. In addition, in cases where we may be generating operating income in foreign currencies, the magnitude of such operating income when translated into U.S. dollars will be at risk based on foreign currency exchange rates. Our agreements with suppliers and customers vary significantly in regard to the existence and extent of currency adjustment and other currency risk sharing provisions. We had no foreign currency hedge transactions in place on December 31, 2004.

We have a wholly-owned subsidiary in Switzerland which uses the Swiss Franc as its functional currency. We purchase inventory in foreign currencies, primarily Japanese Yen and Euros, and sell corresponding products in U.S. dollars. We also sell products in foreign currencies, primarily Japanese Yen and Euros, where our inventory costs are in U.S. dollars. Based on our 2004 results of operations, if foreign currency exchange rates were to strengthen/weaken by 25% against the dollar, we would expect a resulting pre-tax loss/gain of approximately $1.3 million.

Item 8. Financial Statements and Supplementary Data.

HESKA CORPORATION

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Heska Corporation:

We have audited the accompanying consolidated balance sheets of Heska Corporation (a Delaware corporation) and subsidiaries as of December 31, 2003 and 2004, and the related consolidated statements of operations and comprehensive loss, stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2004. In connection with our audits of these consolidated financial statements, we also have audited the financial statement schedule of valuation and qualifying accounts. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Heska Corporation and subsidiaries as of December 31, 2003 and 2004, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2004, in conformity with U.S. generally accepted accounting principles. Also in our opinion, the related financial statement schedule of valuation and qualifying accounts, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/S/ KPMG LLP

Denver, Colorado
March 30, 2005

HESKA CORPORATION AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(dollars in thousands, except per share amounts)

	December 31,	
	2003	2004
ASSETS		
Current assets:		
Cash and cash equivalents	$ 4,877	$ 4,982
Accounts receivable, net of allowance for doubtful accounts of $192 and $95, respectively	12,673	10,634
Inventories, net	10,328	11,726
Other current assets	839	1,100
Total current assets	28,717	28,442
Property and equipment, net	7,973	7,925
Intangible assets, net	1,350	1,499
Goodwill	643	643
Other assets	213	215
Total assets	$ 38,896	$ 38,724
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 6,186	$ 6,697
Accrued liabilities	3,386	3,187
Current portion of deferred revenue	633	2,708
Line of credit	7,528	10,375
Current portion of capital lease obligations	12	6
Current portion of long-term debt	771	296
Total current liabilities	18,516	23,269
Capital lease obligations, net of current portion	11	27
Long-term debt, net of current portion	1,735	1,439
Deferred revenue, net of current portion, and other	11,978	11,410
Total liabilities	32,240	36,145
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $.001 par value, 25,000,000 shares authorized; none issued or outstanding	—	—
Common stock, $.001 par value, 75,000,000 shares authorized; 48,826,937 and 49,338,636 shares issued and outstanding, respectively	49	49
Additional paid-in capital	212,131	212,533
Deferred compensation	(165)	(67)
Accumulated other comprehensive income (loss)	(68)	170
Accumulated deficit	(205,291)	(210,106)
Total stockholders' equity	6,656	2,579
Total liabilities and stockholders' equity	$ 38,896	$ 38,724

See accompanying notes to consolidated financial statements.

HESKA CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(in thousands, except per share amounts)

	Year Ended December 31,		
	2002	2003	2004
Revenue:			
Product revenue, net:			
Core companion animal health	$ 35,914	$ 47,630	$ 52,657
Other vaccines, pharmaceuticals and products	14,181	16,320	12,900
Total product revenue, net	50,095	63,950	65,557
Research, development and other	1,231	1,375	2,134
Total revenue, net	51,326	65,325	67,691
Cost of products sold	30,201	38,399	42,253
	21,125	26,926	25,438
Operating expenses:			
Selling and marketing	13,128	15,750	15,616
Research and development	8,570	6,772	6,620
General and administrative	6,755	7,083	7,442
Restructuring expenses and other	1,007	515	—
Total operating expenses	29,460	30,120	29,678
Loss from operations	(8,335)	(3,194)	(4,240)
Other income (expense):			
Interest income	92	71	25
Interest expense	(426)	(459)	(690)
Other, net	—	174	90
Loss before income taxes	(8,669)	(3,408)	(4,815)
Income tax expense	—	51	—
Net loss	(8,669)	(3,459)	(4,815)
Other comprehensive income:			
Foreign currency translation adjustments	328	159	207
Other	38	34	31
Other comprehensive income	366	193	238
Comprehensive loss	$ (8,303)	$ (3,266)	$ (4,577)
Basic and diluted net loss per share	$ (0.18)	$ (0.07)	$ (0.10)
Weighted average outstanding shares used to compute basic and diluted net loss per share	47,720	48,115	49,029

See accompanying notes to consolidated financial statements.

HESKA CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(in thousands)

	Common Stock		Additional Paid-in Capital	Deferred Compensation	Accumulated Other Comprehensive Gain (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount					
Balances January 1, 2002	47,842	$ 48	$ 211,589	$ (681)	$ (627)	$ (193,163)	$ 17,166
Issuance of common stock related to options, ESPP and other	269	—	137	—	—	—	137
Repurchase of restricted stock	(303)	—	—	77	—	—	77
Recognition of stock based compensation	—	—	—	133	—	—	133
Foreign currency translation adjustments	—	—	—	—	328	—	328
Minimum pension liability adjustments	—	—	—	—	14	—	14
Changes in unrealized gain/loss on forward contracts	—	—	—	—	24	—	24
Net loss	—	—	—	—	—	(8,669)	(8,669)
Balances, December 31, 2002	47,808	48	211,726	(471)	(261)	(201,832)	9,210
Issuance of common stock related to options, ESPP and other	1,022	1	618	—	—	—	619
Repurchase of restricted stock	(3)	—	(213)	213	—	—	—
Recognition of stock based compensation	—	—	—	93	—	—	93
Minimum pension liability adjustments	—	—	—	—	34	—	34
Foreign currency translation adjustments	—	—	—	—	159	—	159
Net loss	—	—	—	—	—	(3,459)	(3,459)
Balances, December 31, 2003	48,827	49	212,131	(165)	(68)	(205,291)	6,656
Issuance of common stock related to options, ESPP and other	519	—	409	—	—	—	409
Repurchase of restricted stock	(7)	—	(7)	7	—	—	—
Recognition of stock based compensation	—	—	—	91	—	—	91
Minimum pension liability adjustments	—	—	—	—	31	—	31
Foreign currency translation adjustments	—	—	—	—	207	—	207
Net loss	—	—	—	—	—	(4,815)	(4,815)
Balances, December 31, 2004	49,339	$ 49	$ 212,533	$ (67)	$ 170	$ (210,106)	$ 2,579

See accompanying notes to consolidated financial statements.

HESKA CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,		
	2002	2003	2004
CASH FLOWS USED IN OPERATING ACTIVITIES:			
Net loss	$ (8,669)	$ (3,459)	$ (4,815)
Adjustments to reconcile net loss to cash provided by (used in) operating activities:			
Depreciation and amortization	2,367	1,749	1,337
Amortization of intangible assets	141	145	393
Stock based compensation	133	93	91
Loss on disposition of assets	—	163	—
Provision for (recovery of) bad debt allowance	53	57	(32)
Changes in operating assets and liabilities:			
Accounts receivable	538	(2,950)	2,099
Inventories	398	(2,137)	(1,398)
Other current assets	385	(78)	(261)
Other long-term assets	(23)	(14)	(2)
Accounts payable	150	1,824	511
Accrued liabilities	(1,753)	(640)	(199)
Deferred revenue and other long-term liabilities	(221)	5,817	1,138
Net cash provided by (used in) operating activities	(6,501)	570	(1,138)
CASH FLOWS FROM INVESTING ACTIVITIES:			
Proceeds from licensing of technology and product rights	5,678	—	400
Proceeds from disposition of property and equipment	117	35	—
Purchases of property and equipment and capitalized patent costs	(1,207)	(1,827)	(1,831)
Net cash provided by (used in) investing activities	4,588	(1,792)	(1,431)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from issuance of common stock	137	619	409
Proceeds from (repayments of) line of credit borrowings, net	1,859	(68)	2,847
Proceeds from other borrowings	1,000	200	—
Repayments of debt and capital lease obligations	(823)	(779)	(761)
Net cash provided by (used in) financing activities	2,173	(28)	2,495
EFFECT OF EXCHANGE RATE CHANGES ON CASH	56	101	179
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	316	(1,149)	105
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	5,710	6,026	4,877
CASH AND CASH EQUIVALENTS, END OF YEAR	$ 6,026	$ 4,877	$ 4,982

See accompanying notes to consolidated financial statements.

1. ORGANIZATION AND BUSINESS

Heska Corporation ("Heska" or the "Company") discovers, develops, manufactures, markets, sells, distributes and supports veterinary products. Heska's core focus is on the canine and feline companion animal health markets. The Company has devoted substantial resources to the research and development of innovative products in these areas, where it strives to provide high value products for unmet needs and advance the state of veterinary medicine.

Heska is comprised of two reportable segments, Core Companion Animal Health and Other Vaccines, Pharmaceuticals and Products. The Core Companion Animal Health segment includes diagnostic and monitoring instruments and supplies as well as single use diagnostic and other tests, vaccines and pharmaceuticals, primarily for canine and feline use. These products are sold directly by the Company as well as through independent third party distributors and other distribution relationships. The Other Vaccines, Pharmaceuticals and Products segment ("OVP"), previously reported as the Diamond Animal Health segment, includes private label vaccine and pharmaceutical production, primarily for cattle but also for other animals including small mammals, horses and fish. All OVP products are sold by third parties under third party labels.

The Company has incurred annual net losses since its inception and anticipates that it will continue to incur net losses in the near term as it introduces new products, expands its sales and marketing capabilities and continues its research and development activities. Cumulative net losses from inception of the Company in 1988 through December 31, 2004, have totaled $210.1 million. During the year ended December 31, 2004, the Company incurred a loss of approximately $4.8 million and operations used cash of approximately $1.1 million.

The Company's primary short-term needs for capital are its sales, marketing and administrative activities, its continuing research and development efforts, working capital associated with increased product sales and capital expenditures relating to maintaining and developing its manufacturing operations. The Company's ability to achieve sustained profitable operations will depend primarily upon its ability to successfully market its products, commercialize products that are currently under development and develop new products. Many of the Company's products are subject to long development and regulatory approval cycles and there can be no guarantee that the Company will successfully develop, manufacture or market these products. There also can be no guarantee that the Company will attain quarterly, annual, or sustained profitability in the future.

At December 31, 2004, the Company was not in compliance with one of its covenants under the credit facility agreement with Wells Fargo Business Credit, Inc. ("Wells Fargo"). On March 22, 2005, an amended agreement was signed which waived the covenant violation. The Company believes that the 2005 covenants under this credit facility agreement have been established at levels such that it can reasonably expect to be in compliance through 2005, although there can be no guarantee thereof.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying consolidated financial statements include the accounts of the Company and of its wholly-owned subsidiaries since their respective dates of acquisitions. All material intercompany transactions and balances have been eliminated in consolidation.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates are required when establishing the allowance for doubtful accounts and the provision for excess/obsolete inventory, in determining the period over which the Company's obligations are fulfilled under agreements to license product right and/or technology rights and in evaluating long-lived assets for impairment.

Trade Accounts Receivable

Trade accounts receivable are recorded at the invoiced amount and do not bear interest. The allowance for doubtful accounts is the Company's best estimate of the amount of probable credit losses in the Company's existing accounts receivable. The Company determines the allowance based on historical write-off experience. The Company reviews its allowance for doubtful accounts monthly. Past due balances over 90 days and over a specified amount are reviewed individually for collectibility. Account balances are charged against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. The Company does not have any off-balance-sheet credit exposure related to its customers.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to a concentration of credit risk consist of cash and cash equivalents and accounts receivable. The Company maintains the majority of its cash and cash equivalents with financial institutions that management believes are creditworthy in the form of demand deposits, U.S. government agency obligations and U.S. corporate commercial paper. The Company has no significant off-balance sheet concentrations of credit risk such as foreign exchange contracts, options contracts or other foreign hedging arrangements. Its accounts receivable balances are due primarily from domestic veterinary clinics and individual veterinarians, and both domestic and international corporations.

Cash and Cash Equivalents

Cash and cash equivalents are stated at cost, which approximates market, and include short-term highly liquid investments with original maturities of less than three months. The Company valued its Japanese yen at the spot market rate as of the balance sheet date. Changes in the fair value of the yen are recorded in current earnings. The Company recognized a loss from devaluation of the yen of approximately $52,000 during the fiscal year ended December 31, 2002. The Company held no Japanese yen at December 31, 2003 or 2004.

Fair Value of Financial Instruments

The Company's financial instruments consist of cash and cash equivalents, short-term trade receivables and payables and notes payable, including the revolving line of credit. The carrying values of cash and cash equivalents and short-term trade receivables and payables approximate fair value. The fair value of notes payable is estimated based on current rates available for similar debt with similar maturities and collateral, and at December 31, 2004, approximates the carrying value.

Inventories

Inventories are stated at the lower of cost or market using the first-in, first-out method. Inventory manufactured by the Company includes the cost of material, labor and overhead. If the cost of inventories exceeds estimated fair value, provisions are made to reduce the carrying value to fair value.

Inventories, net consist of the following (in thousands):

	December 31,	
	2003	2004
Raw materials	$ 3,207	$ 3,524
Work in process	3,659	3,401
Finished goods	3,462	4,801
	$ 10,328	$ 11,726

Property and Equipment

Property and equipment are recorded at cost and depreciated on a straight-line basis over the estimated useful lives of the related assets. Leasehold improvements are amortized over the applicable lease period or their estimated useful lives, whichever is shorter. Maintenance and repairs are charged to expense when incurred, and major renewals and improvements are capitalized.

Property and equipment consist of the following (in thousands):

		December 31,	
	Estimated Useful Life	2003	2004
Land	N/A	$ 377	$ 377
Building	10 to 20 years	3,801	2,678
Machinery and equipment	3 to 15 years	18,494	19,743
Leasehold improvements	7 to 15 years	4,469	5,632
		27,141	28,430
Less accumulated depreciation and amortization		(19,168)	(20,505)
		$ 7,973	$ 7,925

Depreciation and amortization expense for property and equipment was $2.4 million, $1.7 million and $1.3 million for the years ended December 31, 2002, 2003 and 2004, respectively.

Realizability of Long-Lived Assets

The Company continually evaluates whether events and circumstances have occurred that indicate the remaining estimated useful life of long-lived assets may warrant revision, or that the remaining balance of these assets may not be recoverable. The Company evaluates the recoverability of its long-lived assets to be held and used in accordance with Statement of Financial Accounting Standards ("SFAS") No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS No. 144"). When deemed necessary, the Company completes this evaluation by comparing the carrying amount of the assets against the estimated undiscounted future cash flows associated with them. If such evaluations indicate that the future undiscounted cash flows of amortizable long-lived

assets are not sufficient to recover the carrying value of such assets, the assets are adjusted to their estimated fair values.

Goodwill and Other Intangible Assets

The Company adopted SFAS No. 141, "Business Combinations" and SFAS No. 142, "Goodwill and Other Intangible Assets" effective as of January 1, 2002. SFAS No. 141 requires that all business combinations initiated after June 30, 2001 be accounted for using the purchase accounting method. SFAS No. 142 states that goodwill is no longer subject to amortization. Rather, goodwill is subject to an annual assessment for impairment. Impairment is indicated when the carrying amount of the related reporting unit is greater than its estimated fair value.

The Company's recorded goodwill relates to the acquisition in 1997 of Heska AG. Beginning in fiscal 2002, this goodwill is no longer amortized but is reviewed at least annually for impairment. At December 31, 2003 and 2004, goodwill was approximately $643,000, and is included in the assets of the Core Companion Animal Health segment. The Company completed its annual analysis of the fair value of its goodwill at June 30, 2004 and determined there was no indicated impairment of its goodwill. There can be no assurance that future goodwill impairments will not occur. There are no other intangible assets that are not being amortized on a periodic basis.

The Company incurs costs, paid to third-party law firms, to prosecute and maintain patents on its proprietary technologies. The Company capitalizes qualifying costs related to its patents. At December 31, 2003 and 2004, respectively, the cost basis of the capitalized patent costs was approximately $2.0 million and $2.5 million, the accumulated amortization was approximately $595,000 and $988,000, and the net book value was approximately $1.4 million and $1.5 million. The Company expects amortization expense for these capitalized patent costs of approximately $135,000 in 2005 and approximately $135,000 for each of the four years thereafter. These costs are being amortized over an average life of 15 years which is the estimated life of the patents. Amortization expense for the years ended December 31, 2002, 2003 and 2004, was approximately $141,000, $145,000 and $392,000, respectively.

Derivative Instruments and Hedging Activities

The Company has utilized derivative financial instruments to reduce financial market risks in the past. If used, these instruments may be used to hedge foreign currency, interest rate and certain equity market exposures of underlying assets, liabilities and other obligations. The Company does not use derivative financial instruments for speculative or trading purposes. The Company accounts for its derivative instruments in accordance with SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended. The Company's hedging activities were curtailed in 2002. There were no hedging activities in 2003 and 2004.

Revenue Recognition

The Company generates its revenues through sale of products, licensing of product and technology rights, and sponsored research and development. Revenue is accounted for in accordance with the guidelines provided by Staff Accounting Bulletin 104 "Revenue Recognition" ("SAB 104"). The

Company's policy is to recognize revenue when the applicable revenue recognition criteria have been met, which generally include the following:

- Persuasive evidence of an arrangement exists;
- Delivery has occurred or services rendered;
- Price is fixed or determinable; and
- Collectibility is reasonably assured.

Revenue from the sale of products is generally recognized after both the goods are shipped to the customer and acceptance has been received, if required, with an appropriate provision for estimated returns and other allowances. The terms of the customer arrangements generally pass title and risk of ownership to the customer at the time of shipment. Certain customer arrangements provide for acceptance provisions. Revenue for these arrangements is not recognized until the acceptance has been received or the acceptance period has lapsed. The Company maintains an allowance for sales returns based upon its customer policies and historical experience. Shipping and handling costs charged to customers is included as revenue, and the related costs are recorded as a component of cost of products sold.

In addition to its direct sales force, the Company utilizes independent third-party distributors to sell its products. Distributors purchase goods from the Company, take title to those goods and resell them to their customers in the distributors' territory.

Payments received under arrangements for product or technology rights is initially deferred, and revenue is subsequently recognized ratably over the estimated life of the related agreements, products, patents or technology. In 2003 and 2004, the Company deferred approximately $6.0 million and $400,000, respectively, of payments received under these types of arrangements. Revenues from royalties are recognized as the Company is informed that the related products have been sold.

During 2004, the Company received approximately $2.8 million related to the licensing of product rights and/or technology rights to third parties. These payments were initially deferred and will be recognized on a straight-line basis over the remaining lives of the contracts, products or patents, which approximates the period over which the Company will complete its obligations under these agreements.

The Company recognizes revenue from sponsored research and development over the life of the contract as research activities are performed. The revenue recognized is the lesser of revenue earned under a proportional performance method or actual non-refundable cash received to date under the agreement.

For multiple-element arrangements that are not subject to a higher level of authoritative literature, the Company follows the guidelines of the Financial Accounting Standards Board's ("FASB") Emerging Issues Task Force ("EITF") Issue No. 00-21, "Accounting for Revenue Arrangements with Multiple Deliverables" ("EITF 00-21"), in determining the separate units of accounting. For those arrangements subject to the separation criteria of EITF 00-21, the Company accounts for each of the individual units of accounting as a separate and discrete earnings process considering, among other things, whether a delivered item has value to the client on a standalone basis. For such multiple-element arrangements, total revenue is allocated to the separate units of accounting based upon objective and reliable evidence of the fair value of the undelivered item. The determination of separate units of accounting, and the determination of objective and reliable evidence of fair value of the undelivered item, both require judgments to be made by the Company. The adoption of EITF 00-21 (effective for transactions entered into after June 30, 2003) has not had a significant impact on the Company's accounting to date.

Cost of Products Sold

Royalties payable in connection with certain licensing agreements (see Note 10) are reflected in cost of products sold as incurred.

Stock-Based Compensation

The Company accounts for its stock-based compensation plans using the intrinsic value method in accordance with Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB No. 25"), and related interpretations, and follows the disclosure provisions of Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" ("SFAS No. 123") and Statement of Financial Accounting Standards No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure" ("SFAS No. 148"). At December 31, 2004, the Company had two stock-based compensation plans. See Note 7 for a description of these plans and additional disclosures regarding the plans. The Company recorded compensation expense of $133,000, $93,000 and $91,000 for the years ended December 31, 2002, 2003 and 2004, respectively, related to grants of restricted common stock.

Had compensation expense for the Company's stock-based compensation plans been based on the fair value at the grant dates for awards under those plans, consistent with the methodology of SFAS No. 123, the Company's net loss and net loss per share for the years ended December 31, 2002, 2003 and 2004 would approximate the pro forma amounts as follows (in thousands, except per share amounts):

	Year Ended December 31,		
	2002	2003	2004
	(in thousands except per share data)		
Net loss as reported	$ (8,669)	$ (3,459)	$ (4,815)
Stock-based employee compensation expense included in the determination of net loss, as reported	133	93	91
Stock-based employee compensation expense as if the fair value based method had been applied to all awards	(1,572)	(1,688)	(4,042)
Net loss, pro forma	$ (10,108)	$ (5,054)	$ (8,766)
Net loss per share:			
Basic and diluted—as reported	$ (0.18)	$ (0.07)	$ (0.10)
Basic and diluted—pro forma	$ (0.21)	$ (0.11)	$ (0.18)

As discussed in more detail in Note 7, in December 2004 the vesting of approximately 2.2 million options was accelerated. These options were not "in-the-money" at that time, and therefore, there was no compensation expense recorded in accordance with APB No. 25 as a result of this modification. However, for pro forma purposes in accordance with SFAS No. 123, the remaining unamortized compensation related to these options, calculated under SFAS No. 123 of approximately $2.1 million, was recorded in 2004 and included in the table above.

Advertising Costs

The Company expenses advertising costs as incurred. Advertising expenses were $681,000, $748,000 and $712,000 for the years ended December 31, 2002, 2003 and 2004, respectively.

Restructuring Expenses and Other

The Company recorded net restructuring expenses of $386,000 for the year ended December 31, 2002 (See Note 4). During 2002 and 2003, the Company also recognized approximately $621,000 and $515,000 of expenses resulting from certain personnel severance costs and settlement of litigation, respectively.

Restructuring expenses recorded during 2002 were approximately $716,000 related primarily to personnel severance costs for 32 individuals and the costs associated with disposal of leased vehicles and other costs for certain of the employees.

In the fourth quarter of 2001, the Company recorded a $1.5 million restructuring charge related to a strategic change in its distribution model and the consolidation of its European operations into one facility. This expense related to personnel severance costs, costs to adjust the Company's products to align with the new distribution model and the cost to close a leased facility in Europe. During the first quarter of 2002, the Company revised its cost estimates related to the restructuring charge recorded in the fourth quarter of 2001 as certain liabilities were favorably settled. This change in estimate was approximately $330,000 and was offset against the restructuring charge recorded in 2002 as described above.

Income Taxes

The Company records a current provision for income taxes based on estimated amounts payable or refundable on tax returns filed or to be filed each year. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in operations in the period that includes the enactment date. The overall change in deferred tax assets and liabilities for the period measures the deferred tax expense or benefit for the period. Deferred tax assets may be reduced by a valuation allowance based on judgmental assessment of available evidence if deemed more likely than not that some or all of the deferred tax assets will not be realized.

Basic and Diluted Net Loss Per Share

Basic net loss per common share is computed using the weighted average number of common shares outstanding during the period. Diluted net loss per share is computed using the sum of the weighted average number of shares of common stock outstanding and, if not anti-dilutive, the effect of outstanding common stock equivalents (such as stock options and warrants) determined using the treasury stock method. Since inception, due to the Company's net losses, all potentially dilutive securities are anti-dilutive and as a result, basic net loss per share is the same as diluted net loss per share for all periods presented. At December 31, 2002, 2003 and 2004, securities that have been excluded from diluted net loss per share because they would be anti-dilutive are outstanding options to purchase 6,378,586, 7,954,648 and 9,350,959 shares, respectively, of the Company's common stock.

Comprehensive Loss

Comprehensive loss includes net loss adjusted for the results of certain stockholders' equity changes not reflected in the consolidated statements of operations. Such changes include foreign

currency items and minimum pension liability adjustments. At December 31, 2004, Accumulated Other Comprehensive Income consists of cumulative translation adjustments of $311,000 and minimum pension liability adjustments and other of ($141,000). At December 31, 2003, Accumulated Other Comprehensive Loss consists of cumulative translation adjustments of $104,000 and minimum pension liability adjustments and other of ($172,000).

Foreign Currency Translation

The functional currency of the Company's international subsidiary is the Swiss Franc. Assets and liabilities of the Company's international subsidiary are translated using the exchange rate in effect at the balance sheet date. Revenue and expense accounts and cash flows are translated using an average of exchange rates in effect during the period. Cumulative translation gains and losses are shown in the consolidated balance sheets as a separate component of stockholders' equity. Exchange gains and losses arising from transactions denominated in foreign currencies (i.e., transaction gains and losses) are recognized as a component of other income (expense) in current operations.

New Accounting Pronouncements

SFAS No. 123R, "Share-Based Payment" (Revised 2004)

Statement of Financial Accounting Standards No. 123 ("SFAS No. 123R") was revised in December 2004 and the Company will adopt this standard under the modified prospective method of adoption beginning on July 1, 2005. SFAS No. 123, which became effective in 1996, allows for the continued measurement of compensation cost for stock-based compensation using the intrinsic value based method under APB No. 25, provided that pro forma disclosures are made of net income or loss, assuming the fair value based method of SFAS No. 123 had been applied. The Company has elected to account for stock-based compensation plans under APB No. 25 and will continue to do so through the completion of its second quarter ending June 30, 2005. When the Company adopts SFAS No. 123R effective July 1, 2005, it will recognize compensation expense using the fair value-based model for options that vest after June 30, 2005, including those that were granted prior to the effective date of SFAS No. 123R. This will result in recording compensation expense for periods after June 30, 2005. Historically, under APB No. 25, the Company recorded minimal amounts of stock-based compensation, and none related to stock options. The Company has not yet quantified the amount by which the adoption of SFAS No. 123R will impact reported results of operations in fiscal year 2005 and future years. The Company also has an employee stock purchase plan under which it will recognize compensation expense under SFAS No. 123R beginning effective July 1, 2005.

SFAS No. 151 "Inventory Costs"

SFAS No. 151 is an amendment to ARB No. 43, Chapter 4 that will be effective for us in fiscal 2006. The standard clarifies the accounting for abnormal amounts of idle facility expense, freight, handling costs, and spoilage to require that those costs be expensed currently, as opposed to being included in overhead costs. We are currently evaluating the impact that SFAS No. 151 will have on our financial results when implemented.

3. CAPITAL LEASE OBLIGATIONS

The Company has entered into certain capital lease agreements for laboratory equipment, office equipment, machinery and equipment, and computer equipment and software. For the years ended December 31, 2003 and 2004, the Company had capitalized machinery and equipment under capital

leases with a gross value of approximately $93,415 and $38,272 and net book value of approximately $23,000 and $33,500, respectively. The capitalized cost of the equipment under capital leases is included in the accompanying consolidated balance sheets under the respective asset classes. Under the terms of the Company's lease agreements, the Company is required to make monthly payments of principal and interest through the year 2009, at interest rates ranging from 11.0% to 14.0% per annum. The equipment under the capital leases serves as security for the leases.

The future annual minimum required payments under capital lease obligations as of December 31, 2004 were as follows (in thousands):

Year Ending December 31,	
2005	$ 10
2006	10
2007	10
2008	10
2009	3
Total future minimum lease payments	43
Less amount representing interest	(10)
Present value of future minimum lease payments	33
Less current portion	(6)
Total long-term capital lease obligations	$ 27

4. RESTRUCTURING EXPENSES

In 2002, the Company recorded restructuring charges of $566,000 for personnel severance costs and other expenses related to 32 individuals and $150,000 related to the closure of a leased facility. The Company also reversed approximately $330,000 of the restructuring charge recorded in the fourth quarter of 2001 due to the favorable settlement of certain liabilities. For 2002, the Company recorded net restructuring expenses totaling $386,000.

Shown below is a reconciliation of restructuring costs for the years ended December 31, 2002, 2003 and 2004 (in thousands):

	Balance at January 1, 2002	Additions for the Fiscal Year Ended December 31, 2002	Payments Through December 31, 2002	Other	Balance at December 31, 2002
Severance pay and benefits	$ 378	$ 466	$ (765)	$ (6)	$ 73
Leased facility closure costs	50	150	(80)	—	120
Products and other	1,100	100	(726)	(324)	150
Total	$ 1,528	$ 716	$ (1,571)	$ (330)	$ 343

	Balance at December 31, 2002	Additions for the Fiscal Year Ended December 31, 2003	Payments Through December 31, 2003	Balance at December 31, 2003
Severance pay and benefits	$ 73	$ —	$ (73)	$ —
Leased facility closure costs	120	—	(69)	51
Products and other	150	—	(80)	70
Total	$ 343	$ —	$ (222)	$ 121

	Balance at December 31, 2003	Additions for the Fiscal Year Ended December 31, 2004	Payments Through December 31, 2004	Balance at December 31, 2004
Leased facility closure costs	$ 51	$ —	$ (36)	$ 15
Products and other	70	—	(70)	—
Total	$ 121	$ —	$ (106)	$ 15

The balance of $121,000 and $15,000 is included in accrued liabilities in the accompanying consolidated balance sheets as of December 31, 2003 and 2004, respectively.

5. LONG-TERM DEBT

Long-term debt consists of the following (dollars in thousands):

	December 31, 2003	December 31, 2004
Promissory note to the Iowa Department of Economic Development ("IDED"), paid in full in June 2004.	$ 14	$ —
Promissory note to the City of Des Moines, paid in full in May 2004.	10	—
Promissory note to the City of Des Moines, due in monthly installments through June 2006, with a stated interest rate of 3%.	168	102
Real estate mortgage loan with a commercial bank, due in monthly installments through May 2006, with the balance due of $834,000 in full May 31, 2006, with a stated interest rate of prime plus 1.5% at December 31, 2003 and prime plus 2.5% at December 31, 2004 (5.5% and 7.75%, respectively).	1,324	1,117
Term loan with a commercial bank, secured by machinery and equipment, due in monthly installments through January 2005, with a stated interest rate of prime plus 1.5% at December 31, 2003 and prime plus 2.5% at December 31, 2004 (5.5% and 7.75%, respectively).	240	16
Subordinated promissory note with a significant customer for facilities improvements in Des Moines, secured by the manufacturing facility, due in annual installments of $250 in 2004 and $500 in 2006, with a stated interest rate of prime plus 0.25% at December 31, 2003 and prime plus 1.0% at December 31, 2004 (4.25% and 6.25%, respectively).	750	500
	2,506	1,735
Less installments due within one year	(771)	(296)
	$ 1,735	$ 1,439

The Company has a credit facility with Wells Fargo, an affiliate of Wells Fargo Bank. The credit facility includes the real estate mortgage loan and term loan above, and a $12.0 million asset-based revolving line of credit with a stated interest rate at December 31, 2004 of prime plus 2.5% (7.75%). Amounts due under the credit facility are secured by a first security interest in essentially all of the Company's assets. Under the agreement, the Company is required to comply with certain financial and non-financial covenants. Among the financial covenants are requirements for monthly minimum book net worth, quarterly minimum net income and minimum liquidity. The amount available for borrowings under the line of credit will be determined based on the borrowing base as defined by the credit agreement. As of December 31, 2004, approximately $10.4 million was outstanding on the line of credit and there was $1.2 million available capacity for additional borrowings under the line of credit agreement. The Company is restricted from paying dividends under the terms of the credit facility agreement.

At December 31, 2004, the Company was not in compliance with one of its covenants under the credit facility agreement with Wells Fargo. On March 22, 2005, an amended agreement was signed which waived the covenant violation and modified covenants for 2005 based on the Company's business expectations. The Company believes that the 2005 covenants have been established at levels such that it can reasonably expect to be in compliance through 2005, although there can be no guarantee thereof.

The City of Des Moines promissory note is secured by a first security interest in essentially all assets of the OVP segment except assets acquired through capital leases and are included as cross-collateralized obligations by the respective lenders. The City of Des Moines has subordinated its security interest in these assets to Wells Fargo.

Maturities of long-term debt as of December 31, 2004 were as follows (in thousands):

Year Ending December 31,	
2005	$ 296
2006	1,439
	$ 1,735

6. INCOME TAXES

As of December 31, 2004, the Company had a net domestic operating loss carryforward, or NOL, of approximately $169.5 million, a domestic alternative minimum tax credit of approximately $23,000 and a domestic research and development tax credit carryforward of approximately $584,000. The NOL and tax credit carryforwards are subject to alternative minimum tax limitations and to examination by the tax authorities. In addition, the Company had a "change of ownership" as defined under the provisions of Section 382 of the Internal Revenue Code of 1986, as amended (an "Ownership Change"). The Company believes the latest, and most restrictive, Ownership Change occurred at the time of its initial public offering in July 1997. The Company does not believe this Ownership Change will place a significant restriction on its ability to utilize its NOLs in the future. The Company also has net operating loss carryforwards in Switzerland of approximately $3.7 million at December 31, 2004 related to losses previously recorded by Heska AG.

The Company's NOL's represent a deferred tax asset, which has been completely offset by a valuation allowance. Recognition of this asset requires future taxable income and the Company believes, based on its history of operating losses since inception, that it is more likely than not that it will be unable to generate sufficient taxable income to utilize the NOL's, and therefore, a valuation

allowance has been established for the entire deferred tax asset and no benefit for income taxes has been recognized in the accompanying consolidated statements of operations. In addition, the Company has determined that a valuation allowance on its Swiss deferred tax asset is appropriate at December 31, 2004, and 2003, as it is not more likely than not that Heska AG will realize such deferred tax assets, based on Heska AG's history of losses and the Company's expectations of Heska AG's future operations.

The components of loss before income taxes were as follows (in thousands):

	Year Ended December 31,		
	2002	2003	2004
Domestic	$ (8,701)	$ (3,752)	$ (5,718)
Foreign	32	344	903
	$ (8,669)	$ (3,408)	$ (4,815)

Temporary differences that give rise to the components of deferred tax assets are as follows (in thousands):

	December 31,	
	2003	2004
Current deferred tax assets (liabilities):		
Inventory	$ 78	$ 156
Accrued compensation	164	41
Restructuring reserve	46	6
Other	394	310
	682	513
Valuation allowance	(682)	(513)
Total current deferred tax assets (liabilities)	—	—
Noncurrent deferred tax assets (liabilities):		
Research and development and other credits	624	607
Deferred revenue	4,595	5,211
Pension liability	—	17
Amortization of intangible assets	(517)	(573)
Property and equipment	603	858
Net operating loss carryforwards	63,388	64,847
	68,693	70,967
Valuation allowance	(68,693)	(70,967)
Total noncurrent deferred tax assets (liabilities)	$ —	$ —

The components of the income tax expense (benefit) are as follows (in thousands):

	Year Ended December 31,		
	2002	2003	2004
Current income tax expense (benefit):			
Federal	$ —	$ 50	$ —
State	—	1	—
Total current expense	—	51	—
Deferred income tax benefit:			
Federal	(700)	(1,075)	(1,790)
State	(91)	(145)	(231)
Foreign	(32)	(53)	(84)
Total deferred benefit	(823)	(1,273)	(2,105)
Valuation allowance	823	1,273	2,105
Total income tax expense (benefit)	$ —	$ 51	$ —

The Company's income tax benefit relating to losses, respectively, for the periods presented differ from the amounts that would result from applying the federal statutory rate to those losses as follows:

	Year Ended December 31,		
	2002	2003	2004
Statutory federal tax rate	(34)%	(34)%	(34)%
State income taxes, net of federal benefit	(4)%	(3)%	(4)%
Other permanent differences	6%	1%	1%
Expiration of tax credits	22%	—	—
Change in valuation allowance	10%	37%	37%
Effective income tax rate	0%	1%	0%

7. CAPITAL STOCK

Stock Option Plans

The Company has two stock option plans which authorize granting of stock options and stock purchase rights to employees, officers, directors and consultants of the Company to purchase shares of common stock. In 1997, the board of directors adopted the 1997 Stock Incentive Plan and terminated two prior option plans. However, options granted and unexercised under the prior plans are still outstanding. All shares that remained available for grant under the terminated plans were incorporated into the 1997 Plan. In addition, all shares subsequently cancelled under the prior plans are added back to the 1997 Plan on a quarterly basis as additional options available to grant. The number of shares reserved for issuance under the 1997 Plan increases automatically on January 1 of each year by a number equal to the lesser of (a) 1,500,000 shares or (b) 5% of the shares of common stock outstanding on the immediately preceding December 31. In May 2003, the stockholders approved a new plan, the 2003 Stock Incentive Plan, which allows for the granting of options for up to 2,390,500 shares of the Company's common stock. The number of shares reserved for issuance under all plans as of January 1, 2005 was 6,118,209.

The stock options granted by the board of directors may be either incentive stock options ("ISOs") or non-qualified stock options ("NQs"). The exercise price for options under all of the plans may be no less than 100% of the fair value of the underlying common stock for ISOs or 85% of fair value for NQs. Options granted will expire no later than the tenth anniversary subsequent to the date of grant or three months following termination of employment, except in cases of death or disability, in which case the options will remain exercisable for up to twelve months. Under the terms of the 1997 Plan, in the event the Company is sold or merged, outstanding options will either be assumed by the surviving corporation or vest immediately.

SFAS No. 123

SFAS No. 123, "Accounting for Stock-Based Compensation," defines a fair value based method of accounting for employee stock options, employee stock purchases, and similar equity instruments. However, SFAS No. 123 allows the continued measurement of compensation cost for such plans using the intrinsic value based method prescribed by APB No. 25, provided that pro forma disclosures are made of net income or loss, assuming the fair value based method of SFAS No. 123 had been applied. The Company has elected to account for its stock-based compensation plans under APB No. 25. For disclosure purposes, the Company has computed the fair values of all options granted during 2002, 2003 and 2004, using the Black-Scholes option pricing model and the following weighted average assumptions:

	2002	2003	2004
Risk-free interest rate	4.61%	2.73%	3.62%
Expected lives	3.9 years	4.6 years	4.5 years
Expected volatility	105%	132%	76%
Expected dividend yield	0%	0%	0%

Cumulative compensation cost recognized in pro forma basic net income or loss with respect to options that are forfeited prior to vesting is adjusted as a reduction of pro forma compensation expense in the period of forfeiture. Fair value computations are highly sensitive to the volatility factor assumed; the greater the volatility, the higher the computed fair value of the options granted.

The total fair value of options granted was computed to be approximately $3.4 million, $1.9 million and $3.0 million for the years ended December 31, 2002, 2003 and 2004, respectively. The amounts are amortized ratably over the vesting periods of the options. Pro forma stock-based compensation, net of the effect of forfeitures, was $1.4 million, $1.5 million and $4.0 million for 2002, 2003 and 2004, respectively.

A summary of the Company's stock option plans is as follows:

	Year Ended December 31,					
	2002		2003		2004	
	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price
Outstanding at beginning of period	3,901,860	$ 2.5689	6,378,586	$ 1.8142	7,954,648	$ 1.5163
Granted at Market	3,447,225	$ 0.9571	2,505,117	$ 0.8907	2,575,830	$ 1.8890
Granted above Market	70,802	$ 0.8100	26,121	$ 1.4936	418	$ 2.6300
Cancelled	(1,002,705)	$ 0.9571	(618,704)	$ 2.2869	(792,963)	$ 3.8742
Exercised	(38,596)	$ 0.3019	(336,472)	$ 1.0898	(386,974)	$ 0.7476
Outstanding at end of period	6,378,586	$ 1.8142	7,954,648	$ 1.5163	9,350,959	$ 1.4509
Exercisable at end of period	3,429,776	$ 2.4619	4,646,765	$ 1.8790	7,939,567	$ 1.5532

The weighted average estimated fair value of options granted during the years ended December 31, 2002, 2003 and 2004 were $0.6581, $0.7628 and $1.1631, respectively.

The following table summarizes information about stock options outstanding and exercisable at December 31, 2004.

	Options Outstanding			Options Exercisable	
Exercise Prices	Number of Options Outstanding at December 31, 2004	Weighted Average Remaining Contractual Life in Years	Weighted Average Exercise Price	Number of Options Exercisable at December 31, 2004	Weighted Average Exercise Price
$0.34 - $ 0.70	1,997,499	7.34	$ 0.5946	1,434,490	$ 0.5630
$0.71 - $ 1.06	1,954,980	7.64	$ 0.9998	1,162,589	$ 1.0030
$1.07 - $ 1.49	1,863,002	6.10	$ 1.2147	1,810,633	$ 1.2160
$1.50 - $ 2.00	1,912,157	8.59	$ 1.6796	1,908,534	$ 1.6798
$2.01 - $15.00	1,623,321	7.41	$ 3.0497	1,623,321	$ 3.0497
$0.34 - $15.00	9,350,959	7.42	$ 1.4509	7,939,567	$ 1.5532

Modifications to Certain Stock Option Grants

On December 2, 2004 the Compensation Committee of the Company's Board of Directors considered the significant impact that the use of fair values, rather than intrinsic values, would have on the Company's future results of operations, as well as factors including that the management team had requested that their salaries be frozen for 2005, many non-management employees' 2005 raises were to be at below market levels, no management bonus payments were made for 2004 and the 2005 management incentive plan calls for a performance in excess of the Company's internal budget before any bonus payments are made, and approved the acceleration of vesting of outstanding but unvested stock options with an exercise price greater than $1.08. These options were not "in-the-money" at that time, and therefore, there was no compensation expense recorded in accordance with APB No. 25 as a result off this modification. However, for pro forma purposes, in accordance with SFAS No. 123, the remaining unamortized compensation related to these options, calculated under SFAS No. 123 of approximately $2.1 million, was recorded in 2004. This action effected approximately 2.2 million

options, approximately 1.1 million of which were held by the Company's Directors and Executive Officers.

Employee Stock Purchase Plan (the "ESPP")

Under the 1997 Employee Stock Purchase Plan, the Company is authorized to issue up to 2,750,000 shares of common stock to its employees, of which 1,791,788 had been issued on December 31, 2004. Employees of the Company and its U.S. subsidiaries who are expected to work at least 20 hours per week and five months per year are eligible to participate. Under the terms of the plan, employees can choose to have up to 10% of their annual base earnings withheld to purchase the Company's common stock. The purchase price of the stock is 85% of the lower of its beginning-of-enrollment period or end-of-measurement period market price. Each enrollment period is one year, with six-month measurement periods ending June 30 and December 31.

For the years ended December 31, 2002, 2003 and 2004, the weighted-average fair value of the purchase rights granted was $0.24, $0.32 and $0.44 per share, respectively. Pro forma stock-based compensation was approximately $39,000, $127,000 and $58,000 in 2002, 2003 and 2004, respectively, for the ESPP.

Restricted Stock Exchange

On August 9, 2001, the Board of Directors approved a proposal to give Heska employees an opportunity to exchange all options outstanding with exercise prices greater than $3.90 per share under the 1997 Stock Incentive Plan for shares of restricted stock. The offer closed on September 28, 2001 with options to purchase 1,044,900 shares of common stock exchanged for 1,044,900 shares of restricted stock. The fair value of the restricted stock at the time of the exchange was $0.68 per share. The restricted stock vests over 48 months beginning November 1, 2001. This exchange resulted in deferred compensation of approximately $710,000 that is being recognized over the vesting period of the restricted stock. The Company recognized $133,000, $93,000 and $91,000 of non-cash compensation expense from this exchange in 2002, 2003 and 2004, respectively.

8. MAJOR CUSTOMERS

The Company had no customers in 2004 who represented 10% or more of total revenue. The Company had one customer who represented 17% and 15% of total revenues in 2002 and 2003, respectively, who purchased vaccines from OVP. The same customer represented 12% of total accounts receivable at December 31, 2003. No customer represented 10% or more of total accounts receivable at December 31, 2004.

9. SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION

	Year Ended December 31,		
	2002	2003	2004
		(in thousands)	
Cash paid for interest	$ 426	$ 459	$ 690
Purchase of assets under capital lease financing	$ —	$ 14	$ 24

10. COMMITMENTS AND CONTINGENCIES

The Company holds certain rights to market and manufacture all products developed or created under certain research, development and licensing agreements with various entities. In connection with such agreements, the Company has agreed to pay the entities royalties on net product sales. In the years ended December 31, 2002, 2003 and 2004, royalties of $748,000, $1.1 million and $1.0 million became payable under these agreements, respectively.

The Company has contracts with two suppliers for unconditional annual minimum inventory purchases totaling approximately $3.6 million through fiscal 2007.

The Company has entered into operating leases for its office and research facilities and certain equipment with future minimum payments as of December 31, 2004 as follows (in thousands):

Year Ending December 31,	
2005	$ 1,076
2006	1,221
2007	1,257
2008	1,295
2009	1,334
Thereafter	21,455
	$ 27,638

The Company had rent expense of $851,000, $806,000 and $774,000 in 2002, 2003 and 2004, respectively.

In April 2004, the Company signed an agreement to lease a new building in Loveland, Colorado beginning in the second quarter of 2005. The building consists of approximately 60,000 square feet and will be occupied solely by the Company. Lease payments required under this agreement are included in the table above.

From time to time, the Company may be involved in litigation relating to claims arising out of its operations. As of December 31, 2004, the Company was not party to any legal proceedings that are expected, individually or in the aggregate, to have a material effect on its business, financial condition or operating results. In 2003, the Company settled litigation regarding alleged patent infringement, resulting in a charge of $515,000 to other operating expenses.

The Company generally warrants that its products and services will conform to published specifications. The typical warranty period is one year from delivery of the product or service. The typical remedy for breach of warranty is to correct or replace any defective product, and if not possible or practical, the Company will accept the return of the defective product and refund the amount paid. Historically, the Company has incurred minimal warranty costs, and as a result, does not maintain a warranty reserve.

The Company's licensing arrangements generally include a product indemnification provision that will indemnify and defend a licensee in actions brought against the licensee that claim the Company's patents infringe upon a copyright, trade secret of valid patent. Historically, the Company has not incurred any significant costs related to product indemnification claims, and as a result, does not maintain a reserve for such exposure.

11. SEGMENT REPORTING

The Company is comprised of two reportable segments, Core Companion Animal Health ("CCA") and Other Vaccines, Pharmaceuticals and Products ("OVP"). The Core Companion Animal Health segment includes diagnostic and monitoring instruments and supplies, as well as single use diagnostic and other tests, vaccines and pharmaceuticals, primarily for canine and feline use. These products are sold directly by the Company as well as through independent third-party distributors and other distribution relationships. Core Companion Animal Health segment products manufactured at the Des Moines, Iowa production facility included in OVP's assets are transferred at cost and are not recorded as revenue for OVP. The Other Vaccines, Pharmaceuticals and Products segment includes private label vaccine and pharmaceutical production, primarily for cattle but, also for other animals including small mammals, horses and fish. All OVP products are sold by third parties under third party labels.

Additionally, the Company generates non-product revenue from sponsored research and development projects for third parties, licensing of technology and royalties. The Company performs these sponsored research and development projects for both companion animal and livestock purposes.

Summarized financial information concerning the Company's reportable segments is shown in the following table (in thousands).

	Core Companion Animal Health	Other Vaccines, Pharmaceuticals and Products	Other	Total
2002:				
Revenue	$ 36,870	$ 14,456	$ —	$ 51,326
Operating income (loss)	(10,571)	3,243	(1,007)(a)	(8,335)
Total assets	43,074	17,765	(25,254)	35,585
Capital expenditures	126	1,081	—	1,207
Depreciation and amortization	1,184	1,324	—	2,508

(a) Includes restructuring expenses of $386,000 and $621,000 of other operating expense (See Note 4).

	Core Companion Animal Health	Other Vaccines, Pharmaceuticals and Products	Other	Total
2003:				
Revenue	$ 48,719	$ 16,606	$ —	$ 65,325
Operating income (loss)	(6,391)	3,712	(515)(b)	(3,194)
Total assets	41,919	16,849	(19,872)	38,896
Capital expenditures	467	940	—	1,407
Depreciation and amortization	678	1,216	—	1,894

(b) Includes other operating expense of $515,000.

	Core Companion Animal Health	Other Vaccines, Pharmaceuticals and Products	Other	Total
2004:				
Revenue	$ 54,474	$ 13,217	$ —	$ 67,691
Operating income (loss)	(5,704)	1,464	—	(4,240)
Total assets	39,426	15,367	(16,069)	38,724
Capital expenditures	277	1,012	—	1,289
Depreciation and amortization	771	959	—	1,730

Total revenue by principal geographic area was as follows (in thousands):

	For the Years Ended December 31,		
	2002	2003	2004
United States	$ 46,198	$ 58,709	$ 59,452
Europe	3,038	3,976	4,484
Other International	2,090	2,640	3,755
Total	$ 51,326	$ 65,325	$ 67,691

Total assets by principal geographic areas were as follows (in thousands):

	December 31,		
	2002	2003	2004
United States	$ 33,489	$ 36,289	$ 35,123
Europe	2,096	2,607	3,601
Other International	—	—	—
Total	$ 35,585	$ 38,896	$ 38,724

13. QUARTERLY FINANCIAL INFORMATION (unaudited)

The following summarizes selected quarterly financial information for each of the two years in the period ended December 31, 2004 (amounts in thousands, except per share data).

	Q1	Q2	Q3	Q4	Total
2003:					
Total revenue	$ 13,274	$ 14,753	$ 15,711	$ 21,587	$ 65,325
Gross profit from product sales	5,101	5,864	6,253	8,333	25,551
Net income (loss)	(2,476)	(1,200)	(1,202)	1,419	(3,459)
Net income (loss) per share—basic and diluted	(0.05)	(0.03)	(0.02)	0.03	(0.07)
2004:					
Total revenue	$ 16,741	$ 17,796	$ 15,939	$ 17,215	$ 67,691
Gross profit from product sales	5,926	5,883	5,636	5,859	23,304
Net income (loss)	(1,994)	(1,388)	(876)	(557)	(4,815)
Net income (loss) per share—basic and diluted	(0.04)	(0.03)	(0.02)	(0.01)	(0.10)

14. Subsequent Event

On February 24, 2005, the Company's Board of Directors considered the significant impact that the use of fair values, rather than intrinsic values, would have on future results of operations, as well as factors including that the management team had requested that their salaries be frozen for 2005, many non-management employees' 2005 raises were to be at below market levels, no management bonus payouts were made for 2004 and the 2005 management incentive plan calls for a performance in excess of the Company's internal budget before any bonus payments are made, and authorized the Company's Stock Option Committee, which currently consists solely of the Company's Chief Executive Officer, to accelerate the vesting of outstanding but unvested options with a strike price equal to or greater than the then current market price through June 30, 2005 at its discretion. On March 30, 2005, the Company's Stock Option Committee exercised its discretion and accelerated the vesting of outstanding but unvested stock options with a strike price greater than or equal to $0.82. This action affected approximately 750,000 options, approximately 55,000 of which were held by the Company's Directors and Executive Officers.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

(a) *Evaluation of Disclosure Controls and Procedures.* Our management, with the participation of our chief executive officer and our chief financial officer, evaluated the effectiveness of our disclosure controls and procedures, as defined by Rule 13a-15 of the Exchange Act, as of the end of the period covered by this Annual Report on Form 10-K. Based on this evaluation, our chief executive officer and our chief financial officer have concluded that our disclosure controls and procedures are satisfactory to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosure.

(b) *Changes in Internal Control over Financial Reporting.* There was no change in our internal control over financial reporting that occurred during our last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

If, as of June 30, 2005, we meet the definition of "accelerated filer," as defined by Rule 12b-2 of the Exchange Act, we will be required by the Sarbanes-Oxley Act of 2002 to include an assessment of our internal control over financial reporting and attestation from our independent registered public accounting firm in our Annual Report on Form 10-K for our fiscal year ending December 31, 2005. If, however we are not deemed an "accelerated filer" at that time, we will not have to include such assessment and attestation until our Annual Report on Form 10-K for our fiscal year ended December 31, 2006.

Item 9B. Other Information.

On February 24, 2005, our Board of Directors considered the significant impact that the use of fair values, rather than intrinsic values, would have on our future results of operations, as well as factors including that the management team had requested that their salaries be frozen for 2005, many non-management employees' 2005 raises were to be at below market levels, no management bonus payouts were made for 2004 and the 2005 management incentive plan calls for a performance in excess of our internal budget before any bonus payments are made, and authorized our Stock Option Committee, which currently consists solely of our Chief Executive Officer, to accelerate the vesting of outstanding but unvested options with a strike price equal to or greater than the then current market price through June 30, 2005 at its discretion. On March 30, 2005, our Stock Option Committee exercised its discretion and accelerated the vesting of outstanding but unvested stock options with a strike price greater than or equal to $0.82. This action affected approximately 750,000 options, approximately 55,000 of which were held by our Directors and Executive Officers. This action follows a similar action in December 2004.

PART III

Certain information required by Part III is incorporated by reference to our definitive Proxy Statement filed with the Securities and Exchange Commission in connection with the solicitation of proxies for our 2004 Annual Meeting of Stockholders.

Item 10. Directors and Executive Officers of the Registrant.

The information required by this section with respect to our directors is incorporated by reference to the information in the sections entitled "Election of Directors" and "Section 16(a) Beneficial Ownership Reporting Compliance" in the Proxy Statement.

Executive Officers of the Registrant

Our executive officers and their ages as of March 31, 2005 are as follows:

Name	Age	Position
Robert B. Grieve, Ph.D.	53	Chairman of the Board and Chief Executive Officer
Jason A. Napolitano	36	Executive Vice President, Chief Financial Officer and Secretary
Carol Talkington Verser, Ph.D.	52	Executive Vice President, Intellectual Property and Business Development
Michael A. Bent	50	Vice President, Principal Accounting Officer and Controller
Joseph H. Ritter, D.V.M.	56	Vice President, Marketing and International Business

Robert B. Grieve, Ph.D., one of our founders, currently serves as Chief Executive Officer and Chairman of the Board. Dr. Grieve was named Chief Executive Officer effective January 1, 1999, Vice Chairman effective March 1992 and Chairman of the Board effective May 2000. Dr. Grieve also served as Chief Scientific Officer from December 1994 to January 1999 and Vice President, Research and Development, from March 1992 to December 1994. He has been a member of our Board of Directors since 1990. He holds a Ph.D. degree from the University of Florida and M.S. and B.S. degrees from the University of Wyoming.

Jason A. Napolitano was appointed Executive Vice President, Chief Financial Officer and Secretary in May 2002. Prior to joining us formally, he was a financial consultant. From 1990 to 2001, Mr. Napolitano held various positions at Credit Suisse First Boston, an investment bank, including Vice President in health care investment banking and Director in mergers and acquisitions. He holds a B.S. degree from Yale University.

Carol Talkington Verser, Ph.D., was appointed Executive Vice President, Intellectual Property and Business Development in February 2001. From June 2000 until January 2001 she was Vice President, Intellectual Property and Business Development. From July 1996 to May 2000, she served us as Vice President, Intellectual Property. From July 1995 to June 1996, Dr. Verser served us as Director, Intellectual Property. From July 1991 to June 1995, Dr. Verser was a Patent Agent and Technical Specialist at Sheridan, Ross and McIntosh, an intellectual property law firm. Dr. Verser holds a Ph.D. in cellular and developmental biology from Harvard University and a B.S. in biological sciences from the University of Southern California.

Michael A. Bent was appointed Vice President, Principal Accounting Officer and Controller in May 2002. From September 1999 until April 2002, he was Corporate Controller. From November 1993 until September 1999, Mr. Bent was Director, Accounting Operations at Coors Brewing Company. Mr. Bent holds a B.S. in accounting from the University of Wyoming. Mr. Bent is a CPA in Colorado and Wyoming.

Joseph H. Ritter, D.V.M. was appointed Vice President, Marketing and International Business in February 2004. Also during part of 2004 Dr. Ritter was responsible for our sales force. From October 2002 until February 2004, he was Heska's Vice President of International Business. From 1995 until 2002 he was President and owner of Veterinary Specialties, Inc., a veterinary products distribution company. From 1984 to 1995, Mr. Ritter held various senior positions at Mallinckrodt Veterinary, Inc. including Group Vice President, America and Asia. He holds a DVM from the University of Illinois and a M.B.A. with an emphasis on international finance from the American Graduate School of International Management.

Audit Committee Financial Expert

The Board has determined that Audit Committee member William A. Aylesworth is an audit committee financial expert as defined by Item 401(h) of Regulation S-K of the Exchange Act and is independent within the meaning of Item 7(d)(3)(iv) of Schedule 14A of the Exchange Act.

Audit Committee

We have a separately designated standing Audit Committee established in accordance with Section 3(a)(58)(A) of the Exchange Act. The members of the Audit Committee are G. Irwin Gordon, William A. Aylesworth, Peter Eio and Lynnor B. Stevenson, Ph.D.

Code of Ethics and Corporate Governance Guidelines

We have adopted a code of ethics for senior executive and financial officers (including our principal executive officer, principal financial officer and principal accounting officer). We have also adopted Corporate Governance Guidelines. The code of ethics and Corporate Governance Guidelines are available on our website at *www.heska.com*. We will post any amendments to or waivers from the code of ethics at that location.

Item 11. Executive Compensation.

The information required by this section is incorporated by reference to the information in the sections entitled "Director Compensation" and "Executive Compensation" in the Proxy Statement.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by this section is incorporated by reference to the information in the section entitled "Common Stock Ownership of Certain Beneficial Owners and Management" in the Proxy Statement.

Item 13. Certain Relationships and Related Transactions.

The information required by this section is incorporated by reference to the information in the sections entitled "Executive Compensation—Employment, Severance and Change of Control Agreements," "Executive Compensation—Loan to Executive Officer" and "Certain Transactions and Relationships" in the Proxy Statement.

Item 14. Principal Accountant Fees and Services.

The information required by this section is incorporated by reference to the information in the section entitled "Auditor Fees and Services" in the Proxy Statement.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

(a) The following documents are filed as a part of this Form 10-K.

(1) Financial Statements:

Reference is made to the Index to Consolidated Financial Statements under Item 8 in Part II of this Form 10-K.

(2) Financial Statement Schedules:

Schedule II—Valuation and Qualifying Accounts.

SCHEDULE II

HESKA CORPORATION AND SUBSIDIARIES
VALUATION AND QUALIFYING ACCOUNTS
(amounts in thousands)

	Balance at Beginning of Year	Additions Charged to Costs and Expenses	Other Additions	Deductions	Balance at End of Year
Allowance for doubtful accounts					
Year ended:					
December 31, 2002	$ 501	$ 53	—	$ (325) (a)	$ 229
December 31, 2003	$ 229	$ 57	—	$ (94) (a)	$ 192
December 31, 2004	$ 192	$ (32)	—	$ (65) (a)	$ 95
Allowance for restructuring charges					
Year ended:					
December 31, 2002	$ 1,528	$ 716	—	$ (1,901) (b)	$ 343
December 31, 2003	$ 343	$ —	—	$ (222) (b)	$ 121
December 31, 2004	$ 121	$ —	—	$ (106) (b)	$ 15
Allowance for tax valuation					
Year ended:					
December 31, 2002	$ 67,279	$ 823	—	$ —	$ 68,102
December 31, 2003	$ 68,102	$ 1,273	—	$ —	$ 69,375
December 31, 2004	$ 69,375	$ 2,105	—	$ —	$ 71,480

(a) Write-offs of uncollectible accounts.
(b) Payments for personnel severance costs, contractual obligations and facility closing costs.
(c) Write-offs for disposition of unsaleable inventory.

(3) Exhibits:

The exhibits listed below are required by Item 601 of Regulation S-K. Each management contract or compensatory plan or arrangement required to be filed as an exhibit to this Form 10-K has been identified.

Exhibit Number	Notes	Description of Document
3(i)	(5)	Restated Certificate of Incorporation of the Registrant.
3(ii)	(7)	Bylaws of the Registrant.
10.1+	(2)	Supply Agreement between Registrant and Quidel Corporation, dated July 3, 1997.
10.2+	(3)	Exclusive Distribution Agreement between Registrant and Novartis Agro K.K., dated August 18, 1998.
10.3	(3)	Right of First Refusal Agreement between Registrant and Novartis Animal Health, Inc., dated August 18, 1998.
10.4+	(8)	Amended and Restated Distribution Agreement between Registrant and i-STAT Corporation, dated February 9, 1999.
10.5+	(8)	First Amendment to Product Supply Agreement between Registrant and Quidel Corporation, dated March 15, 1999.
10.6+	(8)	Exclusive Distribution Agreement between Registrant and Novartis Animal Health Canada, Inc., dated February 14, 2001, as amended.
10.7+	(10)	Amended and Restated Bovine Vaccine Distribution Agreement between Diamond Animal Health, Inc. and AGRI Laboratories, Ltd., dated September 30, 2002.
10.8	(5)	Second Amended and Restated Credit and Security Agreement between Registrant, Diamond Animal Health, Inc., Center Laboratories, Inc. and Wells Fargo Business Credit, Inc., dated June 14, 2000.
10.9	(6)	First Amendment to Second Amended and Restated Credit and Security Agreement between Registrant, Diamond Animal Health, Inc. and Wells Fargo Business Credit, Inc., dated March 27, 2001.
10.10	(1)	Lease Agreement between Registrant and Sharp Point Properties, LLC, dated March 8, 1994.
10.11	(1)	Lease Agreement between Registrant and GB Ventures, dated June 27, 1996.
10.12	(1)	Lease Agreement between Registrant and GB Ventures, dated July 11, 1996.
10.13	(8)	Lease Agreement between Registrant and GB Ventures, dated August 24, 1999.
10.14	(8)	Lease Agreement between Registrant and GB Ventures, dated October 6, 1999.
10.15	(11)	Lease Extension Agreement between Registrant and GB Ventures, dated October 20, 2003.
10.16	(11)	Lease Extension Agreement between Registrant and GB Ventures, dated October 20, 2003.
10.17	(11)	Lease Extension Agreement between Registrant and GB Ventures, dated October 20, 2003.
10.18	(11)	Lease Extension Agreement between Registrant and GB Ventures, dated October 20, 2003.
10.19*	(7)	1997 Incentive Stock Plan of Registrant, as amended and restated.
10.20*	(1)	Forms of Option Agreement.
10.21*	(1)	1997 Employee Stock Purchase Plan of Registrant, as amended.
10.22*	(1)	Form of Indemnification Agreement entered into between Registrant and its directors and certain officers.
10.23*	(4)	Amended and Restated Employment Agreement with Robert B. Grieve, dated February 23, 2000.
10.24*	(5)	Employment agreement between Registrant and Carol Talkington Verser, dated May 1, 2000.
10.25*	(9)	Employment Agreement between Registrant and Michael A. Bent, dated May 1, 2000.

10.26*	(9)	Employment Agreement between Registrant and Jason A. Napolitano, dated May 6, 2002.
10.27*		Employment Agreement between Registrant and Joseph H. Ritter, dated May 1, 2004.
10.28*		Separation Consulting and Release Agreement between Registrant and Dan T. Stinchcomb, dated December 15, 2004.
10.29		Distribution Agreement between Registrant and Arkray Inc., dated February 16, 2001.
10.30+		Supply and Distribution Agreement between Registrant and Boule Medical AB, dated June 17, 2003, Letter Amendment to Supply and Distribution Agreement between Registrant and Boule Medical AB, dated June 1, 2004 and Letter Amendment to Supply and Distribution Agreement between Registrant and Boule Medical AB, dated December 31, 2004.
10.31+		Distribution Agreement between Registrant and i-STAT Corporation, dated October 1, 2004.
10.32+		Second Amendment to Amended and Restated Bovine Vaccine Distribution Agreement between Diamond Animal Health, Inc. and Agri Laboratories, Ltd., dated December 10, 2004.
10.33+		Seventh Amendment to Second Amended and Restated Credit and Security Agreement between Registrant, Diamond Animal Health, Inc. and Wells Fargo Business Credit, Inc., dated February 21, 2005.
10.34+		Supply and License Agreement between Registrant and Schering-Plough Animal Health Corporation, dated August 1, 2003.
10.35		Director Compensation Policy.
10.36*		Summary Sheet for Executive Cash Compensation.
10.37		Net Lease Agreement between Registrant and CCMRED 40 LLC, dated May 24, 2004.
21.1		Subsidiaries of the Company.
23.1		Consent of KPMG LLP, Independent Registered Public Accounting Firm.
24.1		Power of Attorney (See page 70 of this Form 10-K).
31.1		Certification of Chief Executive Officer Pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended.
31.2		Certification of Chief Financial Officer Pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended.
32.1		Certification of Chief Executive Officer and Chief Financial Officer Pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

Notes

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* Indicates management contract or compensatory plan or arrangement.

\+ Confidential treatment has been requested with respect to certain portions of these agreements.

(1) Filed with Registrant's Registration Statement on Form S-1 (File No. 333-25767).

(2) Filed with the Registrant's Form 10-Q for the quarter ended September 30, 1997.

(3) Filed with the Registrant's Form 10-K for the year ended December 31, 1998.

(4) Filed with the Registrant's Form 10-K for the year ended December 31, 1999.

(5) Filed with the Registrant's Form 10-Q for the quarter ended June 30, 2000.

(6) Filed with the Registrant's Form 10-Q for the quarter ended March 31, 2001.

(7) Filed with the Registrant's Form 10-Q for the quarter ended June 30, 2001.

(8) Filed with the Registrant's Form 10-K for the year ended December 31, 2001.

(9) Filed with the Registrant's Form 10-K for the year ended December 31, 2002.

(10) Filed with the Registrant's Form 10-Q for the quarter ended September 30, 2002.

(11) Filed with the Registrant's Form 10-K for the year ended December 31, 2003.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 31, 2005.

HESKA CORPORATION

By: /s/ ROBERT B. GRIEVE

Robert B. Grieve
Chairman of the Board and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert B. Grieve, Jason A. Napolitano and Michael A. Bent, and each of them, his or her true and lawful attorneys-in-fact, each with full power of substitution, for him or her in any and all capacities, to sign any amendments to this report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or their substitute or substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities and Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated:

Signature	Title	Date
/s/ ROBERT B. GRIEVE Robert B. Grieve	Chairman of the Board and Chief Executive Officer (Principal Executive Officer) and Director	March 31, 2005
/s/ JASON A. NAPOLITANO Jason A. Napolitano	Executive Vice President, Chief Financial Officer and Secretary (Principal Financial Officer)	March 31, 2005
/s/ MICHAEL A. BENT Michael A. Bent	Vice President, Controller (Principal Accounting Officer)	March 31, 2005
/s/ WILLIAM A. AYLESWORTH William A. Aylesworth	Director	March 31, 2005
/s/ ELISABETH DEMARSE Elisabeth DeMarse	Director	March 31, 2005
/s/ A. BARR DOLAN A. Barr Dolan	Director	March 31, 2005
/s/ PETER EIO Peter Eio	Director	March 31, 2005
/s/ G. IRWIN GORDON G. Irwin Gordon	Director	March 31, 2005
/s/ TINA S. NOVA Tina S. Nova	Director	March 31, 2005
/s/ JOHN F. SASEN, SR. John F. Sasen, Sr.	Director	March 31, 2005
/s/ LYNNOR B. STEVENSON Lynnor B. Stevenson	Director	March 31, 2005

Exhibit 10.27

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Heska Corporation, a Delaware corporation with its principal office at 1613 Prospect Parkway, Fort Collins, Colorado 80525 ("Company") and Joseph H. Ritter ("Employee"), effective as of May 1, 2004.

WITNESSETH:

Whereas Company desires to employ Employee to act as its Vice President of Marketing, Sales and International Business in an at-will capacity; and

Whereas Employee wishes to act as Company's Vice President of Marketing, Sales and International Business as an employee in an at-will capacity;

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

1. *Employment.* Company hereby employs Employee as its Vice President of Marketing, Sales and International Business, and Employee hereby accepts such employment.

2. *Duties and Responsibilities.* Employee shall serve as Vice President of Marketing, Sales and International Business of Company, with such duties and responsibilities as may be assigned to him from time to time by his superior officers (the "Senior Management") and/or the Board of Directors of Company, and with such on-going daily duties and responsibilities as are typically entailed in such position. The Senior Management and/or the Board of Directors shall be entitled to change such title, duties and responsibilities from time to time, in their discretion. Employee shall devote his full time and energies to such duties.

3. *Compensation.* Company shall pay Employee, as compensation for services rendered under this Agreement, a "base salary" per year, the amount of which shall initially be $190,000.00 which may be increased from time-to-time by the Company in its discretion. If for any reason during any given year, Employee does not work an entire year, other than normal vacations as provided hereunder, the compensation will be prorated to compensate only for the actual time worked.

4. *Expenses.* Company shall reimburse Employee for his reasonable out-of-pocket expenses incurred in connection with the business of Company, including travel away from the Company's facilities, upon presentation of appropriate written receipts and reports and subject to the customary practices and limitations of Company.

5. *Employee Benefits.* During the term of his employment hereunder, Employee shall be entitled to receive the same benefits that the Board of Directors establishes generally for the officers and other employees of Company. These may include, from time to time, medical insurance, life insurance, paid vacation time and medical disability insurance.

6. *Termination.*

(a) *At-Will.* This is an at-will employment agreement and does not bind either of the parties to any specific term or duration.

(i) Employee is free to terminate employment with Company at any time, for any reason, or for no reason, for cause or without cause, and without any prior notice.

(ii) Company is free to terminate the employment of Employee at any time, for any reason or for no reason, for cause or without cause, and without any prior notice.

(b) *Termination "Without Cause"—Separation Benefits.*

(i) Upon "involuntary termination" of his employment with Heska Corporation for other than a "change of control", as defined in Paragraph 6(c)(iii) below, Employee will be entitled to severance pay as provided in Paragraph 6(b)(ii) below, unless he is terminated for "cause", as defined in Paragraph 6(d)(ii) below. Employee's entitlement to any severance pay is dependent on his execution of a complete release of claims against Company and its affiliates.

(ii) In the event that severance pay is due to Employee as a result of the "involuntary termination" of his employment "without cause", Employee will be paid six months' "base salary" at the rate in effect immediately prior to the termination in six equal monthly installments (subject to all applicable taxes and other deductions), with the first such installment due 15 days after the date of such termination and with the following five installments due no later than monthly thereafter on Company's then regular payroll dates. The Company will also pay the employer contribution and administrative cost of the health insurance premiums for the medical and dental insurance coverage previously maintained by the Company for Employee and his eligible dependents during this six month period or until Employee is provided or obtains medical and dental insurance coverage by another employer or entity, whichever first occurs.

(c) *Change of Control—Separation Benefits.*

(i) Upon "involuntary termination" of his employment due to a "change of control" of Heska Corporation, Employee will be entitled to severance pay as provided in Paragraph 6(c)(iv) below, unless he is terminated for "cause", as defined in Paragraph 6(d)(ii) below. Employee's entitlement to any severance pay is dependent on his execution of a complete release of claims against Company and its affiliates.

(ii) For the purposes of this Employment Agreement, "change of control" is defined as the merger, acquisition or sale of Company or all or substantially all of its assets with, into, or to a previously unaffiliated third party entity, other than a merger in which the shareholders of Company prior to the merger, by reason of such shareholdings, own more than 50% of the outstanding shares of the company after the merger.

(iii) The parties agree that for the purposes of this Employment Agreement, an "involuntary termination" due to a "change of control" will be deemed to have occurred when Employee is no longer employed by the Company's successor following a "change of control" because the Employee's position is eliminated within nine (9) months of the "change of control" or when Employee's job responsibilities are materially and negatively changed within nine (9) months of the "change of control", and Employee elects to resign.

(iv) In the event that severance pay is due to Employee as a result of the "involuntary termination" of his employment without "cause" due to a "change of control", Employee will be paid one (1) year's "base salary" at the rate in effect immediately prior to the termination in twelve equal monthly installments (subject to all applicable taxes and other deductions), with the first such installment due 15 days after the date of such termination and with the following eleven installments due no later than monthly thereafter on Company's then regular payroll dates. The Company will also pay the employer contribution and administrative cost of the health insurance premiums for the medical and dental insurance coverage previously maintained by the Company for Employee and his eligible dependents during this one year period or until Employee is provided or obtains medical and dental insurance coverage by another employer or entity, whichever first occurs.

(d) *Termination "For Cause"; Voluntary Resignation.*

(i) If Company or its successor terminates Employee for "cause" or if Employee's employment terminates for any reason other than a termination by the Company "without cause" (as set forth in paragraph 6(b)) or due to a "change of control" (as set forth in Paragraph 6(c)), Employee will not be entitled to any severance pay and shall only receive pay and benefits which Employee earned as of the date of termination.

(ii) The parties agree that for the purposes of this Employment Agreement, a termination for "cause" will be deemed to have occurred when Company terminates Employee's employment because of the occurrence of any of the following events:

(A) Employee shall refuse to accept a change or modification of his title, duties or responsibilities by senior management and/or the Board of Directors;

(B) Employee shall refuse to accept a reasonable transfer not arising from a change in control to a position with comparable responsibility and salary with any affiliated company that does not involve commuting more than fifty (50) miles each way from the Company headquarters in the Fort Collins, Colorado area;

(C) Employee shall die, be adjudicated to be mentally incompetent or become mentally or physically disabled to such an extent that Employee is unable to perform his duties under this Employment Agreement for a period of ninety (90) consecutive days;

(D) Employee shall commit any breach of his obligations under this Agreement;

(E) Employee shall commit any breach of any material fiduciary duty to Company;

(F) Employee shall be convicted of, or enter a plea of *nolo contendere* to, any crime involving moral turpitude or dishonesty, whether a felony or misdemeanor, or any crime which reflects so negatively on Company as to be detrimental to Company's image or interests;

(G) Employee shall commit insubordination or refusal to comply with any request of his supervisor or the Board of Directors of Company relating to the scope or performance of Employee's duties;

(H) Employee shall possess any illegal drug on Company premises or Employee shall be under the influence of illegal drugs or abusing prescription drugs or alcohol while on Company business or on Company premises; or

(I) Employee shall conduct himself in a manner that, in the good faith and reasonable determination of the Senior Management and/or the Board of Directors, demonstrates Employee's unfitness to serve.

7. *Proprietary Information.* Employee agrees that, if he has not already done so, he will promptly execute Company's standard employee proprietary information and assignment of inventions agreement.

8. *Arbitration; Attorneys' Fees.* If any dispute arises under this Agreement or by reason of any asserted breach of it, or from the Parties' employment relationship or any other relationship, the Company, at its sole discretion, may elect to have the dispute resolved through arbitration, so long as all of the arbitrator's fees and expenses are borne exclusively by the Company. The arbitration shall be conducted pursuant to the rules of the American Arbitration association, with the arbitrator being selected by mutual agreement of the parties. Regardless of whether the dispute is resolved through arbitration or litigation, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in enforcing or attempting to enforce any of the terms, covenants or conditions, including costs incurred prior to commencement of arbitration or legal action, and all costs and expenses, including reasonable attorneys' fees, incurred in any appeal from an action brought to enforce any of the terms, covenants or conditions. For purposes of this section, "prevailing party" includes, without limitation, a party who agrees to dismiss a suit or proceeding upon the other's payment or performance of substantially the relief sought.

9. *Notices.* Any notice to be given to Company under the terms of this Agreement shall be addressed to Company at the address of its principal place of business. Any notice to be given to Employee shall be addressed to him at his home address last shown on the records of Company, or to such other address as Employee shall have given notice of hereunder.

10. *Miscellaneous.* This Agreement shall be governed by the laws of the State of Colorado as applied to contracts between residents of that state to be performed wholly within that state. This Agreement is the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior understandings and agreements. This Agreement may be modified only by a written document signed by both parties, except that the Company, in its discretion, may modify any policies, guidelines or other directives, none of which shall constitute a binding agreement or impose any contractual obligations. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year herein above written.

HESKA CORPORATION

By: /s/ ROBERT B. GRIEVE

ROBERT B. GRIEVE
Title: Chief Executive Officer

EMPLOYEE

Name: /s/ JOSEPH H. RITTER

JOSEPH H. RITTER

QuickLinks

EMPLOYMENT AGREEMENT

Exhibit 10.28

SEPARATION, CONSULTING AND RELEASE AGREEMENT

This Separation and Release Agreement (the "Agreement") is made between (i) Dan Stinchcomb ("Employee") and (ii) Heska Corporation (the "Company"). Employee and the Company are referred to collectively as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, Employee was employed at the Company's Fort Collins Heska facility;

WHEREAS, Employee resigned his employment with the Company effective December 31, 2004 (the "Resignation Date");

WHEREAS, the Parties wish to (1) resolve fully and finally any potential claims by Employee against the Company, (2) maintain a business relationship for a reasonable transition period and (3) restrict certain activities by Employee in the future; and

WHEREAS, in order to accomplish this end, the Parties are willing to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the sufficiency of which is acknowledged by the Parties, the Parties to this Agreement agree as follows:

TERMS

1. *Resignation and Effective Date*. Employee's last date of employment with the Company is December 31, 2004. This Agreement shall become effective (the "Effective Date") on the eighth (8^{th}) day after Employee's execution of this Agreement, provided that Employee has not revoked Employee's acceptance pursuant to Paragraph 8.f. below.

2. *Consulting Services.* Employee shall act as an outside consultant to the company during the period from January 1, 2005 to June 30, 2005 (the "Consulting Period") in a manner as follows. Employee shall make himself reasonably available for telephonic consultation with the Company's Chief Executive Officer (the "CEO") during the Consulting Period. The extent of such telephonic consultation, if any, shall be at the sole and absolute discretion of the CEO; provided, however, that such telephonic consultation shall not exceed five (5) hours per week.

3. *Compensation*.

a. *Monthly Payments*. Employee shall receive six (6) monthly payments equal to Employee's monthly "base salary" immediately prior to the resignation date. Payments will be made in accordance with the Company's standard pay dates and payroll practices. These payments (less applicable taxes and deductions) will be mailed or direct deposited to the Employee, so long as Employee has executed this Agreement and has not revoked this Agreement as set forth below.

b. *Vacation Pay*. The Company will pay Employee for all accrued, but unused, vacation in a lump sum check in the amount of $5,010.68 made payable to Employee and delivered or direct deposited to Employee on December 31, 2004.

c. *Medical and Dental Benefits*. Provided that Employee timely elects continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), the Company shall pay, on Employee's behalf, the portion of premiums of Employee's group health insurance, including coverage for Employee's eligible dependents, that the Company paid prior to Employee's resignation of employment with the Company as set forth below. The Company will pay such premiums for Employee's eligible dependents only for coverage for which those dependents were enrolled immediately prior to the Resignation Date. Employee will continue to be required to pay that portion of the premium of Employee's health coverage, including coverage for Employee's eligible dependents, that Employee was required to pay as an active employee immediately prior to the Resignation Date. If Employee executes this Agreement and does not revoke this Agreement, Employee is eligible for such premium payments covering the time period beginning January 1, 2005 and ending on June 30, 2005. For the balance of the period that Employee is entitled to coverage under COBRA, Employee shall be entitled to maintain coverage for Employee and Employee's eligible dependents at Employee's sole expense.

d. *Stock Options*. In consideration for Employee signing and not revoking this Agreement, the Company will allow all stock options issued to Employee on January 31, 2003 and outstanding and unvested as of January 10, 2005 to vest in full as of January 10, 2005. Moreover, if Employee signs and does not revoke this Agreement, the exercise period for Employee's vested options will be extended to and including September 30, 2005. Other than as provided herein, the terms of Employee's stock option grants/agreements and the Company's stock option plan (copies of which are attached hereto as Exhibit A) remain in full force and effect. The Company may, consistent with its obligations under such plan or plans, amend or discontinue any or all stock option plans at any time.

e. *Taxes*. If, for any reason, at any time, a claim is made against the Company for any tax or withholding in connection with or arising out of any payment made or consideration provided under this Paragraph 2 of this Agreement, Employee shall respond to any such claim within thirty (30) days of being notified by the Company and Employee agrees to indemnify the Company and hold it harmless against such claims, including, but not limited to, taxes, attorneys' fees, penalties, and/or interest, which are or become due from the Company.

4. *Return of Company Property*. Employee agrees to return all Company property to Mark Cicotello, no later than January 10, 2005. This property includes, but is not limited to, Company data, documents, and files (in any recorded media, such as papers, computer disks, copies, photographs, electronic data, transparencies, customer lists, and microfiche) that relate in any way to the Company or the Company's business. Employee agrees to return all tools, equipment, materials, access keys or keys, credit cards, laptops, computer disks, computer files, and badges. Employee agrees that, to the extent that Employee possesses any files, data, or information relating in any way to the Company or the Company's business on any personal computer, Employee will delete the data, files, or information (and will retain no copies in any form).

5. *General Release*.

a. The Employee, for himself, and for his affiliates, successors, heirs, subrogees, assigns, principals, agents, partners, employees, associates, attorneys, and representatives, voluntarily, knowingly, and intentionally releases and discharges the Company and its predecessors, successors, parents, subsidiaries, affiliates, and assigns and each of their respective officers, directors, principals, shareholders, agents, attorneys, board members, and employees from any and all claims, actions, liabilities, demands, rights, damages, costs, expenses, and attorneys' fees (including, but not limited to, any claim of entitlement for attorneys' fees under any contract, statute, or rule of law allowing a prevailing party or plaintiff to recover attorneys' fees) of every kind and description from the beginning of time through the end of the Consulting Period (the "Released Claims").

b. The Released Claims include but are not limited to those which arise out of, relate to, or are based upon: (i) Employee's employment with the Company or the termination thereof; (ii) statements, acts, or omissions by the Company whether in its individual or representative capacities; (iii) express or implied agreements between the Parties; (iv) any stock option grant, agreement, or plan (except as provided herein); (v) all state and federal statutes, including, but not limited to, claims based on race, sex, disability, age, or any other characteristic of Employee under the Americans with Disabilities Act, the Older Worker's Benefit Protection Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act, the Equal Pay Act, Title VII of the Civil Rights Act of 1964 (as amended), the Employee's Retirement Income Security Act of 1974, the Rehabilitation Act of 1973, and/or the Worker Adjustment and Retraining Notification Act; (vi) any federal and state common law; and (vii) any claim which was or could have been raised by Employee. The Released Claims include, but are not limited to, claims related to the negotiation and execution of this Agreement, including, but not limited to, claims that this Agreement was fraudulently induced.

6. *Unknown Facts*. This Agreement includes claims of every nature and kind, known or unknown, suspected or unsuspected. Employee hereby acknowledges that Employee may hereafter discover facts different from, or in addition to, those which Employee now knows to be or believes to be true with respect to this Agreement, and Employee agrees that this Agreement and the releases contained herein shall be and remain effective in all respects, notwithstanding such different or additional facts or the discovery thereof.

7. *Confidential Information and Non-solicitation*.

a. Except as herein provided, all discussions regarding this Agreement, including, but not limited to, the amount of consideration, offers, counteroffers, or other terms or conditions of the negotiations or the agreement reached, shall be kept confidential by Employee from all persons and entities other than the Parties to this Agreement. Employee may disclose the amount received in consideration of the Agreement only if necessary (i) for the limited purpose of making disclosures required by law to agents of the local, state, or federal governments, (ii) for the purpose of enforcing any term of this Agreement, or (iii) in response to compulsory process, and only then after giving the Company ten (10) days advance notice of the compulsory process and affording the Company the opportunity to obtain any necessary or appropriate protective orders. Otherwise, in response to inquiries about this matter, Employee shall state, "My employment with the Company has ended," and nothing more.

b. Employee shall not use, nor disclose to any third party, any of the Company's business, customer, personnel, or financial information that Employee learned or has knowledge of during Employee's employment with the Company. Employee hereby expressly acknowledges that any breach of this Paragraph 6 or of the Employee Confidential Information and Inventions Agreement shall result in a claim for injunctive relief or damages against Employee by the Company and possibly by others.

8. *No Admission of Liability*. The Parties agree that nothing contained herein, and no action taken by any party hereto with regard to this Agreement, shall be construed as an admission by any party of liability or of any fact that might give rise to liability for any purpose whatsoever.

9. *Representations and Warranties*. Employee represents and warrants as follows:

a. Employee has read this Agreement, and Employee agrees to the conditions and obligations set forth in it.

b. Employee voluntarily executes this Agreement after having been advised to consult with legal counsel and after having had opportunity to consult with legal counsel and without being pressured or influenced by any statement, representation, or omission of any person acting on behalf of the Company including, without limitation, the officers, directors, board members, committee members, employees, agents, and attorneys for the Company.

c. Employee has no knowledge of the existence of any lawsuit, charge, or proceeding against the Company or any of its officers, directors, board members, committee members, employees, or agents arising out of or otherwise connected with any of the matters herein released.

d. Employee has not previously disclosed any information that would be a violation of Paragraphs 6 and 14 if such disclosure were to be made after the execution of this Agreement.

e. Employee has full and complete legal capacity to enter into this Agreement.

f. Employee understands that Employee is waiving and releasing any claims Employee may have under the Age Discrimination in Employment Act. Employee may revoke this Agreement for seven (7) days following its execution, and this Agreement shall not become enforceable and effective until seven (7) days after such execution. If Employee chooses to revoke this Agreement, Employee must provide written notice to Mr. Mark Cicotello, Vice President, Human Resources, Heska Corporation, 1613 Prospect Parkway, Fort Collins, Colorado 80525, facsimile: 970-472-1636, by hand delivery and by facsimile within seven (7) calendar days of Employee's execution of this Agreement. If Employee does not revoke within the seven-day period, the right to revoke is lost.

g. Employee admits, acknowledges, and agrees that (i) Employee is not otherwise entitled to the amounts set forth in Paragraph 2 and (ii) those amounts are good and sufficient consideration for this Agreement. Employee admits, acknowledges, and agrees that Employee has been fully and finally paid or provided all wages, compensation, bonuses, stock, stock options, vacation, paid time off, or other benefits from the Company which are or could be due to Employee under the terms of Employee's employment with the Company or otherwise.

h. He has had at least twenty-one (21) days in which to consider the terms of this Agreement. In the event that Employee executes this Agreement in less time, it is with the full understanding that he had the full twenty-one (21) days if he so desired and that he was not pressured by the Company or any of its representatives or agents to take less time to consider the Agreement. In such event, Employee expressly intends such execution to be a waiver of any right he had to review the Agreement for a full twenty-one (21) days.

10. *Severability*. If any provision of this Agreement is held illegal, invalid, or unenforceable, such holding shall not affect any other provisions hereof. In the event any provision is held illegal, invalid, or unenforceable, such provision shall be limited so as to effect the intent of the parties to the fullest extent permitted by applicable law. Any claim by Employee against the Company shall not constitute a defense to enforcement by the Company of this Agreement.

11. *Enforcement*. The releases contained herein do not release any claims for enforcement of the terms, conditions, or warranties contained in this Agreement. The Parties shall be free to pursue any remedies available to them to enforce this Agreement.

12. *Entire Agreement*. With the exception only of Employee's obligations under the Employee Confidential Information and Inventions Agreement and as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties. This Agreement supersedes any and all prior agreements (except those described in the first sentence of this Paragraph), and this Agreement cannot be modified except in writing signed by all Parties.

13. *Venue, Applicable Law, and Submission to Jurisdiction*. This Agreement shall be interpreted and construed in accordance with the laws of the State of Colorado, without regard to its conflicts of law provisions. Any disputes arising under this Agreement, by any asserted breach of this Agreement, or from the employment relationship between the Company and the Employee shall be litigated in the state or federal courts in Colorado.

14. *Counterparts*. This Agreement may be executed in counterparts.

15. *Non-Disparagement*. Employee agrees not to make to any person any statement that disparages the Company or reflects negatively upon the Company, including, but not limited to, statements regarding the Company's financial condition, business practices, employment practices, or its predecessors, successors, parents, subsidiaries, officers, directors, employees, or affiliates.

16. *Assignment*. The Company may assign its rights under this Agreement. Employee cannot assign Employee's rights under this Agreement without the written consent of the Company. No other assignment is permitted except by written permission of the Parties.

IN WITNESS WHEREOF, the Parties have executed this Separation and Release Agreement on the dates written below.

EMPLOYEE	HESKA CORPORATION
/s/ DAN STINCHCOMB	/s/ MARK CICOTELLO
DAN STINCHCOMB	MARK CICOTELLO
	V.P. of Human Resources
	Title
December 15, 2004	December 14, 2004
Date	Date

QuickLinks

SEPARATION, CONSULTING AND RELEASE AGREEMENT

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.29

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

DISTRIBUTION AGREEMENT

THIS AGREEMENT entered into as of this 16th day of February, 2001 ("Effective Date"), by and between ARKRAY Inc., a Japanese corporation, having its principal office at 57 Nishi Aketa-cho, Higashikujo, Minami-ku, Kyoto 601-8045, Japan (hereinafter referred to as "ARK"), and Heska Corporation, Delaware corporation having its principal office at 1613 Prospect Parkway, Fort Collins, Colorado 80525, U.S.A. (hereinafter referred to as "Heska").

WITNESSETH

WHEREAS, ARK is a manufacturer and distributor of clinical diagnostic instruments and Heska is a manufacturer and/or distributor of hematology instruments, reagents and other products targeted to veterinary markets.

WHEREAS, ARK desires to appoint Heska as a distributor and Heska wishes to obtain such distribution rights to market and sell Automated Clinical Chemistry Analyzer Model SP-4430 (hereinafter referred to as "Product") as defined herein, effective from the date of the execution of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual covenants herein contained, the parties hereby agree as follows:

ARTICLE I

ARK appoints Heska as a distributor to promote, market, service and sell Product effective from the date of execution of this Agreement, and Heska agrees to accept such appointment subject to and in accordance with the following terms and conditions.

1.1 Product

Product means product to be comprised of Automated Clinical Chemistry Analyzer Model SP-4430 ("Analyzer") and those related spare parts, consumables and reagents manufactured by ARK to be used to analyze blood in patients as listed in Appendix A and as amended from time to time by mutual written agreement of the parties.

1.2 Branding

ARK and Heska agree that the brand name and logotype of Product shall be a combination of "ARKRAY" and "HESKA" in a format to be mutually agreed upon by the parties.

1.3 Distribution Right

Heska shall have an exclusive right to promote, market, sell and distribute Product, with the right to appoint sub-distributors, in North America ("Territory") and only in the veterinary market ("Field"). The exclusivity referred to in this Agreement applies between Heska and ARK or the ARK-appointed distributors.

Heska agrees that, during the term of this Agreement, (a) Heska shall not develop or make commercially available or acquire a product(s) with features identical to Product, and (b) Heska shall not handle or otherwise provide any "off-brand" and/or "generic" form of spare part, consumables and reagents to be used with Product unless such consumables and reagents are not available from Arkray; provided, however, this section will not apply to common laboratory transfer pipettes, common QC serum materials and primary blood collection tubes that fit commercially available external centrifuges.

1.4 Sales Responsibility

Heska assumes all sales responsibilities for Product to be sold in the Territory and Field under this Agreement. "Sales Responsibilities" as used herein includes all sales force training, maintenance and support activities, as well as pricing, advertising, promotion, and demonstration. ARK will provide Heska with specifications, test procedures and manuals written in English that may be reasonably necessary for Heska to fulfill its Sales Responsibilities.

1.5 Relationship of Parties

Each party shall be considered an independent contractor of the other party. Nothing in this Agreement shall be construed as establishing a joint venture or partnership or principal/agent, or employee relationship. No party is authorized to make any statement, claim, representation or warranty or to act on behalf of any other party with respect to any of the provisions of this Agreement, except as provided for herein or as specifically authorized in writing by other party.

1.6 Term and Renewal

This Agreement shall continue in full force and effective for a period of three (3) years from the date of execution of this Agreement and shall be automatically renewed for additional one year periods unless a party provides notice to the other party of its intent not to renew this Agreement at least one hundred eighty (180) days prior to the current expiration date of this Agreement, unless this Agreement is terminated earlier as set forth in Section 1.7.

1.7 Termination

Either party may cancel this Agreement by a written notice at any time in the event that the other party shall have been in material breach of any of the provisions of this Agreement and such breach shall have been continued for sixty (60) days after such a written notice thereof was provided to the breaching party by the non-breaching party. Either of the parties may terminate this Agreement at any time without giving any notice to the other party if that party is declared insolvent or bankrupt by a court of competent jurisdiction. If Heska fails to meet the agreed upon minimum annual purchases for two (2) consecutive years, then Heska shall lose all rights to distribute Analyzer. However, ARK shall continue to supply Heska with Consumables as provided in Section 2.3.

Upon any such termination of this Agreement, the terminating party may (but has no obligation to) cancel any and all unshipped sales orders concluded hereunder. Unless otherwise provided herein, each party waives any claims for compensation or damages in connection with such cancellation of undelivered Products from the other party.

The provisions of Sections 2.3 (Spare Parts, Consumables and Reagents), 2.4 (Patents), 4.2 (Confidentiality), 4.3 (Indemnification), 4.6 (Publicity), and 4.10 (Law of Contract Jurisdiction) shall survive termination of this Agreement.

ARTICLE II

2.1 Warranty and Quality

ARK warrants that Product to be delivered hereunder shall be free and clear of any and all liens, encumbrances or defects in title and shall be conveyed to Heska with lawful and marketable title. ARK warrants that Product shall satisfy the performance specifications set forth in Appendix B. ARK will not make any changes to Product without first notifying Heska in writing at least ninety (90) days in advance of such changes and providing Heska with evidence that such changes do not alter the performance specifications of Product and obtaining Heska's consent in writing. ARK shall input normal reference ranges for animals supplied by Heska in writing into the Analyzers without modification by ARK.

In the event that Heska determines that any shipment of Product to be delivered to it hereunder fail/s to conform to the performance specifications set forth in Appendix B, Heska shall promptly notify ARK and reasonably specify the manner in which Product fail/s to conform. ARK shall have the rights to make its own inspection and evaluation of the allegedly non-conforming Product and shall notify Heska, within twenty one (21) days after receipt of such information, including samples of the allegedly non-conforming Product from Heska, whether it has confirmed and accepted Heska's claim that Product are/is non-conforming.

If ARK determines and confirms that Product are/is non-conforming, ARK shall replace, at no cost to Heska, the non-conforming Product at the earliest date after confirmation of Product non- conformance. ARK shall also bear the freight charges, insurance, duties and tariffs for return of all non-conforming Product to ARK from Heska.

If, after evaluating the allegedly non-conforming Product, ARK believes that Product in question are/is conforming, ARK shall supply Heska with its written findings and request Heska to submit additional samples of Product to an independent third party, acceptable to both parties, for testing in accordance with and against the performance specifications set forth in Appendix B. The decision of such third party shall be final with respect to the alleged non-conforming Product and binding on both parties to this Agreement.

If the decision of the third party is that Product are/is non-conforming, ARK shall pay the return freight, insurance, duties and tariffs with respect to Product shipped to Heska as well as all costs and expenses relating to the testing of Product by the independent third party. In addition, ARK shall supply Heska with a Certificate of Destruction certifying that Product have/has been destroyed in an environmentally safe manner.

If the decision of the third party is that Product conform/s to the applicable specifications, Heska shall accept Product and shall be responsible for the return freight, insurance, duties, tariffs and all costs and expenses relating to the testing of Product by the independent third party.

Each Product is warranted by ARK to be free from defects in materials and workmanship for a period of sixteen (16) months from the date of shipment from ARK to Heska. During the warranty period, ARK will provide Heska with all necessary warranty replacement parts at no charge. ARK's warranty obligation under this Article is limited to the repair or replacement of Product.

2.2 Trademark

ARK grants to Heska a limited license to use on a non-exclusive basis ARK's trademarks and brand names as set forth in Appendix C for the purposes specified in this Agreement. Except as specified in this Section and Section 1.2, no party to this Agreement will derive any legal rights to the other party's trademarks. No party shall adopt, use or register in any country, without the written consent of the other party, a trademark for any similar, related or competitive product which is likely to be confused with a trademark of the other party.

2.3 Spare Parts, Consumables and Reagents

ARK agrees that spare parts, consumables and reagents used with Analyzer (collectively called "Consumables") will continue to be furnished to Heska at the prices fixed on the basis of the price negotiation every year for a period of five (5) years following the last shipment of Analyzer from ARK to Heska as long as Heska continues to have exclusive distribution rights to sell Analyzer. Should Heska lose ARK's exclusive distribution rights to sell Analyzer, ARK agrees to allow Heska to be a supplier of Consumables to Heska's customers for a period of twelve (12) months from the loss of exclusive distribution rights to sell Analyzer. Thereafter, ARK agrees to supply Consumables to Heska's customers during the time ARK sells Consumables in North America directly or through a distributor.

2.4 Patents

ARK warrants and represents to Heska, and without admitting any infringement, to the best of its current actual knowledge neither Product of this Agreement nor its manufacture, use, importation or sale infringe upon any issued patent or proprietary rights held by a third party.

ARK shall defend, indemnify and hold Heska and its subsidiary or affiliated companies, and customers thereof, harmless from any damages, including without limitation reasonable attorneys' fees, with respect to any and all claims that the manufacture, use, rental or sale of any of Product of this Agreement infringes upon any patent or proprietary rights of a third party.

ARTICLE III

3.1 Orders and Forecasts

The forecast provided for below will include a firm purchase commitment covering the first five (5) months of the forecast. Therefore, Heska will issue periodic purchase orders within the terms specified below. Such purchase orders shall not bind ARK unless or until accepted by ARK. ARK shall notify Heska of its decision on acceptance within ten (10) days after receipt of a purchase order.

Heska shall provide ARK, on a quarterly basis by the end of each Calendar quarter, a non-binding rolling one (1) year forecast of its anticipated purchases of Product. ARK shall keep Heska notified immediately of any events that may significantly impact ARK's ability to deliver, such as interruptions by suppliers, labor troubles, discovered defects, and the like. ARK agrees to ship to Heska (i) Consumab1es within ninety (90) days of ARK's acceptance of a purchase order for Consumab1es, and (ii) Analyzers within one hundred twenty (120) days of ARK's acceptance of a purchase order for Analyzers.

3.2 Minimum Purchase

ARK and Heska shall separately discuss and agree on a minimum annual purchase of Product to be made by Heska from ARK for every calendar year three (3) months prior to the beginning of every calendar year during the effective period of this Agreement.

3.3 Pricing

ARK will sell Product to Heska in accordance with the prices agreed upon, which shall be denominated in Japanese yen. Upon thirty (30) day prior written notice from one party to the other, the parties agree to discuss in good faith any adjustment to the prices of Product in an attempt to reach a mutually satisfactory agreement. If a mutually satisfactory agreement cannot be reached, the prices of Product then in effect shall remain applicable.

3.4 Shipping of Products, Reagents, Spare Parts and etc.

ARK will immediately confirm the receipt of each purchase order from Heska in order that Heska has assurance that each purchase order is duly received by ARK. ARK shall try its best efforts to ship all of Product ordered by Heska as specified by Heska. In the event of its inability to make a complete shipment as specified by Heska, ARK shall notify Heska immediately of the possible shipping date. Both parties shall discuss and amicably agree to adjust the shipping date if ARK's shipping date causes Heska any inconvenience. Should ARK upon acceptance of a purchase order fail to ship Product from Japan within ten (10) business days of specified shipping dates twice within a twelve (12) month period, ARK agrees to renegotiate the annual minimum.

3.5 Payment Terms

At Heska's sole option, Heska will provide a letter of credit or prepay in Japanese yen one week in advance of the shipment of Products under a purchase order; provided Heska receives a timely firm shipment date in writing from ARK. Ark agrees to renegotiate the payment terms within twelve (12) months of the Effective Date.

3.6 Packing

Product shall be labeled, packaged and shipped to Heska in accordance with the ARK's quality standard to satisfy the requirements for Product Specifications set forth in Appendix B. Labels for Products shall be mutually agreed upon by the Parties.

3.7 Freight Insurance

ARK will ship Heska Product ordered by Heska under the terms of FCA Osaka and/or Kobe, Japan as defined in Incoterms 2000. Heska shall be responsible for payment of all air and/or sea freight, insurance, duties and tariffs for shipments of Product to Heska, except as both parties agree.

ARTICLE IV

4.1 Report

Heska shall make periodic reports on a quarterly basis to ARK on the sales activities and the sales promotion plans of Product, and the market conditions including information on the competitive products.

4.2 Confidentiality

(a) "Confidential Information" means any technical, manufacturing, business and marketing information including, without limitation, patent applications, patent disclosure, data, inventions, concept, idea, structures, formulas, techniques, processes, apparatus, know-how disclosed orally or in tangible form such as documents, memoranda, reports, correspondence, machine readable tapes or disks, drawings, notes or other media. All confidential information disclosed in this Agreement which is writing or other tangible form shall be clearly marked as "Confidential" or if communicated orally or obtained through observations, shall be confirmed in writing within thirty (30) business days.

(b) The party receiving information ("Receiving party") agrees that the party disclosing ("Disclosing party") is the owner of the confidential information and that the Receiving party will not use any confidential information for any purpose except for the execution of this Agreement. Each Receiving party agrees not to disclose any confidential information to any third party or to employees of the Receiving party, except to those employees who are required to have the information in order to be engaged in the execution of this Agreement. Receiving party's obligations with regard to the confidentiality and nonuse of such information shall not extend to any information that:

(1) was in the public domain at the time it was disclosed or becomes part of public domain after disclosure, including, without limitation, disclosure in a U.S. or foreign patent or disclosure in a printed publication which is generally available to the public, or through the unrestricted sale of Product embodying the same to the extent that such confidential information is ascertainable from such Product; or

(2) was known to the Receiving party at the time of its disclosure or becomes known to the receiving party without breach of this Agreement, provided that the Receiving party shall have the burden of proving such knowledge: or

(3) is independently developed by the persons of the Receiving party who have not been exposed to the confidential information as evidenced by written records; or

(4) is disclosed by a Disclosing party to a third party without restrictions on such third party's rights to disclose or use the same; or

(5) is disclosed by the Disclosing party pursuant to judicial order, a requirement of a governmental agency or by operation of law, provided that the Receiving party shall (i) give the Disclosing party prompt notice of any such possible disclosure of confidential information and (ii) permit the

Disclosing party, at its expense, to take all reasonable actions to prevent or limit the scope of such disclosure and/or to obtain protective orders to protect the confidentiality of such confidential information; or

(6) is approved for release upon the Disclosing party's prior written consent; or

(7) is disclosed by the Disclosing party to the Receiving party after written notification is delivered by the Receiving party to the Disclosing party that it will not accept any further confidential information in confidence.

(c) Each Receiving party agrees that it shall take all reasonable measures to protect the secrecy of and avoid unauthorized use of the confidential information and that any disclosure of the confidential information within the Receiving party will only be such as is reasonably necessary to its evaluation and will only be to employees of the Receiving party who are bound by written agreements with the Receiving party to maintain the confidential information in confidence. Each Receiving party shall immediately notify the Disclosing party in the event of any unauthorized use or disclosure of the confidential information.

(d) The obligations imposed on the parties under this Article shall survive for five (5) years following the termination of this Agreement.

4.3 Indemnification

ARK agrees that it will defend, indemnify and hold harmless Heska, its directors, officers, employees, agents and affiliates from and against all costs, damages, loss, expense (including reasonable attorney's fees), claims by or judgments in favor of third parties for bodily injury, property damage, or any other damage or injury caused or alleged to have been caused by the manufacture, sale or use of the Product, except to the extent that such damage or injury results substantially from the gross negligence or wrongful acts of Heska. Furthermore, each party agrees that it shall defend, indemnify and hold the other party, its directors, officers, employees, agents and affiliates harmless from all costs, damages, loss, expense (including reasonable attorney's fees), or any other damage caused by, arising out of, or resulting from (i) such party's failure of performance of the terms of this Agreement, or (ii) such party's failure to comply with any and all laws (statutory and common) and regulations applicable to such performance. Heska shall defend, indemnify and hold ARK, its directors, officers, employees, agents and affiliates harmless from all costs, damages, loss, expense (including reasonable attorney's fees), or any other damage caused by, arising out of, or resulting from the reference ranges supplied by Heska under Section 2.1.

Each party agrees to give the other prompt notice in writing of the institution of any suit, or any claims made by a third party, including any claims asserted or made by any governmental authority having jurisdiction over the parties and Product of this Agreement. ARK and Heska agree to cooperate with each other in the defense of such suits or claims and to provide all necessary information to enable the defending party to carry on the defense of such suit or any appeal from a judgment or decree rendered therein.

4.4 Force Majeure

Except with respect to the allocation obligation of ARK provided for in Paragraph 4.3, no party shall be liable to the other in any manner for failure or delay to fulfill all or part of this Agreement, directly or indirectly, owing to acts of God, governmental orders or restriction, war, threat of war, warlike conditions, hostilities, sanctions, mobilization, blockade, embargo, detention, revolution, riot, looting, strike, lockout or other labor troubles, fire, typhoon, earthquake, lightning, accident of any other causes or circumstances beyond its control.

4.5 Notices

Every notice, consent, instruction, order or decision given under this Agreement shall hereunder be given or made in writing in English, and if required to be given promptly shall be given as expeditiously as possible, and in any event, within seven (7) business days, and shall be delivered personally or if by mail, shall be mailed registered or certified mail, return receipt requested, as follows:

If to ARK:
57 Nishi Aketa-cho
Higashi-kujo, Minami-ku
Kyoto 601-8045, Japan
Attention:

If to Heska:
1613 Prospect Parkway
Fort Collins Colorado 80525
USA
Attention: Chief Executive Officer
Copy to: Vice President,
Intellectual Property and
Business Development

4.6 Publicity

Neither party shall announce nor disclose the existence of this Agreement or its terms and conditions, or advertise or release any publicity regarding this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. This provision shall not apply to the disclosure of information required to satisfy disclosure obligations imposed by law, court order or regulations, including, but not limited to, the reporting requirements of the United States Securities and Exchange Commission.

4.7 Assignability

This Agreement and the rights and obligations hereunder shall not be assigned or transferred to any third party by either of the parties hereto without the prior written approval of the other party; provided, however, no prior consent shall be required for the assignment or transfer of substantially all the assets of a party relating to the subject matter of this Agreement or related to a change of control of a party.

4.8 Waivers

No delay or omission in the exercise of any right or remedy of any party or any default by another shall impair any right or remedy otherwise available nor shall it be construed as a waiver of any right or remedy. Any waiver by any party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision.

4.9 Entire Agreement

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. All express or implied agreements and understandings, either oral or written, heretofore made are expressly superseded by this Agreement. This Agreement may be modified only by written agreement duly executed by the parties.

4.10 Law of Contract Jurisdiction

This Agreement shall be governed by and construed under the laws of the district where the contracting party is a defendant who defends against the other party, with regard to the construction or interpretation of the Agreement. The English language employed herein shall be controlling and this Agreement shall be deemed to have been executed at Fort Collins, Colorado, United States of America and Osaka, Japan. Any dispute, controversy or difference arising between the parties, out of or in relation to or in connection with this Agreement, or the breach thereof, which cannot otherwise be settled between the parties within a period of ninety (90) days shall be submitted to an arbitration before a competent arbitration tribunal in Colorado, United States of America in case Heska is a defendant, and Osaka, Japan in case ARK is a defendant, for binding resolution in accordance with the rules selected by the arbitrator(s), provided the proceedings are conducted in the English language.

4.11 Effect of Headings

Subject headings of the Sections of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of its provisions.

4.12 Execution in Counterparts

This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original but all of which together shall be deemed for all purposes one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives.

ARKRAY Inc.

By: [***]

[***]

Title: [***]
Date: February 16, 2001
Place: Fort Collins, CO USA

By: [***]

[***]

Title: [***]
Date: February 27, 2001
Place: Kyoto

Heska Corporation

By: /s/ JAMES H. FULLER

JAMES H. FULLER

Title: President and COO
Date: February 16, 2001
Place: Fort Collins, CO USA

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

APPENDIX A

PRICE LIST
PL2001-01 (Second version)

ARKRAY (Logo)

Date: January 23, 2001

Distributor:

Heska Corporation
1613 Prospect Parkway, Fort Collins, Colorado 80525 U.S.A.
Phone 970-493-7272

Territory:

North America

Payment Terms:

D/A within 30 days after the Bill of Lading date

Delivery Terms:

FCA Osaka/Kobe, Japan

We reserve the right to change the prices with 30 days prior notice.

Code No. 18303

SPOTCHEM EZ Model: "SP-4430"

Specification:	
Sample:	Serum, Plasma, Whole Blood (only Hb)
Reagent:	SPOTCHEM II Reagent Strip
Measurement Items:	Glu, UA, T-Cho, TG, BUN, T-Bil, Ca, TP, Alb, GOT, GPT, LDH, CPK, Hb, Amy, GGT, ALP, Cre, HDL-C, FRA, IP, Mg, ** Total Test Items = 22 ** Max. 9 items can be measured simultaneously
Warm-Up:	10 minutes
Display:	20 digits × 2 lines LCD (Character)
Operation Panel:	Sheet Key
Calibration:	Calibration by Magnetic Card or by Calibration Kit
Data Storage:	100 Measurements
Dimension & Weight:	338 × 203 × 167 (WDH), Approx. 5.4kg

Including:

Thermal Printer Paper(1), Power Cord(1), AC Adapter(1), Accessory case(1), Operating Manual(1), Warranty Card(1), Tip(10), Cleaning Wire(1), Cleaning Set(1), Nozzle Set(1), Wrench Set(1), Centrifuge Tube(10), Tip Waste Case(2), Protective Cover(2)

*** minimum ordering unit = to be decided later

FCA Kobe/Osaka **JP¥[***].- / unit**

Optional Consumable Accessories:

CODE NO.	DESCRIPTION	@ PRICE FCA Japan
10067	Thermal Printer Paper (For Built in Printer, 58 mm width)	¥ [***]
10204	Serum Sample Tube (100 pieces, blue cap)	¥ [***]
10191	Serum Sample Tube (500 pieces, blue cap)	¥ [***]
10202	Whole Blood Sample Tube (100 pieces, orange cap)	¥ [***]
10192	Whole Blood Sample Tube (500 pieces, orange cap)	¥ [***]
10200	Diluent for Hb measurement (20 mL, 50 pieces)	¥ [***]
10206	Pippete Tip for Hb Meas. (100L, 960 pieces)	¥ [***]
10207	Pippete Tip for Hb Meas. (1000L, 960 pieces)	¥ [***]
77041	Calibrator Kit (Low and High, 2 vials each, 2 vials of dilution)	¥ [***]
77042	Calibrator Hb Kit (Calibrator and dilution for Hb meas)	¥ [***]
77043	Calibration Check (4 pieces of lyophilized serum 3 mL)	¥ [***]
10711	Tip Set (EZ) 100 pieces	¥ [***]
10712	Centrifuge Cup (100 pieces)	¥ [***]
10743	Tip Set (EZ) (500 pieces)	¥ [***]
10692	AC Adaptor	¥ [***]
10698	Cleaning wire	¥ [***]
10208	Cleaner Set (Brush, 5 cotton swabs)	¥ [***]
10193	Pippete for Solution (For 3 mL)	¥ [***]

10194	Pippete for Hb Meas (For 40 mL,200L 1 each)	¥ [***]
10199	Sample Rack (For 30 sample tubes)	¥ [***]
10699	Nozzle Set (EZ) (Replacement Nozzle, O-ring)	¥ [***]
10700	Tool Set for Nozzle Replacement	¥ [***]
10701	Waste Case (2 pieces)	¥ [***]
10702	Protective Cover (2 pieces)	¥ [***]
18204	Portable Centrifuge (CF-9520)	¥ [***]
10703	RS-232C, Connection Cable	¥ [***]
10704	Carrying Case	¥ [***]

Optional Parts:

"Optional Parts List" to be supplied separately

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SPOTCHEM II Reagent Strips (Single Type)

CODE NO.	DESCRIPTION	@ PRICE FCA JAPAN
77240	Glu	[***]
77241	UA	[***]
77242	T-Cho	[***]
77243	TG	[***]
77244	BUN	[***]
77245	T-Bil	[***]
77246	Ca	[***]
77247	T-Pro	[***]
77248	Alb	[***]
77249	GOT	[***]
77250	GPT	[***]
77251	LDH	[***]
77252	CPK	[***]
77253	Hb	[***]
77254	Amy	[***]
77255	GGT	[***]
77256	ALP	[***]
77257	Cre	[***]
77258	HDL-C Kit	[***]
77259	FRA	[***]
77268	IP	[***]
77269	Mg	[***]

* 25 Strips/Box

SPOTCHEM II Reagent Strips (Multi Type)

CODE NO.	DESCRIPTION	@ PRICE FCA JAPAN
77262	Panel-1	JP¥ [***]
	Vet multi panel	JP¥ [***]

* 25 Strips/Box

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

APPENDIX B
PRODUCT SPECIFICATIONS

INSTRUMENT

SPOTCHEM EZ MODEL: "SP-4430"	
SAMPLE:	Serum, Plasma, Whole Blood (only Hb)
REAGENT:	SPOTCHEM II Reagent Strip
MEASUREMENT ITEMS:	Glu, Ua, T -Cho, TG, BUN, T -Bil, Ca, TP, Alb, GOT, GPT, LDH, CPK, Hb, Amy, GGT, ALP, Cre, HDL-C, FRA, IP, Mg TOTAL TESTS: 22, 9 simultaneously
WARM-UP:	10 Minutes
DISPLAY:	20 digits × 2 lines LCD (character)
OPERATION PANEL:	Sheet key
CALIBRATION:	Magnetic card or kit
DATA STORAGE:	100 measurements
DIMENSION & WEIGHT	338 × 203 × 167 (WDH), Approx 5.4 kg
SOTWARE:	Menu sub routine for species selection & normal values
WARRANTY:	16 Months

REAGENTS
[***]

		[***]			
	[***]	[***]	[***]	[***]	
GLU	[***]	[***]	[***]	[***]	
BUN	[***]	[***]	[***]	[***]	
T-BIL	[***]	[***]	[***]	[***]	
CA	[***]	[***]	[***]	[***]	
T-PRO	[***]	[***]	[***]	[***]	
ALB	[***]	[***]	[***]	[***]	
GPT	[***]	[***]	[***]	[***]	
AMY	[***]	[***]	[***]	[***]	
GGT	[***]	[***]	[***]	[***]	
ALP	[***]	[***]	[***]	[***]	
CRE	[***]	[***]	[***]	[***]	
IP	[***]	[***]	[***]	[***]	
GOT	[***]	[***]	[***]	[***]	
FRA					[***]
CPK	[***]	[***]	[***]	[***]	
Mg	[***]	[***]	[***]	[***]	
TG	[***]	[***]	[***]	[***]	
UA	[***]	[***]	[***]	[***]	
T-CHO	[***]	[***]	[***]	[***]	
LDH	[***]	[***]	[***]	[***]	
Hb	[***]	[***]	[***]	[***]	
HDL-C(D)	[***]	[***]	[***]	[***]	
PANEL-1	[***]	[***]	[***]	[***]	
	[***]				

[***]

[***]

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Color specifications | Basic design system

1-7-1

ARKRAY blue (Example of color)	If D1C641 is not available —C100 + M60 —PANTONE293	ARKRAY mark is expressed in the two colors, ARKRAY blue and ARKRAY orange. ARKRAY blue is the corporate color, representing fair, good faith and "truthful" stated in our corporate philosophy.
ARKRAY orange (Example of color)	If DIC205 is not available —M50 + Y90 —PANTONE136	ARKRAY orange indicates vitality, meaning "active" in the corporate philosophy. ARKRAY logo should be painted in black. In case the number of color is limited, follow the coloring specifications below.
Coloring instruction		
	Color type	
(Example of ARKRAY logo)		(Example of ARKRAY logo)
Prototype (basically used)		If the prototype cannot be used due to the limitation of the number of colors, use ARKRAY blue and ARKRAY orange as shown above.
	Monochrome types	
(Example of ARKRAY logo)		(Example of ARKRAY logo)
Monochrome type 1		**Monochrome type 2**
Use black and meshed black 40% as shown above. If the black is not available to use, use ARKRAY blue (or the most similar color) instead of black.		If the meshed black is not clearly shown in monochrome print, use black only.
	Reversed color type	
(Example of ARKRAY logo)		If the ARKRAY colors don't look attractive due to the color of foundation the ARKRAY brand is on, use white only shown at the left.

APPENDIX C

ARKRAY brand specifications 1 | Basic design system

1-4-1

Prototype (Example of ARKRAY logo)	ARKRAY brand consists of ARKRAY mark and logo. Basically the prototype should be used.
Sub-design (Example of ARKRAY logo)	If the prototype cannot be used due to size of space, use the sub-design instead.
Isolation —Prototype (Example of ARKRAY logo) —Sub-design (Example of ARKRAY logo)	The isolation is the minimum sized space surrounding the ARKRAY brand to set it apart from other factors in order to make the design prominent. Do NOT allow other factors to enter the space.

QuickLinks

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.30

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SUPPLY AND DISTRIBUTION AGREEMENT

This Agreement entered into by and between Heska Corporation, a Delaware corporation, having a principal place of business at 1613 Prospect Parkway, Fort Collins, Colorado 80525 ("Heska,") and Boule Medical AB, a Swedish corporation, having a principal place of business at Vastberga Alle 32, P.O. Box 42056, SE-126 13 Stockholm, Sweden ("Boule").

In consideration of the covenants and obligations set forth in this Agreement, the Parties hereby agree as follows:

1. Definitions

1.1 "ABC System" shall mean the veterinary hematology analyzer supplied to Heska under an agreement with Scil GmbH (Formerly Praemix Wirkstoff GmbH) dated June 18, 1998.

1.2 "Analyzer" means the Ca 620-16 or Ca 530-16 Veterinary Hematology Analyzer manufactured by Boule.

1.3 "Affiliate" means all entities at least fifty percent (50%) owned or controlled by a Party, an entity which directly or indirectly owns or controls more than fifty percent (50%) of the voting stock of a Party, and any entity, the majority ownership of which is directly or indirectly common to the ownership of a Party.

1.4 "Calendar Year" shall mean, with respect to the first Calendar Year, the period commencing on the first date of purchase of Product by Heska for commercial sales and ending on December 31, 2004. The second year and all subsequent Calendar Years shall commence on January 1 and end on December 31 of each year thereafter. "Calendar Half Year" shall mean each six months period ending on the last day of June and December. "Calendar Quarter" shall mean each three month period ending on the last day of March, June, September and December.

1.5 "Effective Date" shall mean the date this Agreement is executed by the last to sign Party.

1.6 "Field" shall mean the veterinary market.

1.7 "Party or Parties" shall mean Heska, Boule or both as the context indicates.

1.8 "Product" shall mean the Analyzer and associated spare parts, consumables and reagents listed in Appendix A, and ABC System reagents.

1.9 "Territory" shall mean North America.

2. Grant

2.1 *Distribution Right.* Boule hereby grants Heska the exclusive right to promote, market, sell and distribute Product in the Field and within the Territory.

2.2 *Subdistributors.* Heska shall have the right to appoint subdistributors to promote, market, sell and distribute Product in the Field and within the Territory.

2.3 *Restrictions.* Without the prior written consent of Boule, Heska undertakes not to manufacture or distribute within the Territory any products that are similar or identical to or otherwise competing with any of the Products, except Heska shall have the right, but not the obligation, to sell its inventory of reagents and instruments purchased from Scil, Inc. for a period of one year from the Effective Date of this Agreement.

Moreover, Heska will refrain without Boule's prior written consent, to the extent admissible under any mandatory law applicable to this Agreement, from selling, directly or indirectly, any Products to customers outside the Territory and/or the Field or, to the best of Heska's knowledge, Products otherwise intended for use outside the Territory and/or outside the Field.

2.4 Should Boule decide not to commercialize ABC System reagents in any country outside North America, Heska shall have the first right of refusal for distribution in territories available under Boule's agreement with [***]. Boule agrees not to commercialize the ABC System reagents before Heska starts selling the product.

2.5 *New Product Development.* [***]

3. Supply of Product

3.1 *Forecasts.* At least ninety (90) days prior to each Calendar Quarter after the Product is available for purchase by Heska, Heska shall provide Boule a binding forecast of anticipated purchases of Product for such Calendar Quarter, and a non-binding rolling twelve (12) month forecast of anticipated purchases of Product. Product shall be available for purchase by Heska on or before October 1, 2003.

3.2 *Purchase Orders.* Written purchase orders shall be submitted by Heska to Boule at least ninety (90) days prior to the requested delivery date. No purchase orders for the Product shall be binding upon Boule until accepted in writing by Boule. Boule agrees to review promptly all purchase orders placed by Heska and to notify Heska of acceptance or rejection of such purchase orders without delay. Boule shall use its best efforts to deliver the Products on or before the date specified in the accepted purchase orders or as soon thereafter as is reasonably possible. Boule shall however not be liable to pay any damages due to its late delivery.

3.3 *Purchase Minimums.* The minimum purchase commitment for the first Calendar Year of commercial sale shall be two hundred (200) Analyzers. For each subsequent Calendar Year, the Parties will mutually agree upon annual minimums for the purchase of Analyzers by Heska at least three (3) months prior to the beginning of each subsequent Calendar Year. Should the Parties fail to reach such an agreement, the minimum commitment for the subsequent Calendar Year shall remain the same as the minimum purchase commitment for the immediately preceding Calendar Year. Should Boule fail to deliver Product that conforms to the Specifications set forth in Appendix B within 90 days of receiving a purchase order more than once per Calendar Year, Boule agrees to readjust the minimum purchasing commitment as mutually agreeable to the Parties.

3.4 *Delivery and Acceptance.* Product shall be delivered F.O.B. Stockholm, Sweden (INCOTERMS 2000), in accordance with Heska's instructions and to the location specified by Heska.

Each shipment of Product to Heska will be accompanied by a quality control certificate. The certificate shall be issued in compliance with the specification of Appendix B, which specification shall be used for acceptance or rejection of Product by Heska. Heska will promptly inspect each shipment and will inform Boule if a shipment is non-conforming to such specifications. Unless Heska advises Boule that a shipment is non-conforming within forty-five (45) days of its receipt, the shipment will be deemed accepted by Heska. The provisions set out in Section 6.1 (c) below shall apply in respect of any non-conforming Product. Boule shall pay a rejection rate of one percent (1%) of the purchase price for any such non-conforming Product.

3.5 *Labels.* Labels for Product, including storage and handling instructions, shall be mutually agreed upon by the Parties. Any additional labeling costs incurred as a result of such agreement shall be borne by Heska, unless required by Boule.

3.6 *Consumables.* Unless Boule terminates this contract pursuant to Section 8.2 below, Boule agrees that spare parts, consumables and reagents identified in Appendix A (collectively referred to as "Consumables") will continue to be supplied, on a non-exclusive basis, to Heska by Boule under the terms of this agreement for a period of five (5) years following the termination of this contract; provided, however that Boule shall provide Heska Consumables at terms at least as favorable as Boule offers to any other customer(s). Should Boule terminate this contract pursuant to Section 8.2 (a), (b), or (e), Boule agrees to supply Consumables to Heska and to allow Heska to be a supplier of Consumables to Heska's customers for a period of twelve (12) months from the termination. Thereafter, Boule agrees to supply Consumables to Heska's customers in a country within the Territory during the time Boule sells Consumables in that country directly or through a distributor.

3.7 *New Products.* Boule shall offer Heska all new Boule products with potential veterinary application ("New Products"). Heska shall have a first right of refusal for period of sixty (60) days from receipt of a written offer by Boule to express an interest in any New Product. If Heska expresses an interest in a New Product, the Parties agree to engage in good faith negotiations to add the New Product to this Agreement upon mutually acceptable terms signed by the Parties.

4. Prices and Payment

4.1 *Prices.* The purchase price of Product to be paid by Heska to Boule shall be as set forth in Appendix A. All applicable sales taxes, shipping fees and insurance with respect to the transfer of Product from Boule's facility to Heska's designated location shall be paid by Heska. All prices and fees shall be defined in Euros.

Beginning September 30, 2004 and every September 30 as long as this agreement shall be in effect, Heska and Boule shall set the "Base Price" for both the CA 620-16 Vet, 110/60 and the CA-16 Vet with MPA, 110/60, which shall be subject to cumulative annual price adjustments as detailed later in this section, based on an "Exchange Rate", as defined later in this section, as follows:

	Base Price (EUR)
[***]	[***]
[***]	[***]
[***]	[***]

Where Exchange Rate is the average USD/EUR exchange rate for the period beginning on July 1 and ending on September 30 of the current year as reported by the Financial Times of London.

Boule may, after January 1, 2004, and subject to the restrictions set forth herein, adjust the Analyzer or Consumables purchase prices in Appendix A to pass through actual changes in the raw material and labor costs associated with the manufacture of the said Products, although the adjustment for labor costs shall by itself not cause price increases of more than 3% annually. There shall not be more than one (1) upward adjustment of each of the Product prices during any Calendar Year for any and all reasons. Boule shall provide Heska prior written notice by September 30 of any proposed increase in the purchase price for the next Calendar Year. Boule agrees to keep true and accurate books of accounts relating to the manufacture of the said Products and agrees further to make said books freely available to Heska during ordinary business hours to the extent necessary to verify any such price adjustments. If the proposed increase in the purchase price of Analyzer, Consumables or reagents is unacceptable to Heska, the Parties shall mutually agree upon a reduced minimum purchase commitment for the subsequent Calendar Year. If the Parties are unable to reach a mutually agreeable minimum purchase commitment, either Party shall have the right to terminate the Agreement and Boule shall continue to supply Consumables as provided in Section 3.6.

4.2 *Payment.* For payment terms, see Appendix A.

4.3 *Resale Product Prices.* Heska shall have the unrestricted right to determine the prices at which it resells the Products purchased under this Agreement. Boule shall not have the authority to require or suggest that Heska charge a particular resale price for the Products purchased from Boule.

5. Marketing

5.1 *Marketing Support.* Notwithstanding Section 4.1, Boule agrees to provide fifteen (15) Analyzers at a discount of thirty percent (30%) for use as demonstration units for Heska's marketing and sales activities. This discount is not possible to combine with other discounts. Boule agrees to provide reasonable technical assistance and training, as requested by Heska, to: (a) enable Heska to market, sell and distribute Product; (b) enable Heska to install, operate and use the Product, and (c) educate Heska about improvements to Product. Such technical assistance shall be provided at Boule's expense to the extent not exceeding five working days for one person. Any additional technical assistance shall be subject to the payment of a mutually acceptable consulting rate. Boule will provide an electronic copy of the operator's manual and all updates to Heska.

5.2 *Trademarks.* Boule grants Heska a limited, non-exclusive license to use Boule trademarks and brand names as set forth in Appendix C for the purposes of marketing and selling Product. Except as specified in this Section, Heska shall not derive any legal rights to Boule's trademarks or brand names. Heska shall

use Boule's trademark and brand names solely in accordance with such instructions as Boule may give from time to time.

5.3 *Product Improvements.* Boule shall notify Heska in writing of any improvements to Product developed by Boule useful for veterinary applications. Subject always to mutual agreement and available resources in each separate case, Boule further agrees to support on-going Product development activities with Heska.

5.4 *Complaints/Recalls.* Boule will use reasonable efforts to assist Heska in investigating and correcting any problems Heska or its customers may experience with the Product. Such efforts will include visiting the Territory by Boule's representatives only where deemed necessary by Boule. Heska will use reasonable efforts to implement any corrective action deemed necessary by Boule. Heska further agrees to reasonably cooperate with Boule in any mandatory or voluntary Product recall by assisting in the notification of all affected customers, using materials and documentation that are mutually acceptable to the Parties.

5.5 *Marketing Efforts.* Heska shall in performing this Agreement devote reasonable commercial efforts to market, distribute and sell the Product in the Territory and in the Field.

5.6 *Reports.* Heska shall within one month from the expiry of each Calendar Half Year submit to Boule a report on the sales of such Calendar Half Year together with such general market information as may be deemed to be of interest and relevant to Boule or as Boule may from time to time request. The report shall also specify major sales and marketing activities.

5.7 *Approvals, Etc.* Heska shall at its own expense obtain all approvals and other authorisations and file all notices which are required to be obtained or filed for the sale and use of the Product in the Territory. Moreover, Heska shall keep Boule currently informed of all laws, rules and regulations applicable in the Territory directly affecting the sale and use of the Product. The Parties acknowledge the Products are currently not regulated by any government agency within the Territory. Should the Products become regulated during the term of this Agreement, the Parties shall negotiate in good faith terms and conditions for allocating the responsibility and costs for obtaining regulatory approval.

6. Warranty

6.1 *Warranty.* Boule warrants that:

(a) the Product shall be free and clear of any and all liens, encumbrances, or defects in title and shall be conveyed to Heska with lawful and marketable title (save as said in paragraph (b) below);

(b) to the best of its knowledge, neither the Products nor their manufacture, use, importation or sale infringe upon the proprietary rights held by a third party. In the event of an allegation of infringement of any third party intellectual property rights is made, or in Boule's and Heska's opinions is likely to be made, in respect of the Product Boule may at its own expense (i) obtain for Heska and its customers the right to continue to import, sell and use the Product, (ii) modify the Product so as to avoid infringement in a way reasonably acceptable to Heska or (iii) if conditions (i) and (ii) cannot be complied with on terms which in Boule's opinion are reasonable, terminate this Agreement without any liability towards Heska, unless such liability could be covered under the agreement between Boule and [***]. If the Agreement is terminated Boule undertakes during a period of twelve months following such termination before appointing any new distributor in the Territory to offer Heska the right of first refusal to such distribution rights; and

(c) the Product conforms to the specifications as set forth in Appendix B and are free from defects in material and workmanship during a fifteen(15) month warranty period under normal use from the date of delivery as per Section 3.4 ("Warranty Period") for the Analyzers and 12 month expiration dating for reagents. The warranty covers, at Boule's exclusive choice, its replacement or repair of the non-conforming or defective Product. If requested by Boule, Heska shall return to Boule at Heska's cost and expense the non-conforming or defective Product. In order to avail itself of its rights hereunder Heska shall have given Boule notice in writing of the non-conforming or defective Product within the Warranty Period. Save as stipulated in this paragraph (c) Boule shall not be liable in respect of any non-conforming or defective Product.

(d) Boule holds the exclusive rights to ABC System reagents in the Territory from [***] and that the marketing, sale and distribution of such reagents do not and will not infringe the intellectual property rights of a third party.

6.2 *Repairs.* During the Warranty Period, Heska shall at the request of Boule and may at Heska's choice elect to provide warranty service at Heska's designated facilities for the repair of defective Products. Boule agrees to provide, at Boule's sole expense, one (1) week of service training to Heska's personnel at Heska's facility. Boule further agrees to provide additional training, as requested by Heska, at a mutually acceptable consulting rate. Boule will provide an initial pool of five (5) Analyzers at no charge to Heska to serve as loaners to Heska's customers during warranty service repairs. The Parties agree that additional Analyzers may be added to the pool of loaner units depending on mean time between failure (MTBF) rates and service turn around times required to perform warranty service repairs.

6.3 *Audits.* Heska shall have the right to the extent necessary for the purpose of examining the Product quality standards maintained by Boule to audit Boule's original records and to inspect Boule's facilities upon reasonable written notice to Boule.

6.4 *Product Changes.* Boule will not make any changes to Product affecting its performance without providing at least forty-five (45) days prior written notice to Heska.

6.5 *Indemnification.* Boule will defend, indemnify, and hold Heska and its directors, officers, employees, agents and Affiliates, harmless from any and all claims, liabilities, direct damages and reasonable out-of-pocket expenses, including reasonable attorney's fees and costs, arising from or related to any and all claims arising as a result of the marketing, sale, or use of any defective Product by Heska or its customers or arising from any breach of warranty under Section 6.1 hereof, except to the extent that such losses, claims, liabilities, damages or expenses result from the negligence or wrongful acts of Heska or any of its customers or from a defect for which Boule is not responsible. Heska will defend, indemnify, and hold Boule and its directors, officers, employees, agents and Affiliates, harmless from any and all claims, liabilities, direct damages and reasonable out-of-pocket expenses, including reasonable attorney's fees and costs, arising from or related to any and all claims arising as a result of the marketing, sale, or use of any defective Product by Heska or its customers to the extent that such losses, claims, liabilities, damages or expenses result from the negligence or wrongful acts of Heska or any of its customers or from a defect for which Boule is not responsible. Both Parties shall maintain during the term of this Agreement and for a period of three years thereafter adequate product liability insurance.

6.6. *Disclaimer.* EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, BOULE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. Confidential Information

7.1 *Obligation to Protect.* Each of the Parties shall take such steps as are reasonably required (including without limitation such steps as such Party takes to protect its own proprietary information) to protect confidential and/or proprietary information ("Confidential Information") supplied or revealed to it by the other Party pursuant to this Agreement, and shall not, directly or indirectly, disclose to any third party or use such information except pursuant to this Agreement. Any Confidential Information and/or proprietary information shall be in writing and clearly designated Confidential, or if initially disclosed orally, confirmed in writing within thirty (30) days of disclosure.

7.2 *Scope of Obligation.* Nothing in this Article 7 shall be construed to impose a confidentiality obligation on a Party in connection with any information to the extent such information (a) is at the time of disclosure already known to the receiving party (as clearly established by such Party's prior written records); (b) is at the time of disclosure or subsequently becomes part of the public domain through no fault, act, or omission of the receiving Party; (c) is subsequently disclosed to the receiving Party by a third party whose receipt and disclosure of such Confidential Information does not, according to the receiving Party's knowledge, constitute a violation of any confidentiality obligation; (d) is independently developed by the receiving Party by employees having no access to or knowledge of Confidential Information received; or (e) is required by a court or government agency; provided that the disclosing party shall use reasonable efforts to provide the other party notice in writing of any proposed disclosure under this subsection and an opportunity to object to the disclosure or seek confidential treatment thereof.

7.3 *Return of Information.* The receiving Party shall return all Confidential Information provided by the disclosing Party, and any documents or materials incorporating such Confidential Information, upon the expiration or termination of this Agreement; provided, however, one copy of all such Confidential Information may be retained in the legal files of the receiving Party to assure compliance with the confidentiality and non-use provisions of this Article 7.

8. Term and Termination

8.1 *Term.* Unless terminated earlier as provided herein, this Agreement shall be effective from the Effective Date and shall remain in effect until December 31, 2008. Thereafter, the term of this Agreement shall be automatically renewed for additional one (1) year terms; provided, however that either Party may provide written notification to the other Party of its intent not to renew at least 180 days prior to the next expiration date.

8.2 *Termination.* This Agreement may be terminated:

(a) at any time upon the mutual written consent of the Parties;

(b) by Boule if Heska fails to meet the minimum purchasing commitments under Section 3.3 for two (2) contractual years;

(c) for a material breach of this Agreement upon sixty (60) days prior written notice to the breaching party if during such sixty (60) day period, the default is not cured to the reasonable satisfaction of the non-defaulting Party;

(d) by giving the other Party sixty (60) days written notice if such other Party has entered into or committed any act of liquidation, bankruptcy, insolvency, receivorship, or assignment for the benefit of creditors, to the extent such act is permitted by law; or

(e) by Boule if Heska sells a competing product as defined in Section 2.3.

8.3 *Effect of Termination; Repurchase of Products.* Except as otherwise specified in this Agreement, upon termination of this Agreement Boule shall be entitled to repurchase from Heska Products that Heska may have in stock when this Agreement ceases to be in effect at a price equal to the price paid by Heska to Boule for such Products plus transportation costs, customs duties and other expenses incurred by Heska. Should Boule elect not to repurchase such Products, Heska shall have the right, but not the obligation, to sell Products in stock. Upon termination of this Agreement, Boule shall continue to supply Consumables to Heska as provided in Section 3.6.

8.4 *Dispute Resolution.* The Parties covenant and agree in good faith to attempt for a period of sixty (60) days to resolve any disputes which may arise in connection with this Agreement through negotiation and settlement prior to giving notice of termination or bringing any legal action against the other Party in connection with this Agreement. During such negotiations, the Parties shall also consider the possibility of using alternative dispute resolution methods, including arbitration and mediation, if the Parties are unable to resolve the dispute. The provisions of this section shall not apply if one Party refuses to negotiate the dispute in good faith or if more prompt legal action is required to avoid material loss or damage. Failure to resolve a dispute by negotiated settlement shall not prejudice any subsequent legal action with respect thereto.

9. Miscellaneous

9.1 *Relationship of Parties.* The relationship of Boule to Heska under this Agreement is intended to be that of independent contractor. Nothing contained in this Agreement is intended or is to be construed so as to constitute Boule and Heska as employer/employee or principal/agent, or the employees or the agents of any Party hereto as employees or agents of the other Party hereto. Neither Party hereto has any express or implied right or authority under this Agreement to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement, or undertaking with any third party, other than the successors and permitted assigns of the respective parties hereto.

9.2 *Assigmnents*. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; provided, however, that neither Party shall have the right to transfer or assign its interest in this Agreement without the prior written consent of the other Party, except that either Party may make such transfer or assignment, to a partner, subsidiary or entity otherwise controlling, controlled by or under common control with such Party, or to an entity acquiring all or substantially all relevant assets of a Party to which this Agreement pertains. No transfer or assignment will relieve the transferor or assignor of any liability or obligations hereunder.

9.3 *Waiver of Performance.* A failure of a Party hereto at any time to require performance by the other Party hereto of any provision hereto required to be performed by such other Party, will in no way affect the right of the first party to require such performance at any time thereafter. The waiver of any breach of any provision hereto will in no way be construed as a waiver of any succeeding breach of such provision or a waiver of the provision itself.

9.4 *Severability.* In the event any provision of this Agreement shall be invalid, void, illegal, or unenforceable, the remaining provisions hereof nevertheless will continue in full force and effect without being impaired or invalidated in any way.

9.5 *Survival*. The provisions of Section 5.4, Articles 6, 7 and 8, and Section 9.8 shall survive the termination of this Agreement.

9.6 *Notices.* All notices under this Agreement shall be in writing and shall be deemed given if sent by facsimile, (except for the legal process in each case), certified or registered mail or commercial courier (return receipt or confirmation of delivery requested), or by personal delivery to the party to receive such notices or other communications called for by this Agreement at the following addresses for a party as shall be specified by such party by like notice:

If to Boule:

Boule Medical AB
P.O. Box 42056
SE-126 13 Stockholm, Sweden
[***]
Attention: President

If to Heska:

Heska Corporation
1613 Prospect Parkway
Fort Collins, CO 80525
[***]
Attention: Chief Executive Officer
Copy to: Executive Vice President, Intellectual Property and Business Development
[***]

9.7 *Force majeure.* Either Party shall be excused from the performance of its obligations hereunder, or such performance may be delayed, by causes beyond its reasonable control, including without limitation, acts of God, war, riot, epidemic, fire, flood, insurrection, military authorities, labor disputes, delay or inability to obtain supplies, labor, raw materials, energy or failure of transportation or communication and any other similar contingency, provided that if such nonperformance continues for more than 90 days, the other party may terminate the Agreement upon written notice.

9.8 *Governing Law.* The Parties agree that their rights and obligations under this Agreement will not be governed by the United Nations Conventions on Contracts for the International Sale of Goods, the application of which is expressly excluded. Rather, this Agreement shall be governed by and construed under the laws of the district where the contracting party is a defendant who defends against the other Party, with regard to the construction or interpretation of the Agreement. The English language employed herein shall be controlling and this Agreement shall be deemed to have been executed at Fort Collins, Colorado, United States of America and Stockholm, Sweden. Any dispute, controversy or difference arising between the Parties, out of or in relation to or in connection with this Agreement, or the breach thereof, which cannot otherwise be settled between the Parties within a period of ninety (90) days shall be submitted to an arbitration before a competent arbitration tribunal in Colorado, United States of America in case Heska is a defendant, and Stockholm, Sweden, in case Boule is a defendant, for binding resolution in accordance with the rules selected by the arbitrator(s), provided the proceedings are conducted in the English language.

9.9 *General Terms of Sale.* Boule's General Terms of Sale as amended from time to time shall apply in respect of all supplies hereunder save as varied by express provisions herein. The currently applicable General Terms of Sale have been attached hereto as Appendix A.

9.10 *Entire Agreement.* This Agreement and the Appendices hereto constitute the entire agreement and understanding of the Parties with regard to the subject matter hereof and supercede all prior agreements and understanding, written or oral, between the Parties. This Agreement may only be amended by a written agreement signed by the Parties.

The Parties have caused this Agreement to be signed by their duly authorized representatives.

BOULE MEDICAL AB		HESKA CORPORATION	
By:	/s/ ERNST WESTMAN	By:	/s/ JASON NAPOLITANO
Name:	ERNST WESTMAN	Name:	JASON NAPOLITANO
Title:	President	Title:	Chief Financial Officer
Date:	June 17, 2003	Date:	June 17, 2003

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Appendix A1

This Appendix forms an integrated part of the Distributorship Agreement between BOULE and HESKA.

Payment Terms

All prices are based on EX Works delivery terms, not insured, 50% in Euro and 50% in USD based on a fixed exchange rate of 1.18 USD/EUR. For example, if Heska buys two CA 620-16, 110-60, price Net Euro [***], Heska would pay EUR [***] and USD [***] for the two instruments. Heska agrees to make orders in units divisible by two.

Insurance could be organised according to a request from the receiver.

All additional costs are on the behalf of Heska, such as:

- L/C cost

- Legalisation costs
- Courier

Minimum order/invoicing amount: Euro 100

Payment terms

- Boule will invoice Heska twenty percent (20%) of the purchase price of instruments immediately upon acceptance of any purchase order. Heska shall wire the 20% payment fourteen (14) days prior to shipment. Boule will invoice the balance of the purchase price upon shipment of Product from Boule's facility and Heska shall pay such invoice within fifty-two (52) days from the date of invoice. This term shall be valid only as long as Heska complies with said payment term without delays, as judged by Boule. For payments received in advance Heska will be granted a 2% discount.
- Interest rate of 2% per month will be charged for all invoices past due date. Interest invoices will be made, at least, twice a year.
- Credit limit is set to Euro five hundred thousand (500.000)

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Appendix A2

This Appendix forms an integrated part of the Distributorship Agreement between BOULE and HESKA.

Price schedule

Description	Price Net Euro
INSTRUMENTS	
CA 620-16 Vet, 110/60	[***]
CA 620-16 Vet with MPA, 110/60	[***]
CA 620-20 Vet, 110/60	[***]
CA 620-20 Vet with MPA, 110/60	[***]
Micro Pipette Adapter MPA	[***]
Micro caps for MPA Pack size 10/1000	[***]
Medonic micro lancet	[***]
Printer DPU 414-2	[***]
Printer paper to DPU 414-2, 5 rolls	[***]
Barcode reader	[***]
REAGENTS	
Mediton vet, 10 Litre (for Medonic)	[***]
Medilyse vet, 5 Litre (for Medonic)	[***]
Reagent Pack AB-Vet (for ABX)	[***]
ProClean Plus	[***]
Hypochlorite	[***]
CONTROLS & CALIBRATORS	
Boule—8 VET CON	
1x4, 5 ml normal	[***]
6x4, 5 ml normal	[***]
18x4, 5 ml normal	[***]
Boule—8 VET CAL	
1x3, 0 ml	[***]

APPENDIX B

Product Specification

Product Specification CA 620 Vet

• Measuring principle RBC, WBC, PLT	Impedance
• Measuring principle HGB	Cyanide free method 540 nm
• Discriminator	Floating programmable
• Sampling system	Shear valve
• Parameters reported (16 par. model):	RBC, MCV, HCT, PLT, MPV HGB, MCH, MCHC WBC, RDW% LYMPH abs, MID abs, GRAN abs. LYMPH %, MID %, GRAN %

• Size distributions printed for	RBC, PLT and WBC diff.
• Aspirated blood volume (open tubes)	ca. 125 ul
• Blood volume using the Micro Pipette Adapter	20 ul
• Prediluted mode	1:200 to 1:250 using min. 20 ul blood e.g. 20 ul to 5 ml diluent 30 u1 to 6 m1 diluent 40 u1 to 8 ml diluent
• Screen	LCD
• Keyboard	Numerical
• Total cycle time	ca. 73 seconds
• Sample display and print after	ca. 53 seconds
• Printer	external, IBM, HP format or DPU414
• Memory	>350 samples
• QC capability	SD, CV, Xm
• HGB correction on high WBC counts	Yes
• Warning flags on parameter abnormalities	Yes
• Floating discriminator RBC/ PLT	Yes (position printed)
• Mathematical 3-part diff. WBC calc.	Yes
• Automatic HGB blank on each sample	Yes
• Carry Over	< 1%
• Bar-code scanner input	Yes
• Serial output	Yes
• Mains voltage	230 V or, 120 V
• Mains voltage tolerances	+15% /-20%
• Power consumption	max 250 VA
• Power consumption (standby)	max 50 VA
• Built-in test /adjustment programs	Yes
Dimensions (mm)	H=350 W=420 D=460
Weight	ca. 22 Kg

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

June 1, 2004

Boule Medical AB
P. O. Box 42056
SE-126 13 Stockholm, Sweden

Attention: Ernst Westman, President

Re: Supply and Distribution Agreement ("*Distribution Agreement*") by and between Heska Corporation ("*Heska*") and Boule Medical AB ("*Boule*") dated June 17, 2003

Dear Mr. Westman:

This letter confirms our agreement to interpret and supplement the Distribution Agreement as follows (capitalized terms not otherwise defined herein have the meanings ascribed to them in the Distribution Agreement):

1. *Pricing and Payment*. Appendix Al and Appendix A2 of the Distribution Agreement are hereby deleted in their entirety and replaced with Appendices AI, A2, A3, A4 and A5 attached hereto. The last sentence of the first paragraph of Section 4.1 of the Distribution Agreement is hereby amended to read as follows: "All prices and fees shall be defined in Euros and/or US Dollars, as provided in Appendices A2, A3, A4 and A5."

2. *Appendix C*. Appendix C to the Distribution Agreement is attached hereto.

3. *Returns*. Notwithstanding any provision of Section 6.1 (c) of the Distribution Agreement to the contrary, Boule shall reimburse Heska for the cost and expense of returning non-conforming or defective Product as contemplated therein.

4. *Indemnification*. Boule and Heska agree that the following phrase shall be deleted at the end of the second sentence of Section 6.5 of the Distribution Agreement and shall have no further force and effect: "or any of its customers or from a defect for which Boule is not responsible".

5. *Consumable Sales after Termination*. Unless Boule terminates the Distribution Agreement pursuant to Section 8 .2 thereof, Heska may purchase Consumables following termination of the Distribution Agreement as provided in Section 3.6 thereof, and for the avoidance of doubt, Heska's right to make such purchases shall not obligate Heska to comply with the restrictions set forth in Section 2.3 thereof. However, if Heska sells non-Boule spare parts, consumables or reagents for the Analyzer following termination of the Distribution Agreement (other than due to Boule's failure to timely fill Heska's orders for Consumables), then Heska's right to purchase Consumables shall expire.

6. *Sale of Refurbished ABC Systems and Scil Inventory*. Notwithstanding any provision of the Distribution Agreement to the contrary, including but not limited to Section 2.3 thereof, Boule agrees that Heska shall have the right, but not the obligation, to obtain and refurbish used ABC instruments ("*Refurbished ABC Systems*") and to sell such Refurbished ABC Systems within the Territory at any time after the date of this Amendment. In addition, Heska shall have the right, but not the obligation, to sell its inventory of instruments and reagents purchased from Scil Animal Care Company, America, Inc., within the Territory, at any time after the effective date of this Amendment. Heska shall provide monthly reports of sales of both new ABC Systems and Refurbished ABC Systems to Boule.

This letter will constitute a written agreement amending the Distribution Agreement as contemplated by Section 9.10 thereof. If there is a conflict between the terms of this letter and the Distribution Agreement, this letter shall control.

Very truly yours,

HESKA CORPORATION

By: /s/ JASON NAPOLITANO

Jason Napolitano
Its: Chief Financial Officer

ACCEPTED AND AGREED:

BOULE MEDICAL AB

By: /s/ ERNST WESTMAN

Ernst Westman
Its: President

Appendix A1

This Appendix forms an integrated part of the Supply and Distribution Agreement between BOULE and HESKA.

Payment Terms

All prices are based on EX Works delivery terms, not insured.

Insurance could be organized according to a request from the receiver.

All additional costs are on the behalf of Heska, such as:

- L/C cost
- Legalization costs
- Courier

Minimum order/invoicing amount: Euro 100

Payment terms

- Boule will invoice Heska twenty percent (20%) of the purchase price of instruments immediately upon acceptance of any purchase order. Heska shall wire the 20% payment fourteen (14) days prior to shipment. Boule will invoice the balance of the purchase price upon shipment of Product from Boule's facility and Heska shall pay such invoice within fifty-two (52) days from the date of invoice. This term shall be valid only as long as Heska complies with said payment term without delays, as judged by Boule. For payments received in advance Heska will be granted a 2% discount.
- Interest rate of 2% per month will be charged for all invoices past due date. Interest invoices will be made, at least, twice a year.
- Credit limit is set to Euro five hundred thousand (500.000).

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Appendix A2

This Appendix forms an integrated part of the Supply and Distribution Agreement between BOULE and HESKA.

Heska agrees to make orders of the following Products in units divisible by two. Payment for fifty percent (50%) of the units in each shipment shall be made in Euros and fifty percent (50%) in U.S. dollars. The initial Euro prices are set forth below, subject to adjustment for actual changes in material and labor costs pursuant to the last paragraph of Section 4.1 of the Distribution Agreement. The dollar prices shall be an amount equal to the then-current Euro price, multiplied by 1.18.

Description	Price Net Euro
INSTRUMENTS	
CA 629-20 Vet, 110/60	[***]
CA 620-20 Vet with MPA, 110/60	[***]
Micro Pipette Adapter MPA	[***]
Micro Caps for MPA Pack size 10x1000	[***]
Medonic micro lancet	[***]
Printer DPU 414-2	[***]
Printer paper to DPU 414-2, 5 rolls	[***]
Barcode reader	[***]
REAGENTS	
Mediton vet, 10 Litre (for Medonic)	[***]
Medityse vet, 5 Litre (for Medonic)	[***]
ProClean Plus	[***]
Hypochlorite	[***]

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Appendix A3

Payment for one hundred percent (100%) of the units of the Products listed below shall be made in U.S. dollars. The initial U.S. dollar price for each of such Products shall be the price set forth below, subject to adjustment for actual changes in raw material and labor costs pursuant to the last paragraph of Section 4.1 of the Distribution Agreement.

Description	Price Net
REAGENTS	
Reagent Pack AB-Vet (for ABX)	[***]
CONTROLS & CALIBRATORS	
Boule—8 VET CON	
1x4.5 ml normal	[***]
6x4.5 ml normal	[***]
18x4.5 ml normal	[***]
Boule—8 VET CAL	
1x3.0 ml	[***]

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Appendix A4

Payment for one hundred percent (100%) of the units of the Products listed below shall be made in Euros. The initial Euro price for each unit of such Products shall be the price set forth below, subject to adjustment for actual changes in raw material and labor costs pursuant to the last paragraph of Section 4.1 of the Distribution Agreement.

Spare Parts Price List
Medonic CA 530/620

View	Pos	Art. No.	Description	Recommended for stock	Price Euro
530-04	5	5814064	Asp. pip. predil. blood/upps	Y	[***]
530-04	4	5306007	Asp. Pipette Whole blood	Y	[***]
530-02	92	9990389	Bearing		[***]
530-02	83	9990676	Bi pin lampa	Y	[***]
530-03	20	5308004	Cable assay blood detector		[***]
530-02	84	5308013	Cable assy Hgb lamp		[***]
530-02	70	5308008	Cable assy Hgb photocel		[***]
530-02	21	5308014	Cable assy opto-switch		[***]
530-02	43	5308011	Cable assy start/stop detector		[***]
530-02	67	5308010	Cable assy syringe motor		[***]
530-02	89	5308009	Cable assy transducer coax		[***]
530-02	73	5306002	Cap. Holder complete	Y	[***]
530-03	34	5814143	Casing complete	Y	[***]
530-05	37	9990959	Check valve 1300-201.1		[***]
530-04	17	5304022	Cleaning device		[***]
530-02	78	5306004	Counting cup WBC complete		[***]

530-02	71	5306003	Counting cup RBC complete		[***]
530-04	55	9990434	Coupling T 20-6	Y	[***]
530-04	37	9990435	Coupling DD-6	Y	[***]
530-04	39	9990955	Coupling T 220-210-6	Y	[***]
530-04	36	9990989	Coupling T220-6	Y	[***]
530-04	38	9990437	Coupling Y220-6	Y	[***]
530-03	16	5304097	Detector		[***]
530-05	8	9990910	Fan for F-120		[***]
530-02	75	9990598	Filter VG9 4mm Ø 8		[***]
530-02	59	5306006	Gearbox complete	Y	[***]
530-03	22	5306005	Gearbox complete	Y	[***]
530-02	103	5304077	Glass cylinder	Y	[***]
530-02	10	5304011	Guiding rod		[***]
530-02	25	5304015	Guiding wheel		[***]
		9990900	Hal switch TLE 4905L		[***]
530-2	105	5304075	Housing upper glass cylinder		[***]
		9990844	IC 82C55A	Y	[***]
		9990891	IC LM338K		[***]
		9990890	IC LT350AK		[***]
		9990847	IC PBL 3773	Y	[***]
		9990848	IC PBM 3960	Y	[***]
530-02	45	4804014	Ind. Lower	Y	[***]
530-04	23	5304002	Indicator housing		[***]
620-01	2	6203018	Keyboard folio		[***]
530-05	27	5306001	Level detector hemolyzer		[***]
530-05	26	5306000	Level detector isoton		[***]
530-04	9	9990395	Locking ring RS 4	Y	[***]
530-01	38	9990479	Magnet lock		[***]
530-02	7	9990402	Magnet valve one-way	Y	[***]
530-02	8	9990403	Magnet valve two-way	Y	[***]
530-05	42	9991128	Mains inlet		[***]
530-02	47	5304026	Metering unit	Y	[***]
		2606001	Micocaps for MPA 260 10x100	Y	[***]
530-04	20	5814036	Mixing cup/bl.bägare		[***]
530-04	21	5303010	Mixing cup lid	Y	[***]
530-05	11	9990405	Nipple		[***]
530-02	16	5304020	Optical detector		[***]
530-02	44	9990475	O-ring 5.30x 2.40 silikon	Y	[***]
530-02	49	9990475	O-ring 5.30x 2.40 silikon	Y	[***]
530-02	77	9990597	O-ring 7.10x 1.60	Y	[***]
530-02	79	9990597	O-ring 7.10x 1.60	Y	[***]
530-03	36	9991164	O-ring 22.00x 2.00 nitril	Y	[***]
530-03	32	9990453	O-ring 5.10x1.60 nitril	Y	[***]
530-02	104	9990468	O-ring 12.10x 1.60 epdm	Y	[***]
530-02	74	9991085	O-ring 13.10x 1.6 nitril	Y	[***]
530-02	69	9990382	O-ring 20.24x 2.62 viton	Y	[***]
530-04	28	9990392	O-ring 22.10x 1.60 viton	Y	[***]
530-04	13	9990887	O-ring 6.10x1.60 nitril		[***]
530-06	3	5309021	PCB ampl 530 mounted complete	Y	[***]
530-06	2	5309001	PCB CPU 530 mounted complete	Y	[***]
620-01	4	6209001	PCB display CA620	Y	[***]
530-06	8	5309011	PCB power mounted complete	Y	[***]
530-06	27	9991161	Plastic cover		[***]
530-05	7	9990422	Pump F120-28 24 AC	Y	[***]
530-05	39	9980001	Repair kit for pump 9990422	Y	[***]
530-03	9	5814120	Ring/främre styrh. v.		[***]
530-03	6	5814119	Ring/mothåll fj.		[***]
530-02	24	5814082	Ring/stoppring		[***]
530-02	55	5304008	Rolled thread ball screw Shbo 12*4		[***]
530-05	14	9990911	Rubber support, M4		[***]
530-03	5	9990689	Sealing BA 8 18 5	Y	[***]
530-02	124	5306009	Sealing piston complete	Y	[***]
503-02	123	5306008	Sealing rod complete	Y	[***]
530-01	62	5303042	Shield plate		[***]
530-04	42	9990957	Spring 0,60*6,0*15		[***]
530-03	7	9990439	Spring 1,00*12,0*20		[***]
530-02	30	9990952	Spring 1,50*7,0*10	Y	[***]
530-04	2	5304104	Start plate 1		[***]
530-04	3	5304105	Start plate 2		[***]
530-05	46	5304167	Tube ground con.		[***]
530-04	54	9970031	Tubing pvc Ø 3.0/5.0	Y	[***]
530-04	50	9970022	Tubing tef Ø 0.7/1.6	Y	[***]
530-04	51	9970023	Tubing tef Ø 1.2/2.0	Y	[***]
530-04	52	9970041	Tubing tyg Ø 0.8/2.4	Y	[***]
530-04	53	9970042	Tubing tyg Ø 1.6/3.2	Y	[***]
530-04	47	9970001	Tubing Ø sil 1,0/3,0	Y	[***]

530-04	48	9970002	Tubing Ø sil 1,5/3,0	Y	[***]
530-04	46	9970005	Tubing Ø sil 2,0/5,0	Y	[***]
530-04	49	9970024	Tubing Ø tef, 1,6/3,2	Y	[***]
530-03	35	5814142	Valve part f.		[***]
530-03	10	5304048	Valve rear part		[***]

[***]—Certain information on this page have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Appendix A5

Heska agrees to make orders of the following Products in units divisible by two. Payment for fifty percent (50%) of the units of such Products in each shipment shall be made in Euros and fifty percent (50%) in U.S. dollars. The Euro price shall initially be EUR [***] and shall be determined annually in accordance with the second paragraph of Section 4.1 of the Distribution Agreement, subject to adjustment for actual changes in raw material and labor costs pursuant to the last paragraph of Section 4.1 of the Distribution Agreement. The U.S. dollar price shall be fixed at USD [***], subject to adjustment for actual changes in raw material and labor costs pursuant to the last paragraph of Section 4.1 of the Distribution Agreement.

CA 620-16 Vet, 110/60
CA 620-16 Vet with MPA, 110/60

Appendix C

Boule's trademarks are:
Boule
Medonic
Swelab

December 31, 2004

Boule Medical AB
P. O. Box 42056
SE-126 13 Stockholm, Sweden

Attention: Ernst Westman, President

Re: Supply and Distribution Agreement ("*Distribution Agreement*") by and between Heska Corporation ("*Heska*") and Boule Medical AB ("*Boule*") dated June 17, 2003

Dear Mr. Westman:

This letter confirms our agreement to amend our letter dated June 1, 2004 (the "*First Amendment*") to further interpret and supplement the Distribution Agreement as follows (capitalized terms not otherwise defined herein have the meanings ascribed to them in the Distribution Agreement):

1. *Pricing and Payment*. Appendix A1 attached to the First Amendment is hereby deleted and replaced with Appendix A1 attached hereto.

This letter will constitute a written agreement amending the Distribution Agreement as contemplated by Section 9.10 thereof. If there is a conflict between the terms of this letter and the Distribution Agreement or the First Amendment, this letter shall control.

Very truly yours,

HESKA CORPORATION

By: /s/ JASON NAPOLITANO

Jason Napolitano
Its: Chief Financial Officer

ACCEPTED AND AGREED:

BOULE MEDICAL AB

By: /s/ ERNST WESTMAN

Ernst Westman
Its: President

Appendix A1

This Appendix forms an integrated part of the Supply and Distribution Agreement between BOULE and HESKA.

Payment terms

All prices are based on EX Works delivery terms, not insured.

Insurance could be organized according to a request from the receiver.

All additional costs are on the behalf of Heska, such as:

- L/C cost
- Legalization costs
- Courier

Minimum order/invoicing amount: Euro 100

Payment terms

- Boule will invoice the purchase price upon shipment of Product from Boule's facility and Heska shall pay such invoice within forty-two (42) days from the date of invoice. This term shall be valid only as long as Heska complies with said payment term without delays, as judged by Boule. For full payments received in advance of shipment Heska will be granted a 2% discount.
- Interest rate of 2% per month will be charged for all invoices past due date. Interest invoices will be made, at least, twice a year.
- Credit limit is set to Euro five hundred thousand (500.000).

QuickLinks

SUPPLY AND DISTRIBUTION AGREEMENT

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.31

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

DISTRIBUTION AGREEMENT

THIS DISTRIBUTION AGREEMENT (this "*Agreement*") is made as of October 1, 2004 (the "*Effective Date*") by and between i-STAT Corporation, a Delaware corporation having its principal place of business at 104 Windsor Center Drive, East Windsor, New Jersey 08520 USA ("*i-STAT*") and an Affiliate of Abbott Laboratories, and Heska Corporation, a Delaware corporation, having its principal place of business at 1613 Prospect Parkway, Fort Collins, Colorado 80525, USA ("*Heska*").

W I T N E S S E T H:

WHEREAS, i-STAT is a manufacturer of diagnostic health care equipment and reagents and desires to obtain a distributor of Products (as hereinafter defined) in the animal health care market ("*Field*" as hereinafter defined) in the Territory (as hereinafter defined);

WHEREAS, Heska is a distributor of various products in the Field in the Territory;

WHEREAS, Heska and i-STAT previously executed a distribution agreement dated as of February 9, 1998, which was amended and restated as of February 24, 1999, under which Heska distributed products for i-STAT in the Field in the Territory (the "*Prior Agreement*"); and

WHEREAS, in accordance with the terms and conditions hereof, i-STAT is willing to appoint Heska as its exclusive distributor of Products in the Territory, and Heska is willing to accept such appointment.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and upon the terms and subject to the conditions set forth below, Heska and i-STAT hereby agree as follows:

ARTICLE 1—DEFINITIONS

The following words and phrases, when used herein with initial capital letters, shall have the meanings set forth or referenced below:

1.1 "*Affiliate*" shall mean, with respect to each Party (as hereinafter defined), any legal entity that is, directly or indirectly, controlling, controlled by or under common control with such Party. For purposes of this definition, a Party shall be deemed to control another entity if it owns or controls, directly or indirectly, more than fifty percent (50%) of the voting equity of the other entity (or other comparable ownership interest for an entity other than a corporation).

1.2 "*Analyte*" shall mean an individual compound, protein or fragment thereof, or substance that is the target of quantitative or qualitative measurement.

1.3 "*Analyzer*" shall mean a device that processes Cartridges (as hereinafter defined) and is capable of detecting at least one (1) Analyte for use in the Field, and specifically excludes analyzers designed primarily for use in patient self-testing.

1.4 "*Base Cartridge Target*" shall mean, for each Contract Year (as hereinafter defined), the minimum unit number of Cartridge purchases required to be made by Heska and its Affiliates during such Contract Year as set forth in **Section 2.4** and **Section 2.5**.

1.5 "*Business Day*" shall mean any day other than a day which is a Saturday or Sunday or other day on which commercial banks in New York, New York are authorized or required to remain closed.

1.6 "*Calendar Quarter*" shall mean a period of three (3) consecutive calendar months commencing on January 1, April 1, July 1 or October 1 of any Contract Year.

1.7 "*Cartridge*" shall mean the disposable test component of a particular Product that contains one or more sensor chips and fluid handling channels and operates on an Analyzer.

1.8 [***}

1.9 "*Cartridge Purchases*" shall mean, pursuant to **Section 11.2**, for each Contract Year, the unit number of Cartridges purchased by Heska and its Affiliates from i-STAT. For the purposes of this definition, a Cartridge shall be considered purchased in the Contract Year in which it was delivered after having been duly ordered pursuant to **Section 3.3**.

1.10 "*Cartridge Sales*" means the number of units of Cartridges Sold in the Field in the Territory by Heska directly to: (a) Dealers (as hereinafter defined) for resale to End Users; or (b) End Users; net of returns and unpaid Cartridges.

1.11 "*Change of Control*" shall mean: (a) the consolidation or merger of Heska or any Affiliate of Heska with or into any Third Party wherein the shareholders of Heska immediately prior to such transaction shall cease to be the holders of at least fifty percent (50%) of the outstanding securities of the surviving corporation in such transaction; (b) the assignment, sale, transfer, lease or other disposition of all or substantially all of the assets of Heska; or (c) the acquisition by any Third Party or group of Third Parties acting in concert, of beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission ("*SEC*") under the Securities and Exchange Act of 1934) of more than fifty percent (50%) of the outstanding shares of voting stock of Heska.

1.12 "*Confidential Information*" shall mean any and all technical data, information, materials and other know-how, including trade secrets, presently owned by or developed by, on behalf of, either Party and/or its Affiliates during the Term (as hereinafter defined) which relates to a Product, its development, manufacture, promotion, marketing, distribution, sale or use and any and all financial data and information relating to the business of either of the Parties and/or of their Affiliates, which a Party and/or its Affiliates discloses to the other Party and/or its Affiliates in writing and identifies as being confidential, or if disclosed orally, visually or through some other media, is identified as confidential at the time of disclosure and is summarized in writing within thirty (30) days of such disclosure and identified as confidential, except any portion thereof which:

(a) is known to the receiving Party and/or its Affiliates at the time of the disclosure, as evidenced by its written records;

(b) is disclosed to the receiving Party and/or its Affiliates by a Third Party having a right to make such disclosure;

(c) becomes patented, published or otherwise part of the public domain through no fault of the receiving Party and/or its Affiliates; or

(d) is independently developed by or for the receiving Party and/or its Affiliates without use of Confidential Information disclosed hereunder, as evidenced by its written records.

1.13 "*Contract Year*" shall mean each consecutive twelve (12) month period prior to the termination of this Agreement, beginning on January 1 and ending on December 31 of each such Contract Year.

1.14 "*Counterfeit Products*" shall have the meaning set forth in **Section 4.10**.

1.15 "*Dealer*" shall mean a natural person, corporation, partnership, trust, joint venture, government authority or other legal entity or organization in the Territory, other than Heska or i-STAT and/or

their respective Affiliates, which purchases Products from Heska for the purpose of resale to End Users for use in the Field.

1.16 [***]

1.17 "*End User*" shall mean a natural person, corporation, partnership, trust, joint venture, government authority or other legal entity or organization in the Field in the Territory, other than Heska or i-STAT and/or their respective Affiliates, that purchases Products under this Agreement for its own use or consumption in the Field, and excluding any Third Party use in the human healthcare market.

1.18 "*Extended Warranty*" shall have the meaning set forth in **Section 7.1**.

1.19 "*Extension Term*" shall mean each additional Contract Year, if any, following the Initial Term or another Extension Term, as set forth in **Section 10.1**.

1.20 "*Field*" shall mean the animal health care market specifically excluding the human health care market.

1.21 [***]

1.22 "*Incremental Cartridge Purchases*" shall have the meaning set forth in **Section 3.6.1**.

1.23 [***]

1.24 "*Initial Term*" shall mean the time beginning on the Effective Date and ending on [***].

1.25 "*Most Favored Price*" shall have the meaning set forth in **Section 2.14**.

1.26 "*Notice Date Time*" shall mean the period of time beginning on January 1 and ending on May 15 immediately following any Contract Year in which Cartridge Purchases were less than the Base Cartridge Target.

1.27 "*Notice Period*" shall mean a period of time, the length of which shall be set forth in **Section 2.13**, which shall begin upon the receipt by Heska of i-STAT's written notice of i-STAT's decision to exercise its termination rights as set forth in **Section 2.6** and during which time Heska shall maintain non-exclusive rights to Sell Products in accordance with this Agreement.

1.28 "*Party*" shall mean i-STAT or Heska and "Parties" shall mean i-STAT and Heska.

1.29 "*Products*" shall mean the products manufactured by or for i-STAT listed on **Exhibit 1.29**.

1.30 "*Purchase Price*" shall mean the price for Analyzers, Cartridges and other Products purchased by Heska and its Affiliates from i-STAT and its Affiliates hereunder, as set forth on **Exhibit 1.29** and more fully described in **Section 3.6.**

1.31 [***]

1.32 "*Sale*", "*Sell*" or "*Sold*" shall mean to sell, hire, let, rent, lease or otherwise dispose of Product to a Third Party or Affiliate, provided such Affiliate is an end user of Products for commercial purposes for monetary or other valuable consideration. "Sale", "Sell" or "Sold" shall not include a transaction where samples of Product are supplied without charge to a Third Party or Affiliate for marketing or demonstration purposes or in connection with clinical or other experimental trials.

1.33 "*Technical Documentation*" shall mean all documents prepared by i-STAT in the ordinary course of business that describe the Products in terms of their intended use and Product claims. Such documents may take the form of user instructions, system manuals, product updates or technical bulletins, but are

not limited to such forms.

1.34 "*Technical Support*" shall have the meaning set forth in **Section 4.8**.

1.35 "*Term*" shall have the meaning set forth in **Section 10.1**.

1.36 "*Territory*" shall mean the entire world except Japan.

1.37 "*Third Party*" shall mean a natural person, corporation, partnership, trust, joint venture, governmental authority or other legal entity or organization other than the Parties and/or their Affiliates.

ARTICLE 2—APPOINTMENT TO MARKET AND DISTRIBUTE

2.1 *Exclusive Appointment in the Territory.* As of the Effective Date and subject to **Section 2.4**and **Section 2.5** below, i-STAT hereby appoints Heska and its Affiliates for the Term as i-STAT's exclusive distributor of Products in the Field in the Territory, and Heska accepts such appointment. As exclusive distributor in the Field in the Territory, Heska shall have the sole and exclusive right to market, promote, Sell and distribute Products in the Territory for use in the Field, which right shall operate to exclude all others, including i-STAT, its Affiliates and all Third Parties; *provided*, *however*, that i-STAT may maintain certain consultative and technical staff, at i-STAT's expense, to assist Heska in connection with such marketing, promotion, sales and distribution efforts, in accordance with **Article 4**. In furtherance of this exclusive grant to Heska and its Affiliates, i-STAT hereby agrees to use its commercially reasonable efforts to ensure that any Products Sold outside the Field are not Sold directly or indirectly by i-STAT distributors to End Users. Nothing contained in this Agreement shall limit or be interpreted to limit i-STAT or i-STAT's Affiliates from directly selling products not listed on **Exhibit 1.29** in the Territory.

2.2 *Non-exclusive Appointment in Japan.* As of the Effective Date and subject to **Section 2.4** and **Section 2.5** below, i-STAT hereby appoints Heska and its Affiliates for the Term as i-STAT's non-exclusive distributor of Products in the Field in Japan, and Heska accepts such appointment. Heska shall have the non-exclusive right to market, promote, Sell and distribute Products in Japan for use in the Field.

2.3 *Heska's Obligations.* Heska shall purchase Products for distribution and Sale in the Field in the Territory exclusively from i-STAT. Heska shall maintain, at its own expense, a commercially reasonable inventory of Products for the Sale, promotion and delivery of the Products and for managing customer satisfaction with the Products. Heska shall not promote, market or Sell any Product for use outside the Field. Recognizing the end use of the Products in healthcare, Heska shall not solicit or Sell any Product to an End User or other Third Party (including a Dealer) that Heska has, or should have, reason to believe will redistribute Products or otherwise direct Products for use to customers outside the Field. Heska promptly shall take all reasonable actions to prevent Sales of Products to customers, including Sales by Dealers, known or identified by Heska to be outside the Field. Upon i-STAT's request, if and to the extent Heska or its Dealers Sells Products to customers outside the Field, Heska shall remit to i-STAT an amount equal to the difference between: (a) the amount of sales billed by Heska from Sales of such Products (net of duties, freight, replacements, returns, refunds and taxes); and (b) the Purchase Price paid to i-STAT. The Cartridge units Sold outside the Field shall not be included in Cartridge Purchases for the purpose of meeting the minimum purchase requirements of **Sections 2.4 and 2.5**.

2.4 *Minimum Purchase Requirements during the Initial Term.* Subject to **Sections 2.6**, **2.7** and **2.9**, Cartridge Purchases shall be greater than or equal to the Base Cartridge Target for each Contract Year during the Initial Term, which, for purposes of this Agreement, shall be as set forth in the following **Table 2.4**; provided, that Cartridge Sales shall be at least ninety-five percent (95%) of Cartridge Purchases during such Contract Year.

Table 2.4

Contract Year	Base Cartridge Target
Balance of 2004	[***]
2005	[***]
2006	[***]
2007	[***]
2008	[***]
2009	[***]

For example, if Heska has 2007 Cartridge Purchases of [***] and 2007 Cartridge Sales of [***], Heska shall have fulfilled the requirements of this **Section 2.4** ([***] Cartridge Purchases and Cartridge Sales are 95.3% Cartridge Purchases). In a separate example, if Heska has 2007 Cartridge Purchases of [***] and 2007 Cartridge Sales of [***], Heska shall not have fulfilled the requirements of this **Section 2.4** (since Heska would have met the Cartridge Purchases requirement, but would have Cartridge Purchases of 94.9% of Cartridge Sales, less than the required 95%).

2.5 *Minimum Purchase Requirements during any Extension Term.* Subject to **Sections 2.6**, **2.7** and **2.9**, Cartridge Purchases shall be greater than or equal to the Base Cartridge Target for each Contract Year during any Extension Term, which for purposes of this Agreement, shall be calculated as set forth in the following **Table 2.5**; provided, that Cartridge Sales shall be at least ninety-five percent (95%) of Cartridge Purchases during such Contract Year.

Table 2.5

Contract Year	Base Cartridge Target
n	(2009 Base Cartridge Target * [***]

For example, if the [***], then the 2010 Base Cartridge Target will be equal to [***], calculated as follows: [***]. In this example, the 2011 Base Cartridge Target will be equal to [***], calculated as follows: [***].

2.6 *Implications of Failure to Meet Minimum Purchase Requirements.* i-STAT's sole remedy for Heska's failure to meet the Base Cartridge Target in **Sections 2.4** or **2.5** in any Contract Year shall be to terminate this Agreement upon prior written notice to Heska as set forth in **Section 2.13**; provided, however, that i-STAT shall meet with Heska to discuss under what terms and conditions, if any, Heska may continue to distribute Products hereunder; and provided, further, that such failure to meet the Base Cartridge Target shall not be considered as a breach of this Agreement.

2.7 *Failure to Supply Minimum Purchase Requirements.* If during any Contract Year, i-STAT is unable to supply Cartridges properly forecasted and ordered hereunder pursuant to **Article 3**, the Base Cartridge Target for such Contract Year shall be reduced by the number of such Cartridges ordered by Heska pursuant to the terms of this Agreement and not supplied by i-STAT hereunder during such Contract Year. i-STAT, shall consider in good faith the impact of a material interruption in supply on Heska's ability to achieve future Base Cartridge Targets in subsequent Contract Years and shall consider in good faith reasonable adjustments to Base Cartridge Targets proposed by Heska for such subsequent Contract Years; provided, however, that any decision regarding any reduction to future Base Cartridge Targets shall be at i-STAT's sole discretion.

2.8 *Right of First Offer.* As long as Heska is i-STAT's exclusive distributor of Products in the Field in the Territory, i-STAT shall, prior to offering any other or new products to any Third Party for resale in the Field in the Territory, first offer in writing (which for the purposes of this Section 2.8

may be by e-mail) to Heska the opportunity to negotiate with i-STAT in good faith to include such products as a Product hereunder on such terms and conditions as are mutually acceptable to the Parties.

2.9 *Discontinued Products.* i-STAT shall have the right to discontinue the manufacture of any Product hereunder. If i-STAT, in its sole discretion, decides to discontinue the manufacture of any Product, i-STAT shall: (a) provide written notice to Heska as follows: (i) for Analyzers, upon twelve (12) months' prior written notice; and (ii) for all other Products, upon one hundred eighty (180) days' prior written notice; and (b) negotiate in good faith with Heska an adjustment to the Base Cartridge Targets set forth in **Sections 2.4** and **2.5**; *provided*, that no adjustment shall be made if a discontinued Product is replaced by an equivalent Product at an equivalent price. If the Parties are unable to agree on an adjustment, if any, to the Base Cartridge Targets as a result of good faith negotiations under clause (b) of the preceding sentence, they will follow the procedures set forth in **Section 11.9** to establish an adjustment, if any. i-STAT may materially alter the performance of any or all of the Products upon ninety (90) days' prior written notice to Heska. i-STAT shall use commercially reasonable efforts to provide to Heska reasonable quantities of repair and/or replacement parts, on an as needed basis, for Analyzers for at least three (3) years from the date of discontinuance of manufacture or sale of Analyzers or introduction of a materially altered Product for which parts are not interchangeable. i-STAT also shall use commercially reasonable efforts to consult with Heska prior to any discontinuance of the manufacture of any Product or material alteration of any Product where such alteration, in i-STAT's reasonable opinion, would impact applicable regulatory approvals of Heska and / or marketing of the Products by Heska.

2.10 *Selling Price.* Heska, in its sole discretion, shall determine the final sales price of Products Sold by Heska to Third Parties in the Field in the Territory, and no other term or provision in this Agreement shall be interpreted or deemed to provide i-STAT with any right to determine the final sales price of Products Sold by Heska hereunder. Heska or its appointed Dealers solely shall be responsible for seeking and obtaining all pricing approvals from all applicable authorities in those countries in the Territory where Heska is distributing Products in the Field.

2.11 *Heska's Sales Efforts.* Heska shall use commercially reasonable efforts to offer for Sale, Sell, have Sold, use, have used, market, have marketed, distribute, have distributed and import Products in the Field in the Territory, as more fully set forth in **Article 4**.

2.12 *Appointment of Dealers.* Heska shall have the right to appoint Dealers for the sale of the Products in the Field in the Territory. Heska agrees that, if it enters into an agreement or arrangement with any Dealer to allow such Dealer to offer for Sale, Sell, have Sold, use, have used, market, have marketed, distribute, have distributed, import and have imported Products in the Field in any country or region of the Territory, Heska shall restrict such Dealer's activities to sales of Products in the Field for use in the Field by affirmatively restricting the Dealer from reselling Products to Third Parties outside the Field. Heska shall name i-STAT as the "third party beneficiary" for the purposes of enforcing this provision in any agreement or arrangement with a Third Party for Sale of Products in the Field.

2.13 *Termination Notice Provisions.* In the event that i-STAT exercises its right to terminate this Agreement in any given Contract Year for failure to meet the Base Cartridge Target in such Contract Year pursuant to **Section 2.6**, such termination shall be effective upon expiration of the Notice Period, determined as follows:

(a) Six (6) months if [***];

(b) Twelve (12) months if [***];

(c) Eighteen (18) months if [***];

(d) Twenty-four (24) months if [***]; or

(e) Thirty-six (36) months if [***].

In order to terminate the Agreement pursuant to **Section 2.6**, i-STAT must give written notice during the Notice Date Time. Upon receipt of written notice, Heska's distributorship rights in the Field in the Territory shall become non-exclusive and remain non-exclusive throughout the Notice Period.

For example, Heska has [***], Heska receives written notice of termination from i-STAT on January 15, 2008 and the Parties meet to discuss this situation on February 1, 2008 but cannot agree on amended terms under which Heska would continue to distribute Products. Pursuant to **Sections 1.8** and **1.27**, [***], which under **Section 2.13**, results in a Notice Period of twenty-four (24) months. Thus, in this example, the Agreement would terminate on January 15, 2010.

2.14 *Most Favored Pricing.* If, during any time period in which Heska is a non-exclusive distributor hereunder (including any time period set forth in **Section 2.13**), i-STAT shall sell Products in the Field in the Territory to any other distributor, dealer or Third Party at a price lower than the Purchase Price then paid by Heska hereunder (the "*Most Favored Price*"), then i-STAT shall give Heska prior written notice of the Most Favored Price and the period it is to be in effect and Heska shall be entitled to such Most Favored Price for such Product for so long as such lower price is in effect for any other distributor, dealer or Third Party in the Field in the Territory.

2.15 *Restoration of Exclusivity and Cancellation of Termination.* If, following any Contract Year in which Cartridge Purchases were less than the Base Cartridge Target, Heska's Cartridge Purchases for the subsequent Contract Year are equal to or greater than Base Cartridge Target for the subsequent Contract Year, i-STAT shall consider in good faith restoring exclusivity to Heska as described in **Section 2.1** and canceling the notice of termination previously sent to Heska; *provided*, *however*, that such restoration of exclusivity shall be only to the extent i-STAT has not made alternative contractual

arrangements that would preclude restoring Heska's exclusivity in any part of the Territory.

2.16 *Competitive Products.* In furtherance of its duties and in recognition of the unique healthcare and related responsibilities in connection with the distribution of the Products, during the Term Heska shall not anywhere in the Territory promote, market, distribute or Sell any hand held device performing any tests performed by the Products, including new Products, if any, added to this Agreement pursuant to the terms and conditions set forth in this Agreement. Heska shall exclusively use the i-STAT control products set forth on **Exhibit 1.29** unless i-STAT gives prior written approval for substitution.

2.17 *EU Commission Directive.* In accordance with the *EU Commission Directive on Vertical Agreements*, the covenant not to sell competitive products set forth in **Section 2.16** for countries in the European Union ("*EU*") shall be for no longer than five (5) years after the Effective Date. Heska agrees that if Heska has maintained exclusivity as set forth in **Sections 2.4** and **2.5** during the Term, that Heska will meet with i-STAT to negotiate in good faith the terms, if any, under which the covenant not to sell competitive products in the EU may be extended (if any).

ARTICLE 3—MANUFACTURE, SUPPLY AND DELIVERY OF PRODUCTS

3.1 *Manufacture, Sale and Purchase of Products.* During the Term, i-STAT shall use commercially reasonable efforts to manufacture or have manufactured, release, sell and deliver to Heska those units of Products as are consistent with the forecasting process, lead times and terms and conditions of this Agreement and as are ordered by Heska hereunder. i-STAT shall manufacture or have manufactured, release, sell and deliver each such Product in accordance with each Product's Specifications and all applicable rules and regulations applicable to the manufacture or sale of

Products in the Territory in the Field, including as applicable, those rules and regulations of the FDA, including QSRs (including applicable cGMPs), and in accordance with all other applicable laws and regulations of countries in which Heska sells Products.

3.2 *Rolling Forecasts.* Thirty (30) days after the Effective Date, Heska shall provide i-STAT with a monthly forecast of its requirements of the Products for the first full Contract Year. On or before the fifth (5th) day prior to the beginning of each subsequent calendar month during the Term, Heska shall provide i-STAT with a rolling 12-month forecast, the first three (3) months of which will be firm purchase orders binding on Heska, the last nine (9) months of each shall consist of Heska's best estimate forecast of its requirements of Products.

3.3 *Product Orders.* Heska shall order Products on purchase orders consistent with the process set forth in **Section 3.2**. All purchase order forms shall specify the quantities of each Product ordered, requested delivery dates, the identity of Products ordered, Product price, and delivery and shipping instructions including carrier selected. All orders will be governed by the terms of this Agreement. To the extent that any purchase order, confirmation of acceptance or other document contains terms in conflict with, or in addition to, the terms of this Agreement, such conflicting or additional terms shall not be binding on the Parties unless agreed upon in advance by the Parties.

3.4 *Acceptance of Purchase Orders.* i-STAT shall within five (5) Business Days notify Heska of any purchase order (or partial purchase order) accepted, rejected, or delayed, and the reason for any such rejection or delay. No purchase order shall be binding upon i-STAT until accepted by i-STAT. Purchase orders not rejected within five (5) Business Days shall be deemed accepted. Heska may not modify any purchase order after its acceptance by i-STAT without i-STAT's prior consent. All purchase orders shall provide i-STAT with no less than ninety (90) days notice to the requested shipping date from i-STAT after receipt of the purchase order. Heska understands and agrees that optimum dating of Products shipped cannot be assured for Products shipped in connection with purchase orders placed less than ninety (90) days prior to the requested shipment date of Product from i-STAT.

3.5 *Firm Order Changes.* If, before submitting a purchase order form to i-STAT, Heska requests an increase to binding forecasts for the three (3) month firm forecast timeframe and such increase is no more than one hundred twenty percent (120%) of the amount of Products (on a Product-by-Product basis) originally reflected in forecasts, i-STAT shall use commercially reasonable efforts to accommodate such increases within reasonable manufacturing capabilities and efficiencies, taking into account other orders and forecasts. If such increases reflects an increase of more than one hundred twenty percent (120%) of the amount of Products (on a Product-by-Product basis) originally reflected in Heska's binding forecasts, i-STAT shall advise Heska of any additional costs associated with manufacturing such increased number of Products in such timeframe, and if Heska indicates to i-STAT that i-STAT should proceed to manufacture such increased amount of Products, i-STAT shall use reasonable commercial efforts to manufacture such increased number of Products, and Heska shall bear all costs reasonably associated with such manufacturing increases. Such payments shall be payable within thirty (30) days of receipt of i-STAT's invoice for such charges.

3.6 *Purchase Prices.* Purchase Prices for the Products are listed on **Exhibit 1.29**.

3.6.1 *Rebates.* [***]

3.6.2 *Pricing Adjustments.* At the end of the Initial Term and each Extension Term thereafter, Purchase Prices may be adjusted at i-STAT's sole discretion for inflationary increases in production costs. Such increase shall be at the rate of increase in the U.S. PPI (Producer Price Index) since the Effective Date of the Agreement for the Initial Term or since the last inflationary adjustment for each Extension Term.

3.6.3 *Increased Manufacturing Costs.* If i-STAT experiences an increase in Product manufacturing costs that exceed ten percent (10%) for any Product during any Contract Year, i-STAT and Heska shall meet and negotiate in good faith to determine whether an adjustment to the Purchase Price for that Product is appropriate in the circumstances.

3.6.4 *Taxes.* All Purchase Prices for Product are calculated for delivery as set forth in **Section 3.7**. The Purchase Prices do not include insurance, freight, customs, duties, taxes, any foreign, federal, state or local taxes that may be applicable to Products including, without limitation, sales, excise, value-added, withholding, and other taxes other than taxes based upon i-STAT's net income and other similar charges. Customs duties and charges, if any, shall be borne by Heska. Any and all export and import licenses or approvals shall be obtained by Heska at its expense. When i-STAT has the legal obligation to collect such taxes, the appropriate amount shall be added to Heska's invoice and paid by Heska unless Heska provides i-STAT with a valid tax exemption certificate authorized by the appropriate taxing authority.

3.7 *Delivery of Product.*

3.7.1 *Delivery; Determination of Method of Transportation.* Products shall be delivered FCA (Incoterms 2000) i-STAT's U.S. warehouse or other i-STAT warehouse. The method of transportation of the Products, shipping destination and the carrier selected shall be as specified by Heska in its purchase orders.

3.7.2 *Risk of Loss.* Risk of loss for Products shall pass to Heska, FCA (Incoterms 2000) i-STAT's warehouse site.

3.7.3 *Title.* Title shall pass to Heska when Products are transferred to Heska's designated courier at i-STAT's warehouse site.

3.8 *Payments Due; Credit Limits.* All payments due and payable hereunder shall be made by check or wire transfer within thirty (30) days from the date of the invoice. All payments shall be made without set-off or counterclaim and free and clear of and without deduction for any other charges of any kind. The invoiced amount shall be paid by Heska to i-STAT by: (a) wire transfer to the bank listed on **Exhibit 3.8** or otherwise specified by i-STAT, or (b) certified bankers check. i-STAT reserves the right to change the payment or credit terms at any time upon ninety (90) days' prior notice to Heska. Any invoiced amount not received within thirty (30) days of the date the payment was due shall be subject to a service charge of the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by law. All exchange, interest, banking collection and other charges shall be at Heska's expense. Decreases in Heska's credit limit will be based on i-STAT's evaluation of Heska's financial performance over the previous six (6) months and/or Heska's payment history with i-STAT over the past immediate twelve (12) months. If Heska disagrees with any notice of a change in payment terms or decrease in credit limit, Heska may dispute the decision with the President of Abbott's Point of Care business and discuss options for resolution. The resolution to the disputed decrease in credit limit shall be at the sole discretion of the President of Abbott Point of Care division. If Heska believes the resolution reached by the President of Abbott Point of Care is inequitable, Heska may enter into alternative dispute resolution with i-STAT. Notwithstanding anything in this Agreement or any exhibit attached hereto to the contrary: (y) all costs for Heska and i-STAT associated with such alternative dispute resolution shall be borne solely by Heska, regardless of the decision by the neutral in the alternative dispute resolution process; and (z) such alternative dispute resolution, if requested by Heska for this issue, shall be only for this specific issue, and no other issue shall be added to the process.

3.9 *Currency Basis.* All prices including Product Prices for Products and payments therefor shall be in U.S. dollars.

3.10 *Acceptance of Product.* Heska shall not be obligated to accept any Product that does not meet the applicable i-STAT specifications as set forth in the Analyzer's operators' manuals, or the Cartridges' product inserts, if any, as registered in the Territory. i-STAT shall provide Heska with thirty (30) days' advance notice of a change or issuance of new Analyzer operator manuals or Cartridge product inserts. Heska shall inspect all Products upon delivery in a commercially reasonable manner. Failure by Heska to give notice of defective or damaged Product within the time periods specified in **Section 3.11** shall be deemed a waiver of i-STAT's obligations as stated herein, with respect to such defect or damage only.

3.11 *Defective and Improper Delivery; Product Returns.* If Heska or a Dealer or End User claims that: (a) any Product shipped directly by i-STAT hereunder was damaged in transit to the End User; (b) incorrect Product was shipped; or (c) that there was a shortage in the shipment, and notice in writing of such damage, incorrect shipment or shortage is provided to i-STAT within thirty (30) days of receipt of the shipment by the End User then, upon receipt of such notice, i-STAT's sole obligation shall be to either replace any damaged or incorrectly shipped Product, make up any shortfall or refund any Purchase Price paid by Heska, at i-STAT's option. If any Product is claimed by Heska, a Dealer or End User to be defective and i-STAT is notified in writing of such defect within thirty (30) days of receipt of the Product by the End User or, in the case of a latent defect, i-STAT is notified in writing within fifteen (15) days of discovery of such latent defect within the warranty period stated in **Section 7.2**, then i-STAT's sole obligation shall be to either repair of replace any Product found by i-STAT to be defective. If Heska claims a credit pursuant to this **Section 3.11**, such claim shall be accompanied by the original invoice issued by Heska to the End User or Dealer returning the Product. Upon request by i-STAT, Heska shall deliver to i-STAT, at Heska's cost, any returned Product with regard to which the credit is claimed. i-STAT solely shall determine in good faith the amount of any credit due Heska, if any, and to the extent any returned Product is defective, reimburse Heska for reasonable freight expenses directly related to delivering said Product to i-STAT. In the event that i-STAT issues a Product recall and requests that Heska return Products to i-STAT as a result of such recall, i-STAT shall reimburse Heska for reasonable freight expenses directly related to such recall. There will be no Product returns accepted except as set forth in this **Section 3.11**.

ARTICLE 4. MARKETING OF PRODUCTS

4.1 *Marketing.* Heska shall, at its own expense, use commercially reasonable efforts to market and promote the Products in the Territory. Heska's promotional activities shall include, but shall not be not limited to: (a) including the Products in its appropriate catalogs, promotional mailings and like publications, (b) developing, preparing and placing advertising concerning the Products in appropriate media or through appropriate direct mail; (c) exhibiting the Products at appropriate trade shows and exhibitions, (d) conducting appropriate market research as it deems necessary or desirable; and (e) rendering other services customarily rendered by a distributor of veterinary medical products; *provided*, that by October 31 of each Contract Year, Heska shall provide i-STAT with a list of all proposed trade shows and exhibitions that it plans to attend in the next Contract Year. Heska may develop printed sales and promotional materials relating to the Products in the local language at its own expense. Heska shall provide such materials, if any, which have not been previously approved to i-STAT for i-STAT's review and approval, which approval shall not be unreasonably delayed or withheld. i-STAT shall review such materials within fifteen (15) Business Days, and i-STAT's failure to object to any materials within such fifteen (15) Business Days of sending shall be deemed approval. If i-STAT objects to the material, Heska shall modify such materials accordingly.

4.2 *Catalogs, Bulletins.* At Heska's written request, i-STAT shall provide Heska with reasonable quantities of brochures, instructional material, advertising literature and other relevant Technical

Documentation regarding the Products, at no charge to Heska. Such documents shall be in the English language, and may be in other languages to the extent already available. Heska, at its own cost, may provide a translation of the documents into the local language. Such translations shall be made available to i-STAT for review and comment before dissemination.

4.3 *Follow-up Training.* At Heska's reasonable written request, i-STAT shall provide follow-up training, as mutually agreed by the Parties, at Heska's facility. i-STAT shall pay for its employees' salaries and their travel and travel-related expenses, including meals, lodging and other living expenses. For training situations not covered by this **Section 4.3**, the Parties shall discuss how to equitably share the travel and related expenses.

4.4 *Strategy Meetings.* Periodically during the Term (but not less than once per Contract Year) while Heska is the exclusive distributor of Products in the Field in the Territory, Heska and i-STAT shall review topics which may include Heska's marketing and selling strategy, training of End Users, inventory, and other practices with a view toward maximizing End Users' use of and satisfaction with Products.

4.5

Quality Assurance Audit. Heska agrees that upon a minimum fifteen (15) days notice from i-STAT, representatives of i-STAT, during normal business hours, shall be permitted to visit all locations where Heska maintains inventory of Products to conduct a quality assurance audit of such facilities and/or an on-site surveillance of the inventory storage tracking. i-STAT shall have the right during reasonable business hours, to inspect the books and records of Heska relating to Product complaint documentation. In the event that an audit reveals items that i-STAT determines should be corrected by Heska, i-STAT shall provide, in writing, within thirty (30) days of such audit, a list of such items and any proposed corrective action to be taken by Heska. Heska shall respond within fifteen (15) days of receiving i-STAT's notification of the corrective action to be taken and an estimated completion date. If the parties disagree as to whether corrective action is necessary, the matter shall be resolved in accordance with the alternative dispute resolution procedures set forth in **Section 11.9**.

4.6 *Sales Personnel.* Heska, at its sole cost and expense, shall engage, compensate, supervise, train and maintain such competent, qualified personnel as may be reasonably required to, deliver, promote, market, sell, distribute, provide technical service and support for the Products, and End User complaint handling in the Territory.

4.7 *Training For Heska and End Users.* i-STAT shall provide Heska personnel such training, at i-STAT's expense, as Heska may request in writing and that i-STAT, at its sole discretion, deems reasonable. Notwithstanding the above, all expenses incurred by Heska's personnel in connection with such training, including without limitation, travel and other per diem expenses shall be borne by Heska. Heska, at its own cost, shall provide adequate Product training for its End User's on the use and storage of the Products. Heska, prior to shipment of Products to an End User, shall provide to each such End User Product storage and use instructions, and shall provide its End Users with commercially reasonable training and support within two (2) months after delivery of the first shipment of Products to an End User. Heska shall use commercially reasonable efforts to ensure that all introductory training is made available to End Users within the first week after receipt of Analyzers and Cartridges. Heska shall, in its discretion, make appropriate use of training materials and Technical Documentation supplied by i-STAT.

4.8 *Technical Support.* Heska agrees to be responsible as the first point of contact for technical support with the End User. Heska will further provide technical support on the usage of Products by the End Users based upon information supplied by i-STAT, at no cost to i-STAT. The term "*Technical Support*" shall mean, without limitation, problem resolution, explanation of functionality and collection of incident reports. i-STAT will provide technical service support to Heska as i-STAT deems reasonably necessary, but not to any Dealers appointed by Heska.

4.9 *Modified and New Products.* Heska agrees to provide timely comprehensive information to its Dealers or End Users, as appropriate, with respect to newly available Products, discontinuance of Products and changes in existing Products, including, but not limited to, performance specification changes and required software upgrades in Analyzers (which may or may not be coupled to specific lots of Cartridges). Heska agrees to use commercially reasonable efforts, which shall depend on the circumstance involved and whether the End User is utilizing Products, to ensure that each End User in the Territory makes any such performance specification changes and software upgrades in a timely manner.

4.10 *Counterfeit Products.* If Heska is offered the opportunity to purchase or otherwise becomes aware of any counterfeit products similar in look and/or function to Analyzer or Cartridge Products (as listed on **Exhibit 1.29**) manufactured by an entity other than i-STAT ("*Counterfeit Products*"), Heska shall promptly notify i-STAT thereof. Heska covenants and agrees not to purchase any Counterfeit Products, and the failure of Heska to comply with the foregoing covenant and agreement shall constitute grounds for immediate termination of this Agreement by written notice to such effect sent by i-STAT. Such termination of this Agreement shall be effective as of the date of receipt of any such notice by Heska. In addition, Heska acknowledges that its purchase of Counterfeit Products will cause i-STAT irreparable harm and that i-STAT shall have the right to equitable and injunctive relief, in addition to money damages, in the case of such action by Heska. i-STAT acknowledges and agrees that Counterfeit Products do not include, and Heska shall be permitted to sell and/or license in the Field, any products that Heska offers to Heska's End Users that would allow Heska's End Users to print test results from an Analyzer on standard sized paper and combine such results with test results from other diagnostic products Heska sells in the Field.

4.11 *Inventory Levels.* Heska shall maintain a commercially reasonable supply of Product to meet the demands of End Users, taking into account the order and shipping lead times set forth in this Agreement.

4.12 *Warranty Services.* Heska shall provide a technical liaison and assistance to End Users for warranty service of the Products, at no cost to i-STAT or the End Users. In addition, at the written request of i-STAT, Heska shall perform certain warranty repairs during the term of the warranty, which shall be billed to and paid by i-STAT at mutually agreed upon labor rates.

4.13 *Books and Records.* Heska shall maintain books and records in keeping with standard industry practice regarding the performance of its obligations hereunder including monthly Cartridge unit Sales to Dealers and End Users that Heska Sells to directly, aggregated monthly in each country or region, and shall retain such records during the Term and for three (3) years thereafter. Heska shall provide to i-STAT annually within thirty (30) days following the end of each Contract Year, a report that provides Cartridge unit Sales to Dealers and End Users that Heska Sells to directly, aggregated monthly in each country or region, and the calculation of the percentage of Cartridges Sold to customers by country or region, beginning with the first report of Contract Year 2005. Such books and records shall be in accordance with generally accepted accounting principles reflecting each Product's unit Sales and per country or region in the Territory. Upon thirty (30) days' prior written notice to Heska (but not more frequently than once in any Contract Year, unless there is a dispute, then as frequently as is necessary), Heska's books and records relating to the matters described herein shall be open for inspection. To conduct such inspection, i-STAT shall retain, at its own expense, an independent certified public accountant reasonably acceptable to Heska. Such examination shall occur at Heska's principal place of business during normal business hours for the sole purpose of verifying the accuracy of such calculations. Such independent accountant shall be required to execute a mutually acceptable confidentiality agreement and shall report to i-STAT only the amount of any discrepancy, if any, in the calculations. Such examination rights may be exercised by the Parties only with respect to records for the then-current Contract Year and the immediately prior Contract Year. i-STAT shall bear the cost of such audit, unless the audit reveals

an underreporting of unit Sales of greater than one percent (1%) or a value of Ten Thousand US Dollars (US $10,000) (whichever is the greater), in which case Heska shall reimburse i-STAT for its reasonable expenses incurred in connection with such audit.

4.14 *Corrupt Practices.* Heska shall not use any compensation hereunder as payment to any government official or employee of any country in the Territory for the purpose of influencing such person's decisions or actions regarding the Products.

ARTICLE 5. INTELLECTUAL PROPERTY RIGHTS

5.1 *i-STAT Markings.* Heska shall not omit or alter patent numbers, trade names or trademarks, numbers or series or any other i-STAT markings affixed on the Products obtained from i-STAT or alter Product labeling. Heska shall, however, be entitled to mark the Products with its trademark or trade name in prominent place, subject to i-STAT's prior written consent, not to be unreasonably withheld. Heska is not authorized to use the trademark and trade name

"i-STAT" or any other trademark or trade name of i-STAT in any manner except to indicate that i-STAT is the manufacturer of the Products and, consistent with the provisions of **Section 5.2** and during the Term of this Agreement and only in the Field in the Territory, that Heska is an independent distributor for i-STAT and is selling i-STAT's Products. Heska shall acquire no rights in the i-STAT trademark and trade name, or any other trademark owned by i-STAT.

5.2 *Use of Trademarks and Tradenames.* i-STAT hereby authorizes Heska to use, on a nonexclusive basis for the Term, without cost to Heska other than payment for the Products, the trademark "i-STAT" and any other trademarks, service marks or tradenames used by i-STAT to identify the Products (the "*Marks*"), solely to identify i-STAT as the manufacturer of the Products and for Heska's distribution of Products and related performance under this Agreement. The Marks and the goodwill associated therewith are and shall remain the exclusive property of i-STAT. Heska shall not: (a) use the Marks as part of any composite mark including any elements not approved in advance in writing by i-STAT; (b) challenge the validity or enforceability of the Marks (unless such restriction is illegal); (c) acquire any proprietary rights in the Marks by reason of any activities under this Agreement or otherwise. All uses of the Marks by Heska and any additional goodwill created thereby shall inure to the exclusive benefit of i-STAT. i-STAT, at all times during the Term on reasonable notice, shall have the right to inspect the materials and services on or in connection with which the Marks are used in order to assure i-STAT that its quality standards relating to the Products and Heska's servicing and other Mark-pertinent provisions of this Agreement are being observed. If at any time i-STAT shall reasonably object to any use to which the Marks are put, Heska shall promptly cease any such use.

5.3 *License to Use Computer Software.* All software, on whatever media and in whatever form, i-STAT shall deliver to Heska hereunder (the "*Software*") is and shall remain the property of i-STAT and its suppliers and licensors thereof and shall only be used in accordance with the terms of this Agreement and any End User License Agreements (each, a "*EULA*") distributed therewith. Software contains copyrighted and proprietary trade secrets of i-STAT (and its suppliers and licensors), and Heska shall keep the Software in confidence. Heska shall not copy, use or disassemble the Software unless agreed by i-STAT. Heska shall have the right to reproduce Software only for: (a) one backup/archival copy; and (b) installation on and use with equipment designated by i-STAT as suitable therefor and for use solely with the Products distributed by Heska. Heska shall reproduce the copyright and other proprietary notices of i-STAT and Third Parties present in the Software delivered to Heska. Heska's license to use and distribute the Software shall terminate on the earlier of: (w) termination of this Agreement; (x) discontinuance of use of the designated equipment for the Software; (y) discontinuance of payment of periodic license and maintenance fees, if any; or (z) breach by Heska of any of the above given terms; provided, that End Users' license rights shall continue in accordance with each EULA. All copies

of Software with respect to which the license hereunder is terminated shall be returned to i-STAT within thirty (30) days after such termination. Heska shall deliver to each End User a copy of i-STAT's EULA, which shall inform them that such Software is and shall remain the property of i-STAT and its suppliers and licensors. Copies of the translated materials shall be provided by Heska to i-STAT for inclusion in the technical file before any CE marked Product is distributed in Heska's territory in the Field.

ARTICLE 6. REGULATORY MATTERS

6.1 *Regulatory Compliance.* Heska shall advise i-STAT promptly of all government regulations outside of the United States affecting the importation, use, Sale, record maintenance and disposal of the Products, and shall be responsible for compliance therewith. Without limiting the foregoing, Heska shall obtain from competent governmental authorities outside the United States such import permits, licenses, exemptions from customs duties and governmental approvals and consents required in connection with the execution and performance of this Agreement. All governmental permits, registrations, licenses, exemptions and consents outside the United States specifically relating to Products shall be sought, where applicable and where possible, in the name of and shall, at the end of the Term, be the exclusive property of i-STAT. Heska shall not take any action which would, or fail to take any action where such failure would, directly or indirectly result in or constitute a violation by Heska of any applicable law, treaty, ruling or regulation in the Territory relating to the Products, including, without limitation, laws and regulations relating to the export, resale and distribution of the Products and laws and regulations requiring the reporting of adverse medical events to government authorities in the Territory. When needed for sales or regulatory compliance purposes, Heska shall provide at Heska's expense any additional translations of labels, labeling, and instructions consistent with the regulatory requirements of the competent authority in each country of the Territory and shall ensure that all users are provided with such translated materials.

6.2 *Compliance with U.S. Regulations.* Heska understands and acknowledges that i-STAT is subject to regulation by agencies of the U.S. Government, including but not limited to, the U.S. Department of Treasury which prohibit the sale, export or diversion of products and technology to certain countries ("*Prohibited Countries*"), which countries, as of the Effective Date, are Iran, Sudan and Cuba. Heska hereby warrants that it shall not Sell, directly or indirectly, any Products to Dealers or End Users which it knows or reasonably should know will resell or export the Product to Third Parties in Prohibited Countries. Furthermore, any and all obligations of i-STAT to provide the Products, as well as any other technical information and assistance, is subject to United States laws and regulations which govern the license and delivery of technology and products abroad by persons subject to the jurisdiction of the United States, including without limitation the Export Administration Act of 1979, as amended, any successor legislation, and the Export Administration Regulations issued by the Department of Commerce, Bureau of Industry and Security. Heska agrees to cooperate with i-STAT in order to maintain compliance with the applicable export regulations.

6.3 *Notice of Certain Events; Adverse Event Reporting.* Each Party shall promptly notify the other after it becomes aware of any of the following events: alleged infringement of the Trademarks or patents applicable to a Product by any third party; alleged infringement of the trademark, patent or proprietary rights of others in connection with actions taken hereunder; liability claims relating to a Product and any other event that may reasonably be expected to have a material adverse effect upon the sale or distribution of a Product in the Territory.

6.4 *Product Changes; Labeling.* Heska may affix its label on catalogs and Products being distributed by Heska in the Field in the Territory during the Term; *provided*, i-STAT shall have been provided with a catalog and a photograph of each Product with Heska's label affixed in the same manner in

which the Products will be distributed and shall have approved such label, such approval not to be unreasonably withheld and such approval not required for Products being sold with the Heska label affixed as of the Effective Date. If i-STAT shall reasonably object to the manner in which such label is affixed, Heska shall promptly cease any such use and change its use to comply with the i-STAT's requirements. Heska shall bear the cost of packaging and labeling changes requested by Heska and approved by i-STAT.

6.5 *Traceability.* i-STAT and Heska shall each maintain such traceability records with respect to the Product as shall be necessary to comply with applicable laws and local "Good Manufacturing Practices" regulations.

6.6 *Reliability Reporting.* Each Party shall promptly report in writing to the other any substantial failure of the Product, material change in the statistically demonstrated reliability of the Product or other material information relevant to the reliability of a Product of which such Party becomes aware.

6.7

Recall or Advisory Actions. If either Party proposes to recall a Product or issue an advisory letter regarding reliability of or defects in a Product, then such Party shall first notify the other in writing or by telecommunication in a timely manner prior to making such recall or issuing such advisory letter. Each Party shall endeavor to reach an Agreement with the other regarding the manner, text and timing of any publicity to be given such matters in time to comply with any applicable regulatory requirements, but such Agreement shall not be a precondition to any action that a Party deems necessary to protect users of a Product or to comply with any applicable governmental orders. In the event i-STAT should request Heska to recall a Product, Heska shall take all appropriate actions to recall such Product. i-STAT shall bear the expenses of any recall requested by it or resulting from defective manufacture, or packaging by i-STAT. Heska shall bear the expenses of any recall resulting from improper storage, handling or delivery by Heska. In cases where the recall is unrelated to any fault of either Party, the expense of the recall shall be borne by the Parties equally. For the purposes of this Agreement, expenses of recall include, without limitation, the expense of notification and destruction or return of the recalled Product, but not the expense or service fees associated with salesmen's time which shall be borne by Heska.

6.8 *Translation of Technical Documents.* Consistent with **Section 4.2**, as required by local regulatory laws or regulations, Heska shall translate Technical Documents into the local language(s) of End Users and shall revise such translation in accordance with the changes to the Technical Documents that may be made from time to time by i-STAT. Such translation shall at a minimum meet all regulatory requirements of the Territory and be of a standard deemed appropriate for veterinary products and comparable with that provided for other products sold into the animal health care market in the Territory. Heska will provide any documents translated into the local language to i-STAT for review and shall revise such translation according to i-STAT's comments.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1 *Product Warranty to End Users.* Heska shall pass through to End Users i-STAT's standard written limited warranty for all Products. Heska shall not alter or expand such warranty; provided, however, that nothing in this Agreement limits Heska's ability to provide its own warranty on any of the Products to its End Users (an "*Extended Warranty*") so long as Heska is responsible for satisfying any obligations under such Extended Warranty.

7.2 *Warranty.* i-STAT shall extend to Heska and to Heska's Dealers or End Users standard product warranties, as modified from time to time upon thirty (30) days prior written notice to Heska, the current version of which is attached as **Exhibit 7.2**; provided, however, that any modification to any such product warranties shall apply only to Products the Sales of which are made after the effective date of such product warranties.

7.3 *Heska's Warranty.* Heska represents and warrants that it has obtained or will obtain all required approvals of local governments in connection with this Agreement.

7.4 *Disclaimer of Warranties.* EXCEPT FOR THE LIMITED WARRANTIES PROVIDED IN **SECTIONS 7.1** AND **7.2**, i-STAT MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND THE WARRANTIES OF i-STAT ARE IN LIEU OF ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OF NONINFRINGEMENT OF ANY THIRD PARTY PATENTS, COPYRIGHTS OR MARKS. EXCEPT FOR THE WARRANTY PROVIDED FOR IN **SECTIONS 7.1** AND **7.2**, i-STAT MAKES NO WARRANTY OF ANY KIND TO END USERS OF HESKA HEREUNDER.

ARTICLE 8. INDEMNIFICATION

8.1 *Indemnification by Each Party.* During the Term and for two (2) years thereafter, i-STAT and Heska shall each at all times indemnify and hold the other Party and their respective Affiliates, stockholders, directors, officers, employees and agents harmless from and against all liabilities, losses, claims, damages and expenses, including reasonable attorneys' fees and disbursements ("Claims"), to the extent that such arise out of or are in connection with a breach of any covenant, agreement, warranty or representation made by it herein; provided, however, that i-STAT shall not hold Heska and its respective Affiliates, stockholders, directors, officers, employees and agents harmless to the extent that such Claims arise out of or are in connection with a breach of any covenant, agreement, warranty or representation made by Heska regarding the Products (including but not limited to any Extended Warranty). In the event of any Third Party action, the indemnified Party shall have the right to participate in the defense, at its own expense, with counsel of its own choosing.

8.2 *Indemnification by Heska.* Heska shall indemnify i-STAT against all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and disbursements, incurred by i-STAT arising with respect to the sale, distribution or use of a Product to the extent caused by any action or omission of Heska or its stockholders, directors, officers, employees or agents. Heska shall indemnify, defend and hold i-STAT harmless against all claims, liabilities, costs and expenses (including the reasonable fees of attorneys and other professionals) incurred by, or threatened against, i-STAT in connection with any representation or warranty by Heska (including any Extended Warranty of the Products provided by Heska) or Heska's personnel inconsistent with: (a) the foregoing limited warranty and disclaimer of i-STAT; or (b) publications of i-STAT concerning the Products.

8.3 *Infringement Indemnification by i-STAT.* i-STAT shall indemnify Heska against all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and disbursements, incurred by Heska arising with respect to, out of or in connection with any claim that the Products or the Software infringe any copyright, patent, trade secret, trademark, or other proprietary right of any third party; provided that i-STAT is notified promptly in writing of the claim and Heska provides reasonable assistance in the settlement or defense of such claim; provided, that Product or Software are not altered by Heska except as specifically directed by i-STAT. If a Product or Software is held to constitute an infringement and its use as contemplated by this Agreement is enjoined or threatened to be enjoined, i-STAT shall at its option and expense: (a) procure for Heska the right to continue to Sell and distribute the Products or the Software; (b) replace or modify the Products or the Software with a version that is non-infringing; or (c) discontinue manufacture and/or sales of the Product in affected countries. In the event that i-STAT discontinues the manufacture and/or sale of a Product pursuant to this **Section 8.3** in any affected country, such discontinuance shall not be considered a breach of this Agreement, and the Parties shall negotiate in good faith an adjustment, if any, to the Base Cartridge Targets set forth in

Sections 2.4 and **2.5**. If the Parties are unable to agree on an adjustment, if any, to the Base Cartridge Targets as a result of good faith negotiations under the preceding sentence, they will follow the procedures set forth in **Section 11.9** to establish an adjustment, if any.

8.4 *Limitation of Liability.* UNDER NO CIRCUMSTANCES SHALL A PARTY BE RESPONSIBLE TO THE OTHER PARTY FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SALE, DELIVERY, NONDELIVERY, SERVICING, USE, MAINTENANCE, SUPPORT, CONDITION OR POSSESSION OF PRODUCTS.

ARTICLE 9. CONFIDENTIALITY

9.1

Confidentiality. Neither Party shall use for any purpose, other than as contemplated by this Agreement, or divulge to any Third Party, any Confidential Information provided to such Party by the other Party, except as may be required by law or judicial order.

9.2 *Public Announcements.* Neither Party shall make any public announcement concerning this Agreement, nor make any public statement which includes the name of the other Party or any of its Affiliates, or otherwise use the name of the other Party or any of its Affiliates in any public statement or document, except as may be required by law, including the requirements of the SEC, or judicial order, without the written consent of the other Party, which written consent shall not be withheld unreasonably.

ARTICLE 10. TERM AND TERMINATION

10.1 *Effective Date and Term*. The initial term of this Agreement shall commence as of the Effective Date and expire as of [***] (the "*Initial Term*"), unless sooner terminated as expressly provided in this **Article 10** or **Section 2.6**. THIS AGREEMENT WILL RENEW AUTOMATICALLY FOR ADDITIONAL ONE (1) YEAR TERMS (EACH, AN "*EXTENSION TERM*"), UNLESS SOONER TERMINATED AS EXPRESSLY PROVIDED IN THIS **ARTICLE 10** OR **SECTION 2.6**. The Initial Term and all Extension Terms are sometimes referred to herein as the "*Term*."

10.2 *Termination For Cause By Either Party*. In addition to the rights of the Parties to terminate this Agreement as provided hereinabove, either Party may terminate this Agreement for cause upon written notice to the other Party in the event the other Party: (a) appoints a receiver, executes an assignment for the benefit of creditors or files or otherwise becomes subject to bankruptcy or insolvency proceedings; or (b) materially breaches this Agreement and fails to cure such breach within sixty (60) days after receipt of written notice of breach from the non-breaching Party, as such cure period may be extended for such additional period as the non-breaching Party reasonably determines that the breaching Party is diligently pursuing a cure of such breach.

10.3 *By i-STAT for a Change of Control under Certain Circumstances*. If Heska undergoes a Change of Control, Heska or the controlling entity following the Change of Control shall notify i-STAT within thirty (30) days of such Change of Control. Such notice shall inform i-STAT of the identify of the entity involved in the Change of Control with Heska, and of the parent corporation, if any, of the entity involved in the Change of Control with Heska. i-STAT shall have the right to terminate this Agreement within six (6) months of such notice if Heska has a Change of Control to an entity that, in i-STAT's sole opinion, competes with i-STAT or its Affiliates or, in i-STAT's reasonable business judgment, would harm i-STAT's position in, the human blood and/or veterinary diagnostics market; provided, that if Heska believes that i-STAT's determination is unreasonable, the Parties shall follow the procedure set forth in Section 11.9 to make the determination.

10.4 *Effect of Termination*. Upon the termination of this Agreement:

(a) The Parties shall immediately cease the use of any Confidential Information of the other Party and, in the case of Heska, of the Marks, except as permitted in this **Section 10.4**.

(b) Unless this Agreement is terminated by i-STAT for Heska's breach or bankruptcy, and subject to i-STAT's rights as provided in this **Section 10.4**, (i) i-STAT shall honor all accepted purchase orders providing for delivery of Product within thirty (30) days of the date of termination and for which Heska pays in full prior to shipment, and (ii) Heska may Sell Products on a nonexclusive basis but otherwise on the terms set forth in this Agreement its remaining inventory of Products for a period of up to ninety (90) days following the date of termination.

(c) i-STAT shall have the right (but not the obligation), upon prior written notice to Heska given within ten (10) days after termination to purchase from Heska all or any portion of the Products in its inventory at the time of such termination for credit against outstanding invoices, or for cash refund to the extent there are no invoices then outstanding. Any credit or refund due Heska for such Product shall be equal to the Purchase Price of the Product, less any discounts or credits previously received.

(d) Heska shall return to i-STAT all promotional and sales training materials provided to Heska by i-STAT under this Agreement.

(e) To the extent permitted by law, Heska shall assign to i-STAT and deliver to i-STAT any import permits, health resignations, licenses, exemptions from customs duties and governmental consents of any nature specifically relating to i-STAT Products, which Heska may have or retain directly or indirectly in connection with the Products imported, Sold and/or distributed under this Agreement, which it has not yet assigned or waived, or which have not yet been delivered prior to termination.

(f) Heska shall not, in the final six months of any notification of termination (or such actual time after notice and before actual termination, if shorter), undertake any actions intended or designed to cause End Users or Dealers to purchase higher than normal levels of inventory of Products.

10.5 *Continuing Obligations*. Upon any termination of this Agreement (except termination for cause by Heska due to i-STAT's breach), at i-STAT's election and in accordance with i-STAT's instructions, Heska shall: (a) cooperate in referring End Users to i-STAT or to such other persons as i-STAT may direct for continuing purchase of Products and related services; (b) transfer to i-STAT or its nominees all outstanding maintenance contracts for the Products; and (c) provide i-STAT with a list of each End User who purchased Product through Heska, including records of all Software updates performed. Following termination of this Agreement for any reason, Heska shall have no further obligations to End Users with respect to Software updates and maintenance or technical support. Nothing in this Agreement shall be construed as preventing Heska from soliciting End Users for other products following the termination of this Agreement.

10.6 *Survival*. The following Articles and Sections shall survive termination of the Agreement: **Articles 1, 7, 8, 9, 10** and **11** and **Sections 3.6, 3.8, 3.9, 3.11**, **4.12** and **4.13**. In addition, all provisions that survive termination, that are irrevocable or that arise due to termination shall survive in accordance with their terms. Any other provisions of this Agreement contemplated by their terms to pertain to a period of time following termination of this Agreement shall survive for the specified period of time only.

ARTICLE 11. MISCELLANEOUS

11.1 *Notices*. All written notices and other communications between the Parties shall be in the English language and shall be deemed effective on the date they are received by certified air mail or confirmed facsimile addressed to the other Party at the address or facsimile number stated below.

If to i-STAT: i-STAT Corporation
104 Windsor Center Drive
East Windsor, New Jersey 08520
Attn: Vice-President, Sales and Marketing
Telephone Number: (609) 443-9300
Facsimile Number: [***]

With copy to: Divisional Vice President, Medical Products Group
Domestic Legal Operations
D-322, Building AP6D
100 Abbott Park Road
Abbott Park, Illinois 60064-6049
Facsimile Number: [***]

If to Heska: Heska Corporation
1613 Prospect Parkway
Fort Collins, Colorado 80525
Attn: Chief Financial Officer
Telephone Number: (970) 493-7272
Facsimile Number: [***]

With copy to: Osborn Maledon, P.A.
Attn: William M. Hardin, Esq.
2929 North Central Ave.
Suite 2100
Phoenix, AZ 85012
Telephone Number: [***]
Facsimile Number: [***]

11.2 *Annual Cartridge Purchases Calculation*. Following each Contract Year, the number of Cartridge Purchases for such Contract Year shall be determined as set forth in **Subsections 11.2.1** and **11.2.2** and the Parties shall execute and attach to this Agreement the "Annual Cartridge Purchase Calculation" form set forth on Exhibit 11.2 completed for such Contract Year.

11.2.1 *i-STAT Provides i-STAT Calculation*. Within forty (40) days after the end of each Contract Year, i-STAT shall provide Heska in writing with i-STAT's calculation of Heska's Cartridge Purchases in such Contract Year (the "*i-STAT Calculation*"). If Heska disagrees with the i-STAT Calculation, Heska shall have thirty (30) days after receipt of the i-STAT Calculation to respond in writing, with (a) Heska's estimate; (b) the difference between Heska's estimate and the i-STAT Calculation; and (c) purchase order level detail so that i-STAT may verify the i-STAT Calculation. If i-STAT disagrees with Heska's calculation and Heska requests, in writing, purchase order level detail for the i-STAT Calculation, i-STAT shall provide such information. If the exchange of such information does not resolve the dispute, the Parties shall negotiate in good faith to determine the actual Cartridge Purchases in such Contract Year and, if such dispute is not resolved within thirty (30) days, the dispute shall be resolved pursuant to **Section 11.9**.

11.2.2 *i-STAT Does Not Provide i-STAT Calculation*. If i-STAT fails to provide Heska with the i-STAT Calculation within forty (40) days after the end of a given Contract Year, Heska shall provide i-STAT, in writing, with Heska's calculation of Heska's Cartridge Purchases in such Contract Year (the "*Heska Calculation*") within seventy (70) days after the end of such Contract Year. If i-STAT disagrees with the Heska Calculation, i-STAT shall have thirty (30) days after receipt of the Heska Calculation to respond, in writing, with (i) i-STAT's estimate, (ii) the difference between i-STAT's estimate and the Heska Calculation, and (iii) purchase order level detail so that Heska may verify the Heska Calculation. If Heska disagrees with i-STAT's calculation and i-STAT requests, in writing, purchase order level detail for the Heska Calculation, Heska shall provide such information. If the exchange of such information does not resolve the dispute, the Parties shall negotiate in good faith to determine the actual Cartridge Purchases in such Contract Year and, if such dispute is not resolved within thirty (30) days, the dispute shall be resolved pursuant to **Section 11.9**.

11.3 [***].

11.3.1 [***].

11.3.2 [***].

11.4 *Binding Effect/Assignment*. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. Neither Party shall have the right to assign any of its rights or obligations under this Agreement without the prior written consent of the other Party; *provided, however*, that without such written consent, i-STAT shall have the right to assign its rights hereunder to an Affiliate of i-STAT and Heska shall have the right to assign this Agreement to any corporation controlled by Heska which has, as one of its principal lines of business, the sale of diagnostic equipment for the veterinary market. In the event that a Change of Control of Heska does not involve a competitor of i-STAT (pursuant to **Section 10.3** of this Agreement) Heska shall have the right to assign this Agreement without i-STAT's consent in connection with a Change of Control; *provided*, that i-STAT has not terminated this Agreement in the time frame provided in, and pursuant to the terms and conditions set forth in, **Section 10.3**.

11.5 *Waivers*. Any waiver by either of the Parties hereto of any rights arising from a breach of any covenants or conditions of this Agreement shall not be construed as a continuing waiver of other breaches of the same nature or other covenants or conditions of this Agreement. Any failure by one of the Parties to assert its rights for or upon any breach of this Agreement shall not be deemed to be a waiver of such rights, nor shall such waiver be implied from the acceptance of any payment.

11.6

Relationship of the Parties. Nothing in this Agreement or any other document or agreement between the Parties shall constitute or be deemed to constitute a partnership or joint venture between the Parties. The relationship between Heska and i-STAT shall be that of buyer and seller. No officer, agent or employee of one Party shall under any circumstances be considered the agent, employee or representative of the other Party. Neither Party shall have the right to enter into any contracts or binding commitments in the name of or on behalf of the other Party in any respect whatsoever.

11.7 *Force Majeure*. Neither Party shall be liable to the other Party or in default hereunder by reason of any delay or omission caused by fire, flood, strike, lockout, civil or military authority, insurrection, war, embargo, container or transportation shortage or delay of suppliers due to such causes, and delivery dates shall be extended to the extent of any delays resulting from the foregoing or similar causes. In the event of a Product shortage, i-STAT shall have the right to allocate its available Product among Heska and all other customers of i-STAT in such a manner as i-STAT, in its sole

discretion, considers equitable, and the Parties shall negotiate in good faith an adjustment to the Base Cartridge Targets set forth in **Section 2.7**.

11.8 *Governing Law*. This Agreement shall in all respects be governed by, and construed in accordance with, the internal laws (and not the laws of conflicts) of the State of New Jersey. The United Nations Convention on Contracts for the International Sale of Goods (1980), as amended, is specifically excluded from application to this Agreement.

11.9 *Alternative Dispute Resolution*. Any and all disputes, controversies or claims arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof, including but not limited to the resolution of potential issues described in various provisions of this Agreement that expressly refer to this Section 11.9 (including but not limited to Sections 2.9, 4.5, 8.3 and 10.3) shall be finally settled pursuant to the dispute resolution procedures set forth on Exhibit 11.9.

11.10 *Severability*. If any provision of this Agreement for any reason shall be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other term or provision hereof, and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held to be invalid, illegal or unenforceable, had never been contained herein.

11.11 *Entire Agreement*. This Agreement, including the exhibits, constitutes the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous writings or discussions, including but not limited to the Prior Agreement. Except as otherwise expressly provided, no agreement varying or extending the terms of this Agreement shall be binding on either Party unless in a writing signed by an authorized representative of each Party.

11.12 *Headings*. The headings of the paragraphs and subparagraphs of this Agreement have been added for the convenience of the parties and shall not be deemed a part hereof.

11.13 *Counterparts*. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single Agreement. In proving this Agreement, it shall be necessary to produce or account for more than one counterpart signed by the Party with respect to whom proof is sought.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, each Party has caused this Distribution Agreement to be executed on its behalf by its duly authorized officer as of the Effective Date.

i-STAT Corporation		Heska Corporation	
By:	/s/ John Mooradian	By:	/s/ Jason Napolitano
	JOHN MOORADIAN		JASON NAPOLITANO
Its:	President	Its:	Chief Financial Officer
Date:	October 29, 2004	Date:	October 28, 2004

LIST OF EXHIBITS

Exhibit Number	Exhibit Name
1.16	[***]
1.29	Products and Purchase Prices
3.8	Bank Wire Transfer Information
7.1	End User Warranties
11.2	Annual Cartridge Purchase Calculation
11.3A	[***]
11.3B	[***]
11.3C	[***]
11.3D	[***]
11.3E	[***]
11.3F	[***]
11.9	Alternative Dispute Resolution

EXHIBIT 1.16

[***]

Exhibit 1.29
PRODUCTS AND PURCHASE PRICES

Analyzer and Associated Parts Price List

Analyzer Product No.	Description	Price
210002	Series 200 analyzer	[***]
111700	HP Portable Printer	[***]
111501	Portable printer Paper	[***]
111502	HP Portable Printer AC Adapter	[***]
112102	Printer Cradle w/o IR Link	[***]
111003	9 Volt lithium batteries (6/box)	[***]
131000	Aqueous Controls Level 1	[***]
131500	Aqueous Controls Level 2	[***]
132000	Aqueous Controls Level 3	[***]
135681	Calibration Verification Set	[***]
136400	Level 1 ACT Control (Kit)	[***]
136500	Level 2 ACT Control (Kit)	[***]
111400	Capillary tubes 65 µL	[***]
112202	IR Link with cradle	[***]
112212	Analyzer programming kit	[***]
011996-01	i-STAT Binders	[***]
620001	i-STAT System Manual—UK English	[***]
620002	i-STAT System Manual—German	[***]
620003	i-STAT System Manual—French	[***]
620004	i-STAT System Manual—Spanish	[***]
620005	i-STAT System Manual—Italian	[***]
620006	i-STAT System Manual—Dutch	[***]
620007	i-STAT System Manual—Swedish	[***]
NOT Available	i-STAT System Manual—Portuguese	[***]
130100	Electronic Simulator	[***]
SRP200	Analyzer repair cost—non warranty	[***]
SRP230	Portable printer repair cost	[***]

Exhibit 1.29
PRODUCTS AND PURCHASE PRICES

Cartridge Price List

Cartridge Product No.	Description	Qty/Box	United States		Rest of World	
			Price/Test	Price/Box	Price/Test	Price/Box
220300	EG7+	25	[***]	[***]	[***]	[***]
220200	EG6+	25	[***]	[***]	[***]	[***]
220100	G3+	25	[***]	[***]	[***]	[***]
125000-02	EC8+	25	[***]	[***]	[***]	[***]
121000-02	6+	25	[***]	[***]	[***]	[***]
123000-02	EC6+	25	[***]	[***]	[***]	[***]
121500-02	EC4+	25	[***]	[***]	[***]	[***]
120100-02	G	25	[***]	[***]	[***]	[***]
320100	creatinine	25	[***]	[***]	[***]	[***]
220400	CG8+	25	[***]	[***]	[***]	[***]
420300	ACT	25	[***]	[***]	[***]	[***]
220550	CG4+	25	[***]	[***]	[***]	[***]
120500-02	E3+	25	[***]	[***]	[***]	[***]

Exhibit 1.29
PRODUCTS AND PURCHASE PRICES

Service Repair Parts

i-STAT Part Number	Description	Price
010762-01	10 pin connector Digital Bd	[***]
010559-01	20 pin Connector—Nyebar	[***]
011882-01	200 Cover Screw	[***]
012378-01	200 Display (Double)	[***]
011678-01 02	200 Display (Single)	[***]
011832-01	200 External Back Housing	[***]
012086-01	200 Housing Feet	[***]
012203-01 01	200 Hybrid Flex Cable	[***]
010534-01	200 Thermal Probe	[***]
012156-01	5 Minute Epoxy	[***]
010760-01	9 pin connector Digital Bd.	[***]
010941-02 01	Abbott Boxes	[***]
012369-01	Assy, Battery Cable	[***]
012369-01 01	Battery Flex Assembly	[***]
010501-01 01	Bowed Clip	[***]
010941-01	Boxes (i-STAT)	[***]

010087-02	BT101—Lithium Battery (Double)	[***]
012333-01 01	BT1—Lithium Battery (Single)	[***]
012328-01 01	C119 / C124	[***]
010032-05	Capcitor—C186	[***]
012217-01 01	Cartridge Door	[***]
015506-01	Clip Retainer	[***]
012055-01	Cover, Battery compartment	[***]
011856-02	Damper (Double Length)	[***]
011856-05	Damper (Double Width)	[***]
011856-04	Damper (Quad Length)	[***]
011856-03	Damper (Triple Length)	[***]
012378-01	Display—(Double bd.)	[***]
011678-02	Display—(Single bd.)	[***]
012605-01 01	Display block, Hantronix	[***]
010091-01	Display Window	[***]
010618-01	FLASH U56(U109)	[***]
010500-01 01	Flat Clip	[***]
015384-01 02	Follower Arm Assembly	[***]
015473-01 03	Fork	[***]
012341-01 02	Front Housing (AID Keypad)	[***]
010491-01 02	Guide Pin	[***]
012368-01	Harness flex cable (200 single board)	[***]
010731-01	Hybrid	[***]
012203-01	Hybrid Flex cable	[***]
012023-01	Keypad PCB Rivet	[***]
012278-01	Keypad PCB Screw	[***]
012340-01 05	Keypad PCB—Double bd.	[***]
012891-01 01	Latch	[***]
012373-01 01	Latch Retainer	[***]
010087-02	Lithium battery—200 analyzer	[***]
010493-01	Pivot Pin	[***]
010627-01	R120	[***]
010070-26	Ram U57 (U106)	[***]
010070-27	RTC (DP8570A)	[***]
010572-01 03	Spiral, Spring Latch	[***]
010763-01	Start Cycle Switch double board	[***]
010764-01	Start Cycle Switch single board	[***]
010534-01	Thermal probes	[***]
010311-01	Threadlocker 222	[***]
010070-05	U105 / U112	[***]
010070-27	U107—RTC (DP8570A)	[***]
012324-11 01	U53—RTC	[***]
012324-01 01	U89—FPGA	[***]

EXHIBIT 3.8
Bank Wire Transfer Information

Domestic wires:

Wachovia Bank
Charlotte, NC

ABA# 053000219

Account Name: Abbott—i-STAT USD
Account Number: [***]
Reference: Your Company Name & Invoice #

International wires:

Wachovia Bank
Charlotte, NC

SWIFT: PNBPUS33

Account Name: Abbott—i-STAT USD
Account Number: [***]
Reference: Your Company Name & Invoice #

EXHIBIT 7.1
CUSTOMER WARRANTIES

Warranty

i-STAT warrants this medical product (excluding disposable or consumable supplies) against defects in materials and workmanship for one year from the date of shipment. If i-STAT receives notice of such defects during the warranty period, i-STAT shall, at its option, either repair or replace products which prove to

be defective. With respect to software or firmware, if i-STAT receives notice of defects in these products during the warranty period, i-STAT shall repair or replace software media and firmware which does not execute their programming instructions due to such defects. i-STAT does not warrant that the operating of the software, firmware or hardware shall be uninterrupted or error free. If i-STAT is unable, within a reasonable time, to repair or replace any product to a condition as warranted, Buyer shall be entitled to a refund of the purchase price upon return of the product to i-STAT.

Note: Warranty rights may vary from state to state, province to province and country to country.

Limitations of Warranty

The foregoing warranty shall not apply to defects resulting from:

1. Improper or inadequate maintenance by Buyer or an unauthorized person,
2. Using accessories and/or consumables that are not approved by i-STAT,
3. Buyer-supplied software or interfacing,
4. Unauthorized repairs, modifications, misuse, or damage caused by disposable batteries, or rechargeable batteries not supplied by Abbott.
5. Operating outside of the environmental specifications of the product, or
6. Improper site preparation or maintenance.

THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. ABBOTT SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

EXHIBIT 11.2
ANNUAL CARTRIDGE PURCHASE CALCULATION

Contract Year: _____

i-STAT Calculation: _____ date provided to Heska: _____

Approved by Heska: o Yes / o No* date approved/rejected by Heska: _____

**if No:*
Heska Estimate: _____ date provided to i-STAT: _____

Approved by i-STAT: o Yes / o No** date approved/rejected by i-STAT: _____

***if No:*
Agreed Calculation: _____ date agreed: _____

Official Determination of Cartridge Purchases
for Contract Year _____ is: _____.

i-STAT Corporation	Heska Corporation
By: _____	By: _____
Its: _____	Its: _____
Date: _____	Date: _____

EXHIBIT 11.3A

[***]

EXHIBIT 11.3B

[***]

EXHIBIT 11.3C

[***]

EXHIBIT 11.3D

[***]

EXHIBIT 11.3E

[***]

EXHIBIT 11.3F

[***]

EXHIBIT 11.9
ALTERNATIVE DISPUTE RESOLUTION

The parties recognize that from time to time a dispute may arise relating to either party's rights or obligations under this Agreement. The parties agree that any such dispute shall be resolved by the Alternative Dispute Resolution ("*ADR*") provisions set forth in this Exhibit, the result of which shall be binding upon the parties.

To begin the ADR process, a party first must send written notice to the other party in accordance with the terms of the Agreement describing the dispute and requesting attempted resolution by good faith negotiations between their respective president or principal executive officer(s) (or their designees) of the affected subsidiaries, divisions, or business units within twenty-eight (28) days after such notice is received (all references to "days" in this ADR provision are to calendar days). If the matter has not been resolved within twenty-eight (28) days of the notice of dispute, or if the parties fail to meet within such twenty-eight (28) days, either party may initiate an ADR proceeding as provided herein. The parties shall have the right to be represented by counsel in such a proceeding.

1. To begin an ADR proceeding, a party shall provide written notice to the other party in accordance with the terms of the Agreement of the issues to be resolved by ADR. Within fourteen (14) days after its receipt of such notice, the other party may, by written notice to the party initiating the ADR, add additional issues to be resolved within the same ADR.

2. Within twenty-one (21) days following receipt of the original ADR notice, the parties shall select a mutually acceptable neutral to preside in the resolution of any disputes in this ADR proceeding. If the parties are unable to agree on a mutually acceptable neutral within such period, either party may request the President of the CPR Institute for Dispute Resolution ("*CPR*"), 366 Madison Avenue, 14th Floor, New York, New York 10017, to select a neutral pursuant to the following procedures:

(a) The CPR shall submit to the parties a list of not less than five (5) candidates within fourteen (14) days after receipt of the request, along with a *Curriculum Vitae* for each candidate. No candidate shall be an employee, director, shareholder or Affiliate of either party or any of their subsidiaries or affiliates.

(b) Such list shall include a statement of disclosure by each candidate of any circumstances likely to affect his or her impartiality.

(c) Each party shall number the candidates in order of preference (with the number one (1) signifying the greatest preference) and shall deliver the list to the CPR within seven (7) days following receipt of the list of candidates. If a party believes a conflict of interest exists regarding any of the candidates, that party shall provide a written explanation of the conflict to the CPR along with its list showing its order of preference for the candidates. Any party failing to return a list of preferences on time shall be deemed to have no order of preference.

(d) If the parties collectively have identified fewer than three (3) candidates deemed to have conflicts, the CPR immediately shall designate as the neutral the candidate for whom the parties collectively have indicated the greatest preference. If a tie should result between two candidates, the CPR may designate either candidate. If the parties collectively have identified three (3) or more candidates deemed to have conflicts, the CPR shall review the explanations regarding conflicts and, in its sole discretion, may either (i) immediately designate as the neutral the candidate for whom the parties collectively have indicated the greatest preference, or (ii) issue a new list of not less than five (5) candidates, in which case the procedures set forth in subparagraphs 2(a)-2(d) shall be repeated.

3. No earlier than twenty-eight (28) days or later than fifty-six (56) days after selection, the neutral shall hold a hearing to resolve each of the issues identified by the parties. The ADR proceeding shall take place at a location agreed upon by the parties. If the parties cannot agree, the neutral shall designate a location other than the principal place of business of either party or any of their subsidiaries or Affiliates.

4. At least seven (7) days prior to the hearing, each party shall submit the following to the other party and the neutral:

(a) a copy of all exhibits on which such party intends to rely in any oral or written presentation to the neutral;

(b) a list of any witnesses such party intends to call at the hearing, and a short summary of the anticipated testimony of each witness;

(c) a proposed ruling on each issue to be resolved, together with a request for a specific damage award or other remedy for each issue. The proposed rulings and remedies shall not contain any recitation of the facts or any legal arguments and shall not exceed one (1) page per issue. The parties agree that neither side shall seek as part of its remedy any punitive damages.

(d) a brief in support of such party's proposed rulings and remedies, provided that the brief shall not exceed twenty (20) pages. This page limitation shall apply regardless of the number of issues raised in the ADR proceeding.

Except as expressly set forth in subparagraphs 4(a)-4(d), no discovery shall be required or permitted by any means, including depositions, interrogatories, requests for admissions, or production of documents.

5. The hearing shall be conducted on two (2) consecutive days and shall be governed by the following rules:

(a) Each party shall be entitled to five (5) hours of hearing time to present its case. The neutral shall determine whether each party has had the five (5) hours to which it is entitled.

(b) Each party shall be entitled, but not required, to make an opening statement, to present regular and rebuttal testimony, documents or other evidence, to cross-examine witnesses, and to make a closing argument. Cross-examination of witnesses shall occur immediately after their direct testimony, and cross-examination time shall be charged against the party conducting the cross-examination.

(c) The party initiating the ADR shall begin the hearing and, if it chooses to make an opening statement, shall address not only issues it raised but also any issues raised by the responding party. The responding party, if it chooses to make an opening statement, also shall address all issues raised in the ADR. Thereafter, the presentation of regular and rebuttal testimony and documents, other evidence, and closing arguments shall proceed in the same sequence.

(d) Except when testifying, witnesses shall be excluded from the hearing until closing arguments.

(e) Settlement negotiations, including any statements made therein, shall not be admissible under any circumstances. Affidavits prepared for purposes of the ADR hearing also shall not be admissible. As to all other matters, the neutral shall have sole discretion regarding the admissibility of any evidence.

6. Within seven (7) days following completion of the hearing, each party may submit to the other party and the neutral a post-hearing brief in support of its proposed rulings and remedies, provided that such brief shall not contain or discuss any new evidence and shall not exceed ten (10) pages. This page limitation shall apply regardless of the number of issues raised in the ADR proceeding.

7. The neutral shall rule on each disputed issue within fourteen (14) days following completion of the hearing. Such ruling shall adopt in its entirety the proposed ruling and remedy of one of the parties on each disputed issue but may adopt one party's proposed rulings and remedies on some issues and the other party's proposed rulings and remedies on other issues. The neutral shall not issue any written opinion or otherwise explain the basis of the ruling.

8. The neutral shall be paid a reasonable fee plus expenses. These fees and expenses, along with the reasonable legal fees and expenses of the prevailing party (including all expert witness fees and expenses), the fees and expenses of a court reporter, and any expenses for a hearing room, shall be paid as follows:

(a) If the neutral rules in favor of one party on all disputed issues in the ADR, the losing party shall pay 100% of such fees and expenses.

(b) If the neutral rules in favor of one party on some issues and the other party on other issues, the neutral shall issue with the rulings a written determination as to how such fees and expenses shall be allocated between the parties. The neutral shall allocate fees and expenses in a way that bears a reasonable relationship to the outcome of the ADR, with the party prevailing on more issues, or on issues of greater value or gravity, recovering a relatively larger share of its legal fees and expenses.

9. The rulings of the neutral and the allocation of fees and expenses shall be binding, non-reviewable, and non-appealable, and may be entered as a final judgment in any court having jurisdiction.

10. Except as provided in paragraph 9 or as required by law, the existence of the dispute, any settlement negotiations, the ADR hearing, any submissions (including exhibits, testimony, proposed rulings, and briefs), and the rulings shall be deemed Confidential Information. The neutral shall have the authority to impose sanctions for unauthorized disclosure of Confidential Information.

11. All ADR hearings shall be conducted in the English language.

QuickLinks

Exhibit 10.31

DISTRIBUTION AGREEMENT

Exhibit 10.32

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SECOND AMENDMENT
TO
AMENDED AND RESTATED
BOVINE VACCINE DISTRIBUTION AGREEMENT

This Second Amendment ("*Second Amendment*") is entered into as of the 10th day of December, 2004 ("*Effective Date*") by and between **DIAMOND ANIMAL HEALTH, INC.**, an Iowa corporation with offices at 2538 Southeast 43rd Street, Des Moines, Iowa 50317 ("*Diamond*") and **AGRI LABORATORIES, LTD.**, a Delaware corporation, with offices at 20927 State Route K, St. Joseph, Missouri 64505 ("*Distributor*") as an amendment to that certain Amended and Restated Bovine Vaccine Distribution Agreement dated as of September 30, 2002 between Diamond and Distributor (the "*Original Agreement*"), as amended by that certain First Amendment dated as of September 20, 2004 (the "*First Amendment*") (together, the "*Agreement*").

WHEREAS, Diamond and Distributor are parties to the Agreement providing for the distribution of certain bovine antigens; and

WHEREAS, Distributor made the 2004 Prepayment of [***] pursuant to Section 3.04(ii) of the Agreement in April 2004 and subsequently, pursuant to the First Amendment, Distributor made an additional [***] prepayment to Diamond toward the purchase of Products and/or Initial Products for Contract Year 2005 (collectively, the "*[***] Prepayment*"); and

WHEREAS, Distributor and Diamond are parties to a Research, Development and License Agreement dated as of September 20, 2004 (the "*[***] R & D Agreement*"), providing for the development [***] (the "*[***] Products*"); and

WHEREAS, Distributor and Diamond are parties to a Research, Development and License Agreement dated as of the date hereof (the "*[***] R&D Agreement*"), providing for the development [***] (the "*[***] Product*"); and

WHEREAS, Distributor and Diamond desire to amend the Agreement on the terms and conditions of this Second Amendment.

NOW, THEREFORE, the parties agree as follows:

1. *Definitions.* Capitalized terms used herein shall have the meanings ascribed to them in the Agreement, unless otherwise defined herein.

2. *Amendment Fee.*

(i) The [***] Prepayment shall be retained by Diamond as a non-refundable fee paid by Distributor to Diamond for this Second Amendment (the "*Amendment Fee*"). No portion of the [***] Prepayment shall be credited toward Distributor's obligations to purchase and pay for Products. Each of (i) the last two (2) sentences of Section 3.04(ii) of the Original Agreement and (ii) Section 2 of the First Amendment is hereby deleted in its entirety and shall have no further force or effect.

(ii) If at any time prior to the end of Contract Year 2009, Diamond's manufacturing facility is shut down and Diamond is unable to supply Products to Distributor as a result of a regulatory order or force majeure event (as defined in Section 8 of the Agreement) (a "*Shut Down Event*"), for a period of greater than four (4) consecutive calendar months (the last day of such four (4) month period, the "*Trigger Date*"), Diamond shall reimburse to Distributor a portion of the Amendment Fee as follows: [***] for every month prior to January 2010 in which a Shut Down Event continues, including [***] for each of the four (4) months beginning on the commencement of the Shut Down Event and ending upon the Trigger Date (the "*Shut Down Payment*"). Any such Shut Down Payment shall be made in monthly installments of [***], beginning on the Trigger Date, and continuing on the first day of each calendar month thereafter until the Shut Down Payment is paid in full.

3. *Amendment of Loan.* Pursuant to Section 3.06 of the Agreement, Diamond delivered to Distributor the New Note to evidence the Loan. Upon execution and delivery of this Second Amendment, the parties shall cancel the New Note and execute and deliver a substitute Note in the form attached hereto as *Exhibit A*.

4. *Exclusivity.*

(i) The first sentence of Section 1.02 of the Agreement is hereby deleted in its entirety and replaced with the following sentences:

Distributor's distribution rights under the Agreement shall be exclusive worldwide for all products identified on *Exhibit A* attached to the Agreement and Additional Products added pursuant to Section 2 through Contract Year 2009, except as set forth in this paragraph, and unless earlier terminated in accordance with the provisions of the Agreement. Distributor's distribution rights under the Agreement shall be nonexclusive during the remaining term of the Agreement following Contract Year 2009, unless Distributor is granted additional exclusivity rights in accordance with Section 11 of the Second Amendment.

Except for the first sentence of Section 1.02 of the Agreement, the remaining provisions of Section 1.02 of the Agreement shall remain in full force and effect.

(ii) Section 3 of the First Amendment is hereby deleted in its entirety and shall have no further force or effect.

5. *Territory.* Section 1.03 of the Agreement is hereby deleted in its entirety and replaced with the following paragraph:

Subject to the terms and conditions of this Agreement, Distributor is authorized to sell, have sold and otherwise distribute Products and Additional Products added pursuant to Section 2 (hereafter collectively referred to as ("*All Products*") in the following territories: (i) worldwide through June 30, 2005, limited only as provided in Section 1.02, and (ii) only in the United States, Africa, China, Mexico and Taiwan through December 15, 2009, limited only as provided in Section 1.02; provided, that notwithstanding any provision of this Agreement to the contrary, Distributor shall have no distribution rights in Canada after December 15, 2009.

6. *Minimums.*

(i) The table set forth in Section 1.04(ii)(A)(1) of the Agreement is hereby deleted in its entirety and replaced with the following table:

Contract Year Ending December 15,	Minimum Qualified Revenue
2004	[***]
2005	[***]
2006	[***]
2007	[***]
2008	[***]

(ii) The table set forth in Section 1.04(ii)(A)(2) of the Agreement is hereby deleted in its entirety and replaced with the table set forth in Section 6(i) of this Second Amendment.

(iii) The table set forth in Section 1.04(ii)(B) of the Agreement is hereby deleted in its entirety and replaced with the following table:

Contract Year Ending December 15,	Minimum Initial Product Revenue
2004	[***]
2005	[***]
2006	[***]
2007	[***]
2008	[***]

(iv) In Contract Year 2006 and subsequent Contract Years, if a License has not issued for [***] Products on or before June 30 in any such Contract Year, the Minimum Qualified Revenue and Minimum Initial Product Revenue set forth in each table in paragraphs (i) through (iii) above shall be reduced by [***] for such Contract Year, in addition to any adjustment required under Section 6(v) below.

(v) In Contract Year 2006 and subsequent Contract Years, if a License has been issued for [***] Product on or before June 30 in any such Contract Year, the Minimum Qualified Revenue and Minimum Initial Product Revenue set forth in each table in paragraphs (i) through (iii) above shall be increased by [***] for such Contract Year, in addition to any adjustment required under Section 6(iv) above.

(vi) Distributor shall use its best efforts to maximize sales of Products during the term of the Agreement, in excess of the Minimum Qualified Revenue.

7. *Additional Prepayments; Take-or-Pay Obligations.* The Agreement is hereby amended to add the following new Section 3.04(iii):

3.04(iii)(A) For purposes of the Agreement, "*Contract Quarter*" shall mean the quarterly periods during each Contract Year beginning on December 16, March 16, June 16, and September 16. For purposes of this Agreement, Qualified Revenue for any Contract Year or Contract Quarter includes the Purchase Price of Products ordered by Distributor for delivery in such Contract Year or Contract Quarter, even if Diamond is unable to make timely delivery in such Contract Year or Contract Quarter.

(B) On or before the first day of each Contract Quarter in Contracts Years 2005 through 2009, inclusive, Distributor shall pay to Diamond an amount equal to [***], which amount shall be credited, effective upon issuance of Diamond invoices, against the invoice prices for Products to be shipped in such Contract Year (each, a "*Minimum Prepayment*"). Distributor shall not be required to make a Minimum Prepayment during a Shut Down Event.

(C) If Qualified Revenues are less than [***] in Contract Year 2005, then Distributor shall pay an amount equal to such shortfall to Diamond; provided, that Distributor shall not be obligated to make such payment if a Shut Down Event occurs during Contract Year 2005.

(D) If Qualified Revenues are less than [***] in any Contract Quarter during Contract Years 2006 through 2009, inclusive, then Distributor shall pay to Diamond an amount equal to such shortfall; provided, that Distributor shall not be obligated to make such payment for any Contract Quarter in which a Shut Down Event occurs or continues.

(E) Diamond shall be entitled to retain any portion of the Minimum Prepayments not credited to actual purchases of Products to satisfy Distributor's take-or-pay obligations in the preceding paragraphs (C) and (D). Distributor's obligation to make the take-or-pay payments pursuant to paragraphs (C) and (D) above shall be absolute, regardless of whether or not Distributor elects to make an Additional Payment or Additional Initial Product Payment to maintain its exclusivity under the Agreement and regardless of whether Distributor's exclusivity under the Agreement shall have terminated for any other reason.

8. *Price Adjustment [***].* Notwithstanding any provision of the Agreement (and its Exhibits) to the contrary, the price for [***] shall be increased as set forth on *Exhibit B* attached hereto, effective upon execution and delivery of this Second Amendment; provided, that the effective date of such price increase for [***] to be distributed in Africa shall be September 1, 2005.

9. *Returns.* Section 5.05 of the Agreement is hereby deleted in its entirety and shall be of no further force and effect, effective as of December 16, 2004; provided, that Distributor may return Products shipped during Contract Year 2004 in accordance with such Section 5.05 on or before December 15, 2004.

10. *Special Termination Right.* Section 6.04 of the Agreement is hereby redesignated as Section 6.05 and the following new Section 6.04 is hereby added to the Agreement:

6.04 *Special Termination Right.* Diamond shall have the right, but not the obligation, to terminate this Agreement, effective as of December 15, 2010, upon at least 270 days prior written notice to Distributor; provided, that all of the following conditions have been met:

(i) a License has issued prior to the beginning of Contract Year 2008 with respect to monovalent and combination [***] Products;

(ii) a License has issued prior to the beginning of Contract Year 2008 with respect to a [***] Product;

(iii) a License has issued prior to the beginning of Contract Year 2008 with respect to [***];

(iv) Distributor has maintained its exclusive distribution rights in accordance with the terms of the Agreement for both Contract Years 2008 and 2009; and

(v) Distributor's aggregate, cumulative Qualified Revenue for Contract Years 2004 through 2009, inclusive, is less than [***].

11. The Agreement is hereby amended to add the following new Section 3.07 (see *Examples 1 and 2* of *Exhibit C*):

3.07 *[***] Compensation.* If a License is not issued for [***] on or before January 31, 2006, Diamond shall elect (the "*[***] Election*") to take one of the following actions for the benefit of Distributor, such election to be made at Diamond's sole discretion: (i) pay to Distributor monthly installments of [***] for each full or partial month after January 2006 in which a License has not issued, not to exceed 30 months ("*[***] Installments*"), or alternatively, (ii) grant to Distributor one additional month of exclusive distribution rights under this Agreement for each month after January 2006 in which a License has not issued, not to exceed 30 months ("*[***] Extension*"). Diamond shall make the [***] Election, if required, on or before the later of (x) 90 days after such License has issued or (y) July 31, 2007; provided, that if such License is not issued on or before July 31, 2007, the [***] Election shall be made on July 31, 2007. If Diamond elects to make the [***] Installments, the first such [***] installment shall be made on the first day of the month after Diamond makes the [***] Election and shall continue on the first day of each succeeding month until the number of installments payable under (i) above has been made. If Diamond elects to grant the [***] Extension, such additional months of exclusive rights shall begin on December 16, 2009 or, such earlier date, if any, on which Distributor's exclusivity rights would otherwise terminate under the terms and conditions of this Agreement. No Minimum Qualified Revenue requirement shall apply during the period of any [***] Extension.

12. *Reimbursement under [***] R&D Agreement.* For the purposes of Section 12(a) and (b), "*[***] Spending*" shall mean, as of a particular date, the lesser of (i) the [***] Expenditures (as defined in the [***] R&D Agreement) incurred as of such date, times [***] or (ii) [***].

(a) If a License has not issued for one or more of the [***] Products on or before June 15, 2008, Diamond shall pay to Distributor, in eighteen (18) equal and consecutive monthly installments beginning July 15, 2008 and ending December 15, 2009, an amount equal to one-half ($^1/_2$) of the [***] Spending as of June 15, 2008 (the "*Interim Reimbursement*").

(b) If a License has not issued for one or more of the [***] Products on or before December 15, 2009, Diamond shall pay to Distributor no later than January 1, 2010, an amount equal to one-half ($^1/_2$) of the [***] Spending as of December 15, 2009 less the Interim Reimbursement (the "*Final Payment*") (see *Example 3* of *Exhibit C*).

13. *Confidentiality of Agreement.* Notwithstanding any provision of the Agreement to the contrary, this Second Amendment shall be publicly available information for SEC filing, press release and other discussion purposes; provided, that the highlighted items set forth in *Exhibit D* attached hereto shall be redacted from any initial SEC filings and shall be deemed Confidential Information under Section 13.05 of the Agreement. The parties also agree to a press release to announce this Second Amendment, attached hereto as *Exhibit E*.

14. *Effect of Amendment.* This Second Amendment is hereby incorporated by reference into the Agreement as if fully set forth therein, the Agreement as amended by this Second Amendment shall continue in full force and effect following execution and delivery hereof, and references to the term "Agreement" shall include this Second Amendment. In the event of any conflict between the terms and conditions of the Original Agreement or First Amendment and this Second Amendment, the terms and conditions of this Second Amendment shall control.

IN WITNESS WHEREOF, the parties have caused this Second Amendment be executed by their duly authorized representatives as of the date first written above.

DIAMOND ANIMAL HEALTH, INC.

By: /s/ JASON NAPOLITANO

JASON NAPOLITANO
Its: Chief Financial Officer

AGRI LABORATORIES, LTD.

By: /s/ STEVE SCHRAM

STEVE SCHRAM
Its: President/CEO

EXHIBIT A

AMENDED AND RESTATED
PROMISSORY NOTE

$500,000.00 as of April 15, 2002

Des Moines, Iowa

FOR VALUE RECEIVED, the undersigned DIAMOND ANIMAL HEALTH, INC., an Iowa corporation ("***Maker***"), promises to pay to AGRI LABORATORIES, LTD., a Delaware corporation ("***Holder***"), or order, at such place as the Holder of this Note shall designate in writing, the sum of Five Hundred Thousand Dollars ($500,000.00) in lawful money of the United States of America. Beginning from the date hereof interest shall accrue until the effective date of that certain Second Amendment to the Distribution Agreement (defined below) on the outstanding principal balance at the "prime rate" plus one-quarter percent ($^1/_4$%) per annum and thereafter, at the "prime rate" plus one percent (1%) per annum. Accrued interest shall be paid quarterly on each quarterly anniversary of the date of this Note, and shall accrue based upon a thirty-day month and a 360-day year. Principal under this Note shall be paid in one annual installment on May 31, 2006.

All principal and any accrued but unpaid interest shall be due and payable on the maturity date of this Note.

Notwithstanding any provision of this Note to the contrary, all principal and unpaid accrued interest shall be due and payable on the ninetieth (90th) day following the date that either (i) Holder's exclusivity rights under that certain Amended and Restated Bovine Vaccine Distribution Agreement dated as of September 30, 2002, as amended (the "***Distribution Agreement***") are terminated due to Distributor's nonpayment of any Additional Payment under the Distribution Agreement or (ii) in the event of a merger, sale or fifty percent (50%) change in ownership of Maker.

The "prime rate" shall be the annual rate of interest announced from time to time by Wells Fargo Business Credit, Inc. ("***Wells Fargo***") as its prime rate. The interest accruing on the principal balance of this Note shall fluctuate from time to time concurrently with changes in the prime rate, effective as of the date any change in the prime rate is publicly announced. If Wells Fargo ceases to announce the prime rate, the prime rate as published in the Wall Street Journal in its "Money Rates" section or a similar financial publication shall be used, as reasonably determined by Maker.

Maker shall have the right at any time or from time to time to prepay all or a portion of the principal or interest without premium or penalty, and such prepayments shall be applied first to accrued interest and then to principal.

If default be made in the payment of any of the installments of principal, interest, or other amounts when due under this Note, the entire principal sum and accrued interest and all other amounts due hereunder shall become due at the option of Holder if not paid within ten (10) days of written notice to Maker.

In the event garnishment, attachment, levy or execution is issued against any substantial or material portion of the property or assets of Maker, or any of them if more than one, or upon the happening of any event which constitutes a default pursuant to the terms of any agreement or other instrument entered into or given in connection herewith, or upon the adjudication of Maker, or any of them if more than one, a bankrupt, such event shall be deemed a default hereunder and Holder may declare this Note immediately due and payable without notice to Maker or exercise any of its remedies hereunder or at law or equity. Should suit be brought to recover on this Note, or should the same be placed in the hands of an attorney for collection, Maker promises to pay all reasonable attorneys' fees and costs incurred in connection therewith.

Failure of Holder to exercise any option hereunder shall not constitute a waiver of the right to exercise the same in the event of any subsequent default, or in the event of continuance of any existing default.

Maker waives demand, diligence, presentment for payment, protest and notice of demand, protest, nonpayment and exercise of any option hereunder. Maker agrees that the granting without notice of any extension or extensions of time for payment of any sum or sums due hereunder, or for the performance of any covenant, condition or agreement hereof shall in no way release or discharge the liability of Maker hereof.

This Note shall be governed by the laws of the State of Iowa.

Time is of the essence of this Note and each and every term and provision hereof.

This Note is secured by that certain Security Agreement, dated as of even date herewith, by and between Maker and Holder. Debtor and its affiliates are parties to that certain Second Amended and Restated Credit and Security Agreement by and between Debtor and Wells Fargo Business Credit, Inc., fka Norwest Business Credit, Inc., a Minnesota corporation ("***Wells Fargo***"), originally dated June 4, 2000, as amended, that certain Loan Agreement dated as of April 4, 1994 and related Promissory Note between the City of Des Moines, Iowa and Debtor, as amended, and that certain CEBA Loan Agreement dated January 20, 1994 and related Promissory Notes between Iowa Department of Economic Development and Debtor, as amended (collectively, the "***Senior Loan Agreements***" and the lender parties thereto collectively, the "***Senior Lenders***"). This Note and Maker's obligations hereunder shall be junior and subordinated to all any and all indebtedness and obligations for borrowed money (including, without limitation, principal, premium (if any), interest, fees, charges, expenses, costs, professional fees and expenses, and reimbursement obligations) ("***Indebtedness***") at any time owing by Debtor to the Senior Lenders, their successors and assigns under the Senior Loan Agreements or otherwise, and the extension, renewal or refinancing (including without limitation any additional advances made in connection therewith) of all or any portion of such Indebtedness by any of the Senior Lenders or any successor lender and any and all security interests securing any portion of such Indebtedness and additional advances from time to time (such Indebtedness, additional advances and security interests, the "***Senior Indebtedness***"). Holder hereby agrees to take such actions, and to execute and deliver such documents and instruments, as shall be requested from time to time by any holder of Senior Indebtedness to confirm and further implement such subordination. In addition, this Note is subject to the terms and conditions of that certain Subordination Agreement dated as of even date herewith by and among Maker, Holder and Wells Fargo.

This Note replaces that certain Amended and Restated Promissory Note dated as of April 15, 2004 given by Maker to Holder.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS NOTE.

DIAMOND ANIMAL HEALTH, INC., an Iowa corporation, Maker

By /s/ JASON NAPOLITANO

JASON NAPOLITANO

Its: Chief Financial Officer

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT BY AGRI LABORATORIES, LTD. IN FAVOR OF WELLS FARGO BUSINESS CREDIT, INC. DATED AS OF APRIL 15, 2002.

EXHIBIT B

Pricing for [***]

[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

EXHIBIT C

Calculation Examples

Example 1—Assume (i) a License for [***] Products is never obtained, (ii) Diamond elects, on July 31, 2007, to extend Distributor's exclusivity rights and (iii) Distributor's exclusivity rights are set to expire after December 15, 2009. In this example, Distributor would maintain an additional 30 months of exclusivity, or until June 15, 2011. Alternatively, if Diamond elects, on July 31, 2007, to make cash payments to Distributor, Diamond would make 30 consecutive monthly payments of [***] beginning on August 1, 2007 which would total [***].

Example 2—Assume (i) a License for [***] Products is obtained on June 15, 2007, (ii) Diamond elects, on September 13, 2007, to extend Distributor's exclusivity rights and (iii) Distributor's exclusivity rights are set to expire after December 15, 2009. In this example, Distributor would maintain an additional 17 months of exclusivity, or until May 15, 2011. Alternatively, if Diamond elects, on September 13, 2007, to make cash payments to Distributor, Diamond would make 17 consecutive monthly payments of [***] beginning on October 1, 2007 which would total [***].

Example 3—At June 15, 2008, [***] Spending is [***], and at December 15, 2009, [***] Spending is [***]. A License for the [***] Product has not been obtained by December 15, 2009. This is covered under Section 12(a) and (b). As a License for the [***] Product has not been obtained as of June 15, 2008, Diamond would begin to make Interim Reimbursement payments equal to [***] per month beginning on July 15, 2008 and ending on December 15, 2009 for a total of [***], such monthly payments calculated as one half of [***] Interim [***] Spending divided by 18. On January 1, 2010, Diamond would make the Final Payment to Distributor of [***], calculated as one half of [***] less the total amount of the Interim Reimbursement ([***]). In this example, Distributor collects [***] ([***] + [***]) or half of its original investment in the failed research project.

EXHIBIT D

Redacted Form of Second Amendment

EXHIBIT E

[PRESS RELEASE LOGO OF HESKA CORPORATION]

FOR IMMEDIATE RELEASE

At Heska Corporation:
Jason Napolitano, Executive Vice President & CFO
(970) 493-7272, Ext. 4105

Heska Corporation Announces Amended Agreement with AgriLabs

FORT COLLINS, CO, December 13, 2004—Heska Corporation (NASDAQ:HSKA) today announced that an amendment to the current distribution agreement with Agri Laboratories, Ltd., or AgriLabs, has been signed. Under the amendment, currently outstanding prepayments from AgriLabs will be considered an upfront fee and the pricing on certain products has been increased. AgriLabs' minimums to maintain exclusivity on certain bovine vaccines have been significantly reduced and no longer increase annually, although the minimums are subject to adjustment in certain circumstances.

Under the amendment, AgriLabs will continue to enjoy access to these bovine vaccines in the United States, Africa, China, Mexico and Taiwan to December 2013. Subject to minimum purchase requirements, AgriLabs' rights in these regions will be exclusive at least to December 2009 and could remain exclusive up to December 2013 based on other contractual arrangements. Heska will be free to sell these bovine vaccines to any party of its choosing in other regions of the world. AgriLabs will also maintain non-exclusive rights to these bovine vaccines in Canada to December 2009.

In addition, two separate research and development agreements have been signed with AgriLabs. These agreements specified risk sharing provisions where AgriLabs has agreed to fund the initial research and development expenditures, but will be entitled to certain additional product rights and/or reimbursement of expenditures under certain circumstances. The research and development programs are intended to enhance the quality of the current line of bovine vaccines.

"We are pleased we have found a mutually agreeable solution to this matter," said Robert Grieve, Heska's Chairman and CEO. "AgriLabs has been an excellent customer of ours in the past and we are happy we will continue to benefit from their livestock market expertise in the future."

"We have long been impressed with these vaccines, which we sell under our label and tradenames Titanium® and MasterGuard®", said Steve Schram, AgriLabs' President and CEO. "We are hopeful that the research and development agreements we have signed will allow us to maintain the leadership position we have established in the marketplace with these vaccines."

About Heska

Heska Corporation (NASDAQ: HSKA) sells advanced veterinary diagnostic and other specialty veterinary products. Heska's state-of-the-art offerings to its customers include diagnostic and monitoring instruments and supplies as well as single use, point-of-care tests, vaccines and pharmaceuticals. The company's core focus is on the canine and feline markets where it strives to develop high value products for unmet needs in veterinary medicine. For further information on Heska and its products, visit the company's website at www.heska.com.

About AgriLabs

AgriLabs, Ltd. is the largest private label marketer of veterinary vaccines and pharmaceuticals in the United States. AgriLabs is proficient in sales, marketing and technology transfer of current and future compounds or antigens for both food and companion animal markets. The AgriLabs distribution network of distributor owners is the largest in the United States and has the ability to efficiently reach the livestock and consumer marketplace through various veterinary, direct and retail channels. For additional information on AgriLabs and its products or distributors, visit the company website at www.agrilabs.com.

Forward-Looking Statements

This announcement contains express or implied forward-looking information about Heska's products, business relationships and research and development activities. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause Heska's actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Heska's achievement of these results may be affected by many factors, including among others, the following: uncertainties relating to reliance on the sales and marketing efforts of a third party, over which Heska has no direct control; competition; uncertainties regarding the outcome of research and development projects currently contemplated; delays in or failure to achieve market acceptance of any products resulting from such research and development activities; the failure of third party distribution network members who have purchased large quantities of Heska's products in the past to continue to do so in the future; uncertainties related to Heska's ability to obtain and maintain costly regulatory approvals for its products; uncertainties related to Heska's ability to successfully market and sell its current and any future products, including in nations where such products are not currently sold; reliance on key personnel; and the risks set forth in Heska's filings and future filings with the Securities and Exchange Commission, including those set forth in Heska's Annual Report on Form 10-K for the year ended December 31, 2003 and Quarterly Report on Form 10-Q for the quarter ended September 30, 2004.

###

Exhibit 10.33

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SEVENTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT

This Amendment, dated as of February 21, 2005, is made by and between Heska Corporation, a Delaware corporation ("Heska"), Diamond Animal Health, Inc., an Iowa corporation ("Diamond") (each of Heska and Diamond may be referred to herein individually as a "Borrower" and collectively as the "Borrowers"), and Wells Fargo Business Credit, Inc., a Minnesota corporation (the "Lender").

Recitals

The Borrowers and the Lender are parties to a Second Amended and Restated Credit and Security Agreement dated as of June 14, 2000 (as amended to date and as the same may be hereafter amended from time to time, the "Credit Agreement"). Capitalized terms used in these recitals have the meanings given to them in the Credit Agreement unless otherwise specified.

The Borrowers have requested that certain amendments be made to the Credit Agreement, which the Lender is willing to make pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is agreed as follows:

1. *Defined Terms.* Capitalized terms used in this Amendment which are defined in the Credit Agreement shall have the same meanings as defined therein, unless otherwise defined herein. In addition, Section 1.1 of the Credit Agreement is amended by adding or amending, as the case may be, the following definitions:

"Approved Refinancing" means Diamond's incurrence of indebtedness, proceeds of which are used to prepay in full the then-outstanding balance of the Term Loan B Note, which incurrence of indebtedness remains subject to approval by the Lender in its sole discretion.

"Book Net Worth" of a Borrower means the aggregate of the common and preferred stockholders' equity in such Borrower, determined in accordance with GAAP, but excluding the non-cash impact of expensing options, restricted stock or other stock-based compensation under APB 25, SFAS 123, SFAS 123R and/or SFAS 148 after December 31, 2004.

"Capital" of a Borrower means the sum of Book Net Worth plus Subordinated Debt of such Borrower plus the lesser of (a) the amount of Debt that was formerly Subordinated Debt payable to Agri-Laboratories, Ltd. but that has been forgiven and is booked as a long-term liability, such as deferred revenue, or (b) $500,000.

"Net Income" for a Borrower means, for any period, after-tax net income from continuing operations (that is, not including extraordinary items, or gains or losses from unusual items or discontinued operations), in each case for such Borrower for such period, as determined in accordance with GAAP, but excluding the non-cash impact of expensing options, restricted stock or other stock-based compensation under APB 25, SFAS 123, SFAS 123R and/or SFAS 148.

"Permanent Capital" means Capital plus the aggregate sum after December 31, 2004, of (a) net cash proceeds of an Approved Refinancing secured by the Farm Mortgaged Property and the Factory Mortgaged Property, to the extent such net proceeds exceed the outstanding balance of the Term Loan B Note immediately prior to such Approved Refinancing and (b) net cash proceeds of any sale or licensing of a product line, product rights, or intellectual property rights, to the extent such net proceeds are not recognized as income.

"Subordinated Debt" of a Borrower means all Debt of such Borrower that is subject to a Subordination Agreement.

2. *Spread.* Section 2.7 of the Credit Agreement is amended to read in its entirety as follows:

"Section 2.7 *Spread.* The spread (the "Spread") means two and one-half percent (2.5%), effective retroactive to December 15, 2004; provided, however, that if on the last day of any month, Permanent Capital exceeds the Minimum Capital covenant for such month set forth in Section 6.12 by [***] or more, "Spread" shall be set to one and one-half percent (1.5%), effective as of the first day of the month following such achievement; and provided further that if on the last day of any month, Permanent Capital does not exceed the Minimum Capital covenant for such month by [***] or more, "Spread" shall be set to two and one-half percent (2.5%), effective as of the first day of the month following such a situation. For example, if Permanent Capital exceeds the corresponding Minimum Capital covenant by [***], [***], and [***] on February 28, 2005, March 31, 2005, and April 30, 2005, respectively, "Spread" will be 1.5% for March 2005, 2.5% for April 2005, and 1.5% for May 2005.

3. *Minimum Capital.* Section 6.12 of the Credit Agreement is hereby amended to read in its entirety as follows:

"Section 6.12 *Minimum Capital.* Heska will maintain, on a consolidated basis, as of each date listed below, its Capital at an amount not less than the amount set forth opposite such date:

Date	Minimum Capital
December 31, 2004	[***]
January 31, 2005	[***]
February 28, 2005	[***]

March 31, 2005	[***]
April 30, 2005	[***]
May 31, 2005	[***]
June 30, 2005	[***]
July 31, 2005	[***]
August 31, 2005	[***]
September 30, 2005	[***]
October 31, 2005	[***]
November 30, 2005	[***]
December 31, 2005	[***]
January 31, 2006	[***]
February 28, 2006	[***]
March 31, 2006	[***]
April 30, 2006	[***]
May 31, 2006	[***]

The covenant amounts set forth above for dates after December 31, 2004, shall be adjusted upward or downward, respectively, on a dollar-for-dollar basis by the amount by which Heska's Capital, on a consolidated basis as of December 31, 2004, as reflected in Heska's audited financial statements, exceeds or is less than [***]."

4. *Minimum Net Income.* Section 6.13 of the Credit Agreement is hereby amended to read in its entirety as follows:

"Section 6.13 *Minimum Net Income.* Heska will achieve, on a consolidated basis, during each period described below, Net Income in an amount not less than the amount set forth opposite such period (amounts in parentheses denote negative numbers):

Period	Minimum Net Income
Twelve months ended December 31, 2004	[***]
Three months ending March 31, 2005	[***]
Six months ending June 30, 2005	[***]
Nine months ending September 30, 2005	[***]
Twelve months ending December 31, 2005	[***]
Fifteen months ending March 31, 2006	[***]"

5. *Capital Expenditures.* Section 7.10 of the Credit Agreement is hereby amended to read in its entirety as follows:

"Section 7.10 *Capital Expenditures.* The Borrowers, together with any Affiliates, will not incur or contract to incur, in the aggregate, Capital Expenditures in the aggregate during any period described below in excess of the amount set forth opposite such period:

Period	Maximum Capital Expenditures
Twelve months ended December 31, 2004	[***]
Three months ending March 31, 2005	[***]
Twelve months ending December 31, 2005	[***]
Four months ending April 30, 2006	[***]
Five months ending May 31, 2006	[***]"

6. *Compliance Certificate.* Exhibit G to the Credit Agreement is replaced in its entirety by Exhibit A to this Amendment.

7. *Agri-Labs Accounts Receivable.* Without limiting the Lender's right to exclude any Accounts from eligibility in accordance with clause (xiv) of the definition of "Eligible Accounts" found in Section 1.1 of the Credit Agreement, notwithstanding paragraph 11 of the Sixth Amendment to the Credit Agreement, the Lender agrees that retroactive to December 15, 2004, Accounts owed by account debtor Agri-Laboratories, Ltd., shall be considered Eligible Accounts under the Credit Agreement so long as such Accounts meet all of the qualifications for Eligible Accounts under the Credit Agreement.

8. *No Other Changes.* Except as explicitly amended by this Amendment, all of the terms and conditions of the Credit Agreement shall remain in full force and effect and shall apply to any advance or letter of credit thereunder.

9. *Conditions Precedent.* This Amendment shall be effective when the Lender shall have received an executed original hereof, together with such other matters as the Lender may require.

10. *Representations and Warranties.* The Borrowers hereby represent and warrant to the Lender as follows:

(a) The Borrowers have all requisite power and authority to execute this Amendment and to perform all of its obligations hereunder, and this Amendment has been duly executed and delivered by the Borrowers and constitute the legal, valid and binding obligation of the Borrowers, enforceable in accordance with their terms.

(b) The execution, delivery and performance by the Borrowers of this Amendment have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to the Borrowers, or the articles of incorporation or by-laws of the Borrowers, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which any Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Article V of the Credit Agreement are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

11. *No Waiver.* The execution of this Amendment and acceptance of any documents related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Credit Agreement or breach, default or event of default under any Security Document or other document held by the Lender, whether or not known to the Lender and whether or not existing on the date of this Amendment.

12. *Release.* The Borrowers hereby absolutely and unconditionally release and forever discharge the Lender, and any and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns thereof, together with all of the present and former directors, officers, agents and employees of any of the foregoing, from any and all claims, demands or causes of action of any kind, nature or description, whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, which any Borrower has had, now has or has made claim to have against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Amendment, whether such claims, demands and causes of action are matured or unmatured or known or unknown.

13. *Costs and Expenses.* The Borrowers hereby reaffirm their agreement under the Credit Agreement to pay or reimburse the Lender on demand for all costs and expenses incurred by the Lender in connection with the Loan Documents, including without limitation all reasonable fees and disbursements of legal counsel; provided, however, that the Borrowers shall not be required to pay or reimburse the Lender for any costs or expenses incurred by Lender in connection with drafting the Deposit Account Control Agreements that are being executed concurrently with this Amendment. Without limiting the generality of the foregoing, the Borrowers specifically agree to pay all fees and disbursements of counsel to the Lender for the services performed by such counsel in connection with the preparation of this Amendment and the documents and instruments incidental hereto other than the above-referenced Deposit Account Control Agreements. The Borrowers hereby agree that the Lender may, at any time or from time to time in its sole discretion and without further authorization by the Borrowers, make a loan to the Borrowers under the Credit Agreement, or apply the proceeds of any loan, for the purpose of paying any such fees, disbursements, costs and expenses.

14. *Miscellaneous.* This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first written above.

HESKA CORPORATION

By: /s/ JASON NAPOLITANO

Jason Napolitano
Its Chief Financial Officer

DIAMOND ANIMAL HEALTH, INC.

By: /s/ JASON NAPOLITANO

Jason Napolitano
Its Chief Financial Officer

WELLS FARGO BUSINESS CREDIT, INC.

By /s/ TIM ULRICH

Tim Ulrich, Vice President

Exhibit A to Seventh Amendment

Compliance Certificate

To: _____

Wells Fargo Business Credit, Inc.

Date: _____, 20

Subject: Heska Corporation
Financial Statements

In accordance with our Second Amended and Restated Credit and Security Agreement dated as of June 14, 2000 (the "Credit Agreement"), attached are the financial statements of Heska Corporation ("Heska") as of and for _____, 20 (the "Reporting Date") and the year-to-date period then ended (the "Current Financials"). All terms used in this certificate have the meanings given in the Credit Agreement.

I certify that, to the best of my knowledge, the Current Financials have been prepared in accordance with GAAP, subject to year-end audit adjustments, and fairly present the Borrowers' financial condition and the results of its operations as of the date thereof.

Events of Default. (Check one):

- o The undersigned does not have knowledge of the occurrence of a Default or Event of Default under the Credit Agreement.
- o The undersigned has knowledge of the occurrence of a Default or Event of Default under the Credit Agreement and attached hereto is a statement of the facts with respect to thereto.

I hereby certify to the Lender as follows:

- o The Reporting Date does not mark the end of one of the Borrowers' fiscal quarters, hence I am completing all paragraphs below except paragraph 4.
- o The Reporting Date marks the end of one of the Borrowers' fiscal quarters, hence I am completing all paragraphs below.

Financial Covenants. I further hereby certify as follows:

1. *Accounts Payable.* Pursuant to Section 6.5 of the Credit Agreement, as of the Reporting Date, the Borrowers [ ] are [ ] are not in compliance with the requirement that they have no accounts payable more than 60 days past due.

2. *Spread.* Pursuant to Section 2.7 of the Credit Agreement, as of the Reporting Date, Heska's Permanent Capital was, on a consolidated basis, $_____, which [ ] exceeds [ ] does not exceed the corresponding Minimum Capital covenant (set forth in paragraph 3 below) by at least [***].

3. *Minimum Capital.* Pursuant to Section 6.12 of the Credit Agreement, as of the Reporting Date, Heska's Capital was, on a consolidated basis, $_____, which [ ] satisfies [ ] does not satisfy the requirement that such amount be not less than $_____ on the Reporting Date, as set forth in the table below:

Date	Minimum Capital
December 31, 2004	[***]
January 31, 2005	[***]
February 28, 2005	[***]
March 31, 2005	[***]
April 30, 2005	[***]
May 31, 2005	[***]
June 30, 2005	[***]
July 31, 2005	[***]
August 31, 2005	[***]
September 30, 2005	[***]
October 31, 2005	[***]
November 30, 2005	[***]
December 31, 2005	[***]
January 31, 2006	[***]
February 28, 2006	[***]
March 31, 2006	[***]
April 30, 2006	[***]
May 31, 2006	[***]

The covenant amounts set forth above for dates after December 31, 2004, shall be adjusted upward or downward, respectively, on a dollar-for-dollar basis by the amount by which Heska's Capital, on a consolidated basis as of December 31, 2004, as reflected in Heska's audited financial statements, exceeds or is less than [***].

4. *Minimum Net Income.* Pursuant to Section 6.13 of the Credit Agreement, as of the Reporting Date, Heska's Net Income was, on a consolidated basis, $_____, which [ ] satisfies [ ] does not satisfy the requirement that such amount be no less than $_____ on the Reporting Date, as set forth in the table below:

Period	Minimum Net Income
Twelve months ended December 31, 2004	[***]
Three months ending March 31, 2005	[***]
Six months ending June 30, 2005	[***]
Nine months ending September 30, 2005	[***]
Twelve months ending December 31, 2005	[***]
Fifteen months ending March 31, 2006	[***]

5. *Minimum Liquidity.* Pursuant to Section 6.14 of the Credit Agreement, as of the Reporting Date, Heska's Liquidity was, on a consolidated basis, $_____, which [ ] satisfies [ ] does not satisfy the requirement that such amount be no less than $1,500,000 on the Reporting Date.

6. *Minimum Individual Book Net Worth.* Pursuant to Section 6.15 of the Credit Agreement, as of the Reporting Date, Heska's Book Net Worth was $_____ and Diamond's Book Net Worth was $_____, which [ ] satisfies [ ] does not satisfy the requirement that such amounts be no less than zero on the Reporting Date.

7. *Capital Expenditures.* Pursuant to Section 7.10 of the Credit Agreement, as of the Reporting Date, Heska's Capital Expenditures were, in the aggregate and on a consolidated basis, $_____ which [ ] satisfies [ ] does not satisfy the requirement that such amount be not more than $_____ during the period ending on the Reporting Date, as set forth in the table below:

Period	Maximum Capital Expenditures
Twelve months ended December 31, 2004	[***]
Three months ending March 31, 2005	[***]
Twelve months ending December 31, 2005	[***]
Four months ending April 30, 2006	[***]
Five months ending May 31, 2006	[***]

Attached hereto are all relevant facts in reasonable detail to evidence, and the computations of the financial covenants referred to above. These computations were made in accordance with GAAP.

HESKA CORPORATION

By _____

Its

QuickLinks

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.34

[***]—Certain information in this exhibit have been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SUPPLY AND LICENSE AGREEMENT

This Agreement is entered into on 1 August 2003 ("Effective Date"), by and between Heska Corporation, a Delaware corporation, having a principal place of business at 1613 Prospect Parkway, Fort Collins, Colorado 80525 ("Heska") and Schering-Plough Animal Health Corporation, a Delaware corporation, having a place of business at 1095 Morris Avenue, Union, New Jersey 07083-1982 ("Schering").

WHEREAS, Heska is engaged in the development, manufacture, marketing and sale of products for use in animal health and has the capability of manufacturing such products for third parties;

WHEREAS, Schering is engaged in the business of developing, manufacturing, marketing and sale of certain veterinary products;

WHEREAS, Schering desires Heska to supply the Product (as defined below) for the exclusive marketing and sales by Schering in the veterinary channel; and

WHEREAS, the Parties (as defined below) anticipate the commercial launch of the Product in September or October, 2003.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Parties hereby agree as follows:

1. Definitions

1.1 "Adverse Event" shall mean: (a) any unexpected or expected side effect, injury, toxicity or sensitivity reaction associated with the clinical use, studies, investigations or tests of the Product, whether or not attributable to the Product; (b) any unexpected side effects, injury, toxicity, sensitivity reaction or any unexpected incidence or severity thereof occurring in humans from exposure during the manufacture, testing, or handling of any Product; or (c) any failure of the Product to exhibit its expected pharmacological activities.

1.2 "Affiliate" shall mean: (a) a business entity that owns, directly or indirectly, a controlling interest in a Party to this Agreement, by stock ownership or otherwise; or (b) a business entity that is majority owned by a Party to this Agreement, either directly or indirectly, by stock ownership or otherwise; or (c) a business entity, the majority ownership of which is directly or indirectly common to the majority ownership of a Party to this Agreement. The term "control" as used herein shall mean the direct or beneficial ownership of greater than fifty percent (50%) of the voting share capital of such corporation or business entity.

1.3 "Calendar Year" shall mean, with respect to the first Calendar Year, the period commencing on the Effective Date and ending on December 31 of the same year. The second and all subsequent Calendar Years shall commence on January 1 and end on December 31 of each year thereafter. "Calendar Quarter" shall mean each three (3) month period ending on the last day of March, June, September and December.

1.4 "Effective Date" shall mean the date first noted above.

1.5 "FDA" shall mean the United States Department of Food and Drug Administration.

1.6 "Heska" shall mean Heska Corporation and its Affiliates.

1.7 [***]

1.8 "Party or Parties" shall mean Heska and/or Schering as the context indicates.

1.9 [***] set forth in Appendix D.

1.10 [***]

1.11 "Product" shall mean the chewable tablets for dogs (ivermectin and pyrantel in proprietary, highly palatable tablet-based formulation) under ANADA No. 200-338.

1.12 "Product Quality Complaint" shall mean: (a) information that causes the Product or its labeling to be mistaken for, or applied to, another article; (b) information concerning any bacteriological contamination, or any significant chemical, physical, or other change or deterioration in the Product, or any failure of one of more distributed batches of the Product to meet the specifications set forth in Appendix B; or (c) any other product quality complaint that is related to the Product's identity, strength, quality, or purity or that alleges a product defect.

1.13 "Responsible Person" shall mean the individual designated by Schering or Heska from time to time, who has responsibility for ensuring compliance with (a) the Adverse Event and Product Quality Complaint requirements, (b) requirements of 21 CFR § 510.300 and 21 CFR § 514.80, and (c) quality assurance requirements on behalf of Schering and Heska for the Product.

1.14 "Schering" shall mean Schering-Plough Animal Health Corporation and its Affiliates, if any.

1.15 "Territory" shall mean the United States, its territories, commonwealths and possessions.

1.16 "Veterinarians" shall mean veterinarians, veterinary clinics and veterinary hospitals that will provide the Product only to their patients in a situation in which there is a doctor-patient relationship between a veterinarian and the patient with respect to the Product. Veterinarians also shall include veterinary distributors and e-commerce outlets that sell the Product under a prescription to veterinarians, veterinary clinics and veterinary hospitals.

2. **Supply of Product**

2.1 *Supply.*

(a) During the term of this Agreement, Heska shall be the exclusive supplier of the Product to Schering solely for the exclusive distribution and sale of the Product by Schering to Veterinarians in the Territory. Schering shall have the right to [***] with its sale of the Product in the Territory.

(b) [***]

(c) [***]

2.2 *Forecasts.* At least thirty (30) days prior to each Calendar Quarter, Schering shall provide Heska with a rolling forecast of the quantity of the Product that will be needed by Schering for each of the next twelve (12) months. Each forecast shall specify the estimated requirements for the Product by month, with anticipated shipment dates specified for the first four (4) months of each forecast. The balance of the forecast shall represent reasonable estimates for planning purposes and shall not obligate Schering to purchase or Heska to supply the specified quantities.

2.3 *Purchase Orders.* Schering shall submit to Heska a firm written purchase order specifying the types, quantities and shipment date of the Product that it desires to purchase at least one hundred and twenty (120) days prior to the requested shipment date. Heska will review each written purchase order within ten (10) business days of receipt and issue either a written confirmation of acceptance or its proposed modification in writing, including, without limitation, a modified shipment date to accommodate Heska's scheduling requirements. Should the modification be unacceptable, Schering shall notify Heska in writing of its intent to cancel the purchase order within ten (10) business days from the receipt of Heska's proposed modification. If Schering does not provide Heska with a written notice (including, without limitation, electronic mail) of its intent to cancel within the specified time period, the modification shall be deemed accepted by Schering. Schering may not cancel purchase orders for the Product that have been formally accepted by Heska. Notwithstanding the foregoing, Heska hereby represents that it shall, at all times, use commercially reasonable efforts to diligently complete and ship (or cause to be diligently completed and shipped) any such purchase orders of Schering. In the event that Heska allows an extended backorder of the Product for a period of more than sixty (60) days, except in the case of a force majeure event as defined in Section 9.8 hereof, Heska shall provide Schering with a discount of ten percent (10%) for such purchase order. Should the backorder extend to more than ninety (90) days, Heska shall provide Schering with a discount of twenty percent (20%) for such purchase order. Notwithstanding the foregoing, Product shipment dates for purchase orders with a 2003 shipment date shall not be subject to the discounts set forth herein, although Heska shall use commercially reasonable efforts to ship such Product under a schedule mutually agreed to by the Parties.

2.4 *Shipment and Delivery.* The Product shall be shipped in accordance with Schering's written instructions provided in each purchase order accepted by Heska and to the location designated by Schering. With respect to all purchase orders, title to the Product and the risk of loss, theft, destruction or damage to the Product shall pass from Heska to Schering upon delivery of the Product to the common carrier designated for shipment.

2.5 *Acceptance and Rejections.*

(a) Each shipment of the Product to Schering shall be accompanied by a certificate of analysis. The certificate shall be issued in compliance with the specifications set forth in Appendix B, a copy of which is attached hereto and made a part hereof, which specifications shall be used for the acceptance or rejection of the Product by Schering.

(b) Schering shall inform Heska in writing of its rejection of any Product for visible defects within five (5) business days after receipt of the Product and shall specify the basis for the rejection. If the basis for the rejection is mutually agreed to by the Parties, Schering may return the Product at Heska's expense for refund or credit, such choice of refund or credit to be at the choice of Heska. Failure by Schering to reject a shipment of the Product in accordance with this Section 2.5(b) shall be deemed to be an acceptance of the Product.

2.6 *Minimum Purchase Sizes.* The minimum purchase size per purchase order shall be as specified in Appendix A, a copy of which is attached hereto and made a part hereof.

2.7 *[***]*

2.8 *Recalls.* In the event: (i) any government authority issues a request, directive or order that the Product be recalled, or (ii) a court of competent jurisdiction orders such a recall, or (iii) Heska or Schering reasonably determines that the Product should be recalled because such Product does not conform to the specifications identified in Appendix B hereof, the Parties shall take all appropriate corrective action reasonably requested by the other Party, by any government agency or by any court order, as the case may be. In the event such recall results from the fault of a Party, such Party shall pay all costs associated with the recall. For purposes of this Agreement, the expenses of a recall shall mean all reasonable expenses of notification and destruction, all reasonable processing and transportation costs of both Parties in the return of the recalled Product, and the cost of the replacement Product if and when available.

2.9 *Maintenance of Regulatory Approval.* Heska shall be solely responsible for all costs, filings, studies or other actions required to obtain and maintain regulatory approval allowing for the sale and distribution of the Product in the Territory during the period of time that Heska is the exclusive supplier of Schering's requirements for the Product. Schering shall provide reasonable, non-financial assistance as requested by Heska for such purpose.

2.10 *Labels.* Heska shall pay the cost of obtaining approved labels for the Product and shall provide such labels with the Product for sale and distribution by Schering. The Parties hereby agree that any modification which reflects (a) a change of the company name or logo from Heska to Schering, and/or (b) an addition of the company name or logo of Schering, on or to the packaging or labeling of the Product shall be made at no cost to Schering as long as Schering shall provide Heska with the artwork for any such change or addition. Should Schering wish to make any other substantive changes to the labels provided by Heska, Schering shall pay for all costs associated with obtaining regulatory approval of and producing such modified labels.

2.11 *No Modification or Analysis of Product.* Unless otherwise agreed by Heska in writing, Schering shall not: (a) sell the Product other than in its original, unmodified, and unused condition, (b) remove, obscure or modify any label supplied by Heska, (c) add any label or mark to any Product without the prior written consent of Heska, nor (d) promote any Product under any name or mark other than the names and trademarks provided by Heska without the prior written consent of Heska. Schering acknowledges that the Product formulation is a trade secret and agrees not to analyze the Product, nor have the Product analyzed, for purposes of identifying the Product formulation. Notwithstanding the foregoing, Schering shall have the right to have the Product analyzed by an independent third party for purposes of complying with applicable laws, if and whenever necessary, with the prior written consent of Heska, which consent shall not be unreasonably withheld, provided that the independent third party only discloses whether the Product complies with applicable laws and will not disclose any confidential information pertaining to the identification of the Product formulation.

2.12 *Resale.* Nothing in this Agreement shall restrict Schering's right to determine the resale price of the Product to Veterinarians in the Territory.

2.13 *Sales Efforts.* Schering shall use commercially reasonable efforts to develop and promote the sale and distribution of the Product to Veterinarians in the Territory. Such activities shall include incorporating the Product into Schering's promotional literature, provided that Schering shall furnish Heska with copies of all such promotional materials. Schering represents and warrants it shall not intentionally advertise or promote any false or misleading information about the Product.

2.14 *Customer Support.* Schering shall maintain throughout the Territory customer service phone support to explain the labeled uses of the Product.

2.15 *Document and Reserve Sample Retention.*

(a) All documents, records and reports associated with the manufacture, holding, storage, packaging or testing of the Product at Heska's facility or on behalf of Heska shall be retained by or on behalf of Heska for not less than five (5) years from the date of manufacture, or as otherwise directed by Schering if less than five (5) years. All such documents, records and reports must be prepared and retained by Heska in accordance with 21 C.F.R. § 211.180 and in such a manner that they are (i) readily retrievable and (ii) stored in an environment suitable to prevent damage or loss. Heska shall provide copies of all such documents and reports to Schering as reasonably requested and as set forth in Section 5.3 hereof.

(b) Heska shall retain in accordance with 21 C.F.R. § 211.170 reserve samples of the Product that are representative of each lot in each shipment of the Product.

2.16 *Packaging Requirements.* Unless otherwise specified by Schering, Heska shall package and pack the contents of each purchase order in a manner that is: (a) in accordance with good commercial practice, (b) acceptable to common carriers for shipment, and (c) adequate to insure safe arrival of the goods at the named destination. Heska shall mark all containers and packaging with the necessary lifting, handling and shipping information. Each shipment shall be accompanied by a packing slip, which shall include the applicable purchase order number.

2.17 *Adverse Events and Product Quality Complaints.*

A. *Adverse Event.*

(a) Heska and Schering shall notify the other Party in writing (including, without limitation, electronic mail) of any Adverse Event that either Party becomes aware of from any source and in any form relating to the Product within three (3) business days of receiving that information by transmitting it to the Responsible Person at Schering or Heska, as appropriate. All such information shall be transmitted in English to the Responsible Person of each Party in accordance with such instructions as the Responsible Person of each Party shall provide to the other Party from time to time. Such notice shall include the name, address, and telephone number of the initial reporter making the complaint or report of an Adverse Event, the Product involved, the nature of the Adverse Event, and such other information as Schering and Heska may reasonably require.

(b) Heska and Schering shall provide all reasonable and necessary information and assistance to Schering in connection with the investigation of any Adverse Event, including, without limitation, (i) completion by Heska or Schering, as appropriate, of Schering's form entitled "Product Experience Form"; (ii) Schering's requests to Heska for additional information relating to an Adverse Event; (iii) if applicable, Heska's requests to Schering to contact the initial reporter of an Adverse Event; and (iv) requests to employ one or more health care professionals to contact the initial reporter of an Adverse Event. Schering shall provide Heska with the results of, and description of any action taken with respect to, Schering's investigation including all information required for completion of FDA Form ED-1932 within ten (10) business days of the first notice of the Adverse Event.

(c) Heska and Schering shall forward to each other all information, including, but not limited to, initial and follow-up reports, that becomes known to either Party from any source and in any form relating to any Adverse Event on a monthly basis by transmitting such information to the Responsible Person of the other Party. All such information shall be transmitted in English to such Responsible Person in accordance with such instructions as such Responsible Person shall provide to Heska and Schering from time to time.

(d) The requirements of Sections 2.17A(a)-(c) hereof shall apply whether or not such information (i) would be reportable by Schering or Heska to a governmental entity under the applicable legal and regulatory requirements relating to Adverse Events and (ii) relates to any Adverse Event that has already been reported to one or more governmental entities.

(e) Heska shall notify Schering of any communication provided to or received from any governmental entity relating to any Adverse Event or other safety issue for any Product, within three (3) business day(s) of receiving such communication, by transmitting any written communication documentation, and a written synopsis of any oral communication to the Responsible Person at Schering as provided in Section 2.17A(a) hereof.

(f) Heska shall promptly transmit to the Responsible Person at Schering, upon such Responsible Party's request, any summary safety documents prepared regarding the Product, including, but not limited to, periodic reports required by 21 CFR § 510.300 and 21 CFR § 514.80 within three (3) business days of their completion.

(g) Disclosure by Heska or Schering of records and information concerning any Adverse Event to the other Party under Section 2.17 hereof shall continue as long as Schering continues to market the Product.

(h) Schering and Heska shall meet, in a timely fashion and from time to time as may be reasonably required, to implement the Adverse Event reporting and consultation procedures prescribed in this Section 2.17.

(i) The Parties acknowledge the regulated nature of Heska's and Schering's businesses and operations, and, therefore, covenant to negotiate in good faith to make changes to this Section 2.17 as may be necessary or appropriate to comply with changes in applicable law or regulations relating to Adverse Event reporting, and to amend their policies and procedures to enable each Party to comply with applicable laws and regulations and its reporting of Adverse Event information.

(j) The holder of the registration for the Products shall have the sole right to make or file any report, or otherwise make any disclosure, with respect to any Adverse Event.

B. *Product Quality Complaint.*

(a) Schering shall immediately upon receipt, transmit to the Responsible Person at Heska, to the extent known by Schering: (i) information that causes the Product or its labeling to be mistaken for, or applied to, another article; (ii) information concerning any bacteriological contamination, or any significant chemical, physical, or other change or deterioration in the Product, or any failure of one or more distributed batches of the Product to meet its specifications; or (iii) any other product quality complaint that is related to the Products' identity, strength, quality or purity or alleges a product defect.

(b) Heska shall submit immediately to the FDA and also transmit to the Responsible Person at Schering within three (3) business days any reports of Product Quality Complaints as required under 21 CFR 510.300 and 21 CFR § 514.80.

(c) Heska and Schering shall, within ten (10) calendar days of receipt, transmit to the Responsible Person of the other Party any Product Quality Complaint not encompassed in Section 2.17B(a)-(b) hereof.

(d) Schering reserves the right to handle, process, and respond to all customer technical and Product Quality Complaints related to the Product, including complaints related to the ingredients or components of the Product. Heska agrees to cooperate with Schering, at Schering's request, to enable Schering to investigate and respond to such complaints, but only to the extent set forth in Section 2.17 hereof.

(e) Notwithstanding the foregoing, Schering shall immediately notify Heska upon Schering's receipt of a Product Quality Complaint or any other complaints regarding the Product. Notification shall be given by telephone, with a facsimile confirmation following within one (1) business day. Schering shall, at Heska's request, assist Heska in investigating all such complaints. Schering shall be responsible for addressing all complaints related to Schering's marketing, distribution, order processing, shipping and handling of the Product to its customers; Heska shall be responsible for addressing all other complaints relating to the Product. Neither Party shall have the authority to bind the other Party in the settlement of any complaints made by a third party.

C. *Written Procedures, Recordkeeping and Audits.*

(a) Schering and Heska shall develop and maintain written procedures for the surveillance, receipt, evaluation, and reporting of Adverse Event and Product Quality Complaint information for the Products as required under 21 CFR § 510.300 and 21 CFR § 514.80.

(b) Schering and Heska shall maintain complaint files regarding the finished Product, the ingredients or components thereof, and the manufacturing processes either for the finished Product or that may relate to the quality of the finished Product or its ingredients or components.

(c) Each Party shall maintain records of information concerning all Adverse Events for the Product for a period of at least five (5) years. Each Party shall maintain records of information concerning Product Quality Complaints for the Product for a period of at least three (3) years. Each Party shall provide the other Party with reasonable access to all information in the other Party's possession or control relating to Adverse Events and Product Quality Complaints within five (5) business days of receiving the information; *provided*, *however*, any access by Schering shall not include any information pertaining to the identification of the Product formulation.

(d) Each Party shall allow access to its facilities, systems, personnel, and records, in whatever form and in any location (including locations owned and operated by a third-party), as reasonably necessary to enable the other Party, and any third party designated by the other Party, to evaluate and ensure compliance with this Section 2.17, with 21 CFR § 510.300 and 21 CFR § 514.80, and with any other applicable legal or regulatory requirements *provided*, *however*, any access by Schering shall not include any information pertaining to the identification of the Product formulation.

D. *Marketing Materials.* Schering shall be responsible for filing advertising, mailing pieces, and any labeling devised for the promotion of the Product at the time of dissemination or publication or at other intervals as required by 21 CFR § 510.300 and 21 CFR § 514.80. Schering shall provide Heska with copies of such filings and reports within five (5) business days.

3. **Trademarks**

3.1 *[***]*

3.2 *Trademark Warranty.* Heska warrants and represents that to the best of its knowledge (a) the Trademark is not involved in any pending or threatened lawsuit in the Territory, (b) Heska has not received any written notice of infringement of the rights of others with respect to the Trademark, (c) no other firm, corporation, association or person has the right to use the Trademark on the goods on which they are now being used in identical form or in such near resemblance thereto as to be likely, when applied to the goods of any such firm, corporation, association or person to cause confusion with the Trademark, and (d) no third party is claiming any ownership or right to use said Trademark.

3.3 *[***]*

3.4 *Schering's License and Use.* Heska grants to Schering, a non-exclusive license (with right to sublicense) the right to use Heska's name and logo in connection with the promotion, distribution and sale of the Product in the Territory during the term of this Agreement in accordance with applicable laws and Heska's policies regarding advertising and trademark usage as established and amended by Heska from time-to-time. Moreover, Schering shall include Heska's name and logo in any literature, promotional materials or advertising which Schering produces or distributes concerning the Product. In addition, Schering shall not use Heska's name and logo other than with respect to the direct promotion and sales of the Product.

3.5 *Ownership of Trademarks.* Each Party acknowledges that subject to the terms of this Agreement, the licensed trademarks, names and logos are and shall remain the sole property of the respective Parties as identified herein and agrees not to do anything inconsistent with that ownership or to contest the ownership thereof. Each Party further agrees that all use of the licensed trademarks, trade names and logos by it shall inure to the benefit of, and be on behalf of, the Party owning such trademarks, trade names and logos.

4. **Fees, Prices and Payment**

4.1 *License Fee.* Schering agrees to pay Heska a one-time fee of [***], which sum shall be non-refundable and non-creditable toward any payments specified herein, due and payable upon FDA approval of the Product in the Territory. Payment shall be made by wire transfer to: [***]

4.2 *Prices.*

(a) Heska shall supply the Product to Schering at the transfer prices set forth in Appendix A, a copy of which is attached hereto and made a part hereof, through the first anniversary of the Effective Date. Thereafter, Heska reserves the right, upon at least one hundred and twenty (120) days' written notice to Schering, which notice shall be furnished to Schering prior to the beginning of the next Calendar Year, to increase or decrease the price once per Calendar Year to reflect any increase or decrease in raw material and/or direct labor costs, provided any increase due to direct labor costs shall not be more than the annual increase of the Consumer Price Index during the preceding year.

(b) Notwithstanding Section 4.2(a) hereof, the current transfer prices of any of the three (3) sizes of the Product shall be changed only upon the following conditions: (i) [***] or (ii) [***] Any reduction due to (i) or (ii) hereof shall become [***] for purposes of determining future price reductions or increases under this Section 4.2(b).

If either condition under (i) or (ii) above occurs, Schering shall notify Heska in writing and provide reasonable written documentation of such condition. If accepted by Heska, which acceptance shall not be unreasonably withheld, then the current transfer prices of the affected tablet size(s) of the Product shall be reduced by Heska [***], then the current transfer price of the respective tablet size(s) of the Product shall increase by such percentage up to, but no higher than, the respective transfer price(s) set forth in Appendix A or as amended per Section 4.2(a).

(c) All prices are F.O.B. Heska and are exclusive of any federal, state, county or municipal sales or use tax, excise, customs charges, duties or similar charge, or any other tax assessment (other than taxes assessed against Heska's income), insurance, license fee (excluding regulatory license fees), or other similar charge lawfully assessed or charged on the sale or transportation of the Product, all of which shall be the responsibility of Schering.

4.3 *Payment.* Schering shall pay Heska within forty-five (45) days of receipt of each invoice for the Product supplied by Heska. Any late payments of invoices or other payments to be paid by Schering under this Agreement shall be subject to interest at the annual prime rate plus two and a half percent (2.5%).

4.4 *United States Dollars.* All fees, prices and payments shall be in United States Dollars.

5. **Warranties, Audits and Indemnification**

5.1 *Product Warranty.*

(a) Heska warrants that the Product supplied under this Agreement shall meet the specifications set forth in Appendix B hereof. HESKA MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCT. ALL OTHER WARRANTIES, EXPRESS OR IMPLED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

(b) If the Parties determine that the Product fails to meet the specifications set forth in Appendix B hereof and such failure is not the fault of Schering, then Schering may return the defective Product at Heska's expense for a refund or credit, at Heska's sole option.

(c) Heska represents, warrants, and covenants that the Product sold to Schering pursuant to this Agreement shall: (i) be manufactured, packaged, and labeled in accordance with Good Manufacturing Practices, any substantive equivalent of Good Manufacturing Practices in the Territory, the specifications of Appendix B hereof, and the terms of this Agreement; (ii) be free of all defects and deleterious materials; (iii) not be adulterated or misbranded under the provisions of the Federal Food and Drug Cosmetic Act, as amended by the FDA Modernization Act of 1997; (iv) be manufactured, packaged, and tested to ensure that the Product meets the specifications of Appendix B hereof for identity, potency, quality, purity, and stability; (v) be manufactured in accordance with the quality control program which Heska shall maintain during the term and any subsequent term of this Agreement; (vi) bear a true and accurate expiration date as set forth in the specifications of Appendix B hereof; and (vii) have, as of the date of receipt of such Product at the facility of Schering, a remaining shelf life of not less than three (3) months shorter than the total stated shelf life of such Product as set forth in Section 5.1(c)(vi) above. Heska shall use its best efforts to extend the expiration date to a total stated shelf-life consistent with the total stated shelf life of HEARTGARD® Plus for dogs manufactured by Merial Limited, as determined by stability studies, such studies to begin with the first three (3) lots of Product produced under this Agreement. For purposes of this Agreement, the term "Good Manufacturing Practices" shall mean all laws, regulations, and other applicable quality standards for manufacture, production, or other handling of the Product, as established under applicable laws, including, without limitation, the current Good Manufacturing Practices now or hereafter in effect and as amended from time to time by any governmental authority in the Territory.

(d) Heska shall notify Schering in writing in the event Heska changes or causes to be changed any materials, equipment, or method of production or testing relating to the Product; *provided*, *however*, that any such change shall also comply in all respects with Good Manufacturing Practices, any substantive equivalent of Good Manufacturing Practices in the Territory, the specifications set forth in Appendix B hereof, and applicable laws.

5.2 *No Conflicts.* Each Party warrants and represents that the terms of this Agreement do not conflict with any contractual obligations, express or implied, with any third party.

5.3 *Audits.* Schering shall have access to Heska's offices, facilities (including Heska's manufacturing site) and records at a mutually agreeable time for the sole purpose of (a) inspecting any such facility relating to or otherwise involved in the manufacture, packaging, testing, storage, or inventory of the Product, (b) conducting a physical inventory of Heska's inventory of the Product, and (c) reviewing and auditing Heska's files and records with respect to the manufacture of the Product, to ensure compliance with regulatory or government regulations. Such access shall be at most once per twelve (12)-month period unless requested by Schering for reasonable cause. Such access shall in no way give Schering the right to any of Heska's confidential or proprietary information. In the event Schering reasonably determines, based on such an inspection, that Heska's facility has deficiencies with respect to Good Manufacturing Practices, Heska agrees to consult with Schering within ten (10) business days of written notification from Schering of such deficiencies to determine whether any of such deficiencies is recognized as such by the FDA and agrees to work with Schering to put in place and implement a plan to correct such FDA-recognized deficiencies in a timely manner. Heska agrees to notify Schering, in writing, within two (2) business days, of any governmental authority inspection, inquiry, or notification related to the Product and shall keep Schering informed of the progress of such inquiry or notification.

5.4 *Indemnification.*

(a) *Indemnification by Schering.* Schering shall, at its cost and expense, indemnify, defend, and forever hold harmless Heska, its Affiliates, and its and their respective Agents from and against any claims, suits, actions, proceedings, damages, losses, liability, costs, and expenses, including reasonable attorneys' fees (collectively, "Claim") arising out of or resulting from (i) Schering's breach of its obligations, representations, or warranties under this Agreement, or (ii) Schering's negligence, errors, or omissions. Heska shall, within three (3) business days from the date of receipt of notice of any Claim, furnish to Schering a copy of such notice and inform Schering of all facts relating to such Claim.

(b) *Indemnification by Heska.* Heska shall, at its cost and expense, indemnify, defend, and forever hold harmless Schering, its Affiliates, and its and their respective Agents from and against any Claim arising out of or resulting from (i) Heska's breach of its obligations, representations, or warranties under this Agreement, or (ii) Heska's negligence, errors, or omissions. Schering shall, within three (3) business days from the date of receipt of notice of any Claim, furnish to Heska a copy of such notice and inform Heska of all facts relating to such Claim.

(c) *Assistance.* Each Party shall provide all information in its possession and reasonable assistance to the other Party as necessary to enable the other Party to defend any such suit, claim, or demand.

(d) *Consequential Damages.* Neither Party shall be liable to the other Party for any special or consequential damages, whether based upon lost goodwill, lost resale profits, work stoppage, or impairment of other goods or arising out of breach of warranty, breach of contract, strict liability, or negligence.

5.5 *Limits of Liability.* **IN NO EVENT WILL EITHER PARTY BE LIABLE FOR LOST PROFITS, OR ANY OTHER SPECIAL, PUNITIVE, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS LIMITATION SHALL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

5.6 *Representations of Schering.* Schering hereby represents and warrants to Heska that, as of the date of this Agreement, the following statements are and shall be true and correct in all material respects:

(a) *Organization and Good Standing.* Schering: (i) is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware; (ii) has the corporate power and authority to conduct the business in which it presently is engaged, to enter into this Agreement, and to perform its obligations hereunder; and (iii) is qualified to do business in, and is in good standing in, each jurisdiction of the Territory where the nature of its business in such jurisdiction requires it to be so qualified.

(b) *Authorization and Binding Effect.* All corporate action on the part of Schering and its officers and directors necessary for the authorization, execution, and delivery of this Agreement and for the performance of all of Schering's obligations hereunder has been taken, and this Agreement, when executed and delivered, shall constitute a legal, valid and binding obligation of Schering enforceable against Schering in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, and other laws affecting creditors' rights generally or by general equitable principles.

(c) *Execution, Delivery and Performance.* The execution, delivery, and performance by Schering of this Agreement do not: (i) violate or breach the certificate of incorporation or bylaws of Schering; (ii) violate or conflict with any applicable laws; (iii) violate, breach, cause a default under, or otherwise give rise to a right of termination, cancellation, or acceleration with respect to (presently, with the giving of notice or the passage of time), any agreement, contract, or instrument to which Schering is a party or by which any of its assets are bound; or (iv) result in creation or imposition of any lien, pledge, mortgage, claim, charge, or encumbrance upon any assets of Schering.

(d) *Governmental and Other Consents.* Other than regulatory approval of the Product by the FDA, no other consent, authorization, license, permit, registration or approval of, or exemption or other action by, any entity is required in connection with Schering's execution and delivery of this Agreement or with the performance by Schering of its obligations hereunder.

(e) *Inconsistent Obligations.* Schering has, as of the Effective Date, no obligation or commitment, and will not, during the term of this Agreement, assume or undertake any obligation or commitment, that is inconsistent with its obligations under, or the terms and conditions of, this Agreement.

5.7 *Representations of Heska.* Heska hereby represents and warrants to Schering that, as of the date of this Agreement, the following statements are and shall be true and correct in all material respects:

(a) *Organization and Good Standing.* Heska: (i) is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware; (ii) has the corporate power and authority to conduct the business in which it presently is engaged, to enter into this Agreement, and to perform its obligations hereunder; and (iii) is qualified to do business in, and is in good standing in, each jurisdiction of the Territory where the nature of its business in such jurisdiction requires it to be so qualified.

(b) *Authorization and Binding Effect.* All corporate action on the part of Heska and its officers and directors necessary for the authorization, execution, and delivery of this Agreement and for the performance of all of Heska's obligations hereunder has been taken, and this Agreement, when executed and delivered, shall constitute a legal, valid and binding obligation of Heska enforceable against Heska in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, and other laws affecting creditors' rights generally or by general equitable principles.

(c) *Execution, Delivery and Performance.* The execution, delivery, and performance by Heska of this Agreement do not: (i) violate or breach the certificate of incorporation or bylaws of Heska; (ii) violate or conflict with any applicable laws; (iii) violate, breach, cause a default under, or otherwise give rise to a right of termination, cancellation, or acceleration with respect to (presently, with the giving of notice or the passage of time), any agreement, contract, or instrument to which Heska is a party or by which any of its assets are bound; or (iv) result in creation or imposition of any lien, pledge, mortgage, claim, charge, or encumbrance upon any assets of Heska.

(d) *Governmental and Other Consents.* Other than regulatory approval of the Product by the FDA, no other consent, authorization, license, permit, registration or approval of, or exemption or other action by, any entity is required in connection with Heska's execution and delivery of this Agreement or with the performance by Heska of its obligations hereunder.

(e) *Inconsistent Obligations.* Heska has, as of the Effective Date, no obligation or commitment, and will not, during the term of this Agreement, assume or undertake any obligation or commitment, that is inconsistent with its obligations under, or the terms and conditions of, this Agreement.

6. **Confidential Information**

6.1 *Term of Confidentiality.* All confidential and/or proprietary information relating to this Agreement and/or the Product ("Confidential Information") furnished by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") during the term of this Agreement shall be kept confidential by the Receiving Party, except as expressly authorized by this Agreement, and shall not be disclosed to a third party, nor shall the Receiving Party use such Confidential Information for any purpose other than the purposes specifically authorized under this Agreement, during the term of this Agreement and for a period of ten (10) years from the expiration or termination of this Agreement. The Receiving Party may disclose the same to its officers, agents, consultants and employees on a need-to-know basis, provided that such officers, agents, consultants and employees have signed appropriate confidentiality agreements.

6.2 *Non-Confidential Information.* The obligations under Section 6.1 hereof shall not apply to any information that:

(a) is or becomes a part of the public domain through no fault of the Receiving Party;

(b) was otherwise in the Receiving Party's lawful possession prior to its disclosure as shown by its written records;

(c) is lawfully disclosed to the Receiving Party by a third party purporting not to be in violation of an obligation of confidentiality to the Disclosing Party; or

(d) is released from confidential status by mutual agreement of the Parties.

6.3 *Requests for Confidential Information.* If the Receiving Party is requested or required by subpoena, court order, applicable law or governmental agency (including, but not limited to, the Securities and Exchange Commission, regulatory agencies and the like), or similar process to disclose any Confidential Information of the Disclosing Party, the Parties agree that the Receiving Party shall provide the Disclosing Party with prompt written notice of such request or requirement so that the Disclosing Party may seek an appropriate protective order and/or waive the Receiving Party's compliance with the provisions of this Article 6.

6.4 *Return of Confidential Information.* All Confidential Information received from the Disclosing Party or generated by the Receiving Party and containing the Confidential Information of the Disclosing Party shall be the property of the Disclosing Party, and the Receiving Party shall deliver all such materials to the Disclosing Party upon the earlier of the termination of this Agreement or the request of the Disclosing Party; *provided, however,* the Receiving Party's legal department may retain one (1) copy of Confidential Information of the Disclosing Party for the sole purpose of identifying such Confidential Information.

7. **Term and Termination**

7.1 *Term.* [***]

7.2 *Termination.* This Agreement may be terminated:

(a) at any time upon the mutual written consent of the Parties;

(b) by either Party for a material breach of this Agreement by the other Party upon sixty (60) days' prior written notice to the breaching Party if during such sixty (60) day period, (i) substantial steps to cure the default have not been undertaken by the breaching Party within thirty (30) days of such notice, or (ii) the default has not been cured to the reasonable satisfaction of the non-defaulting Party;

(c) by either Party after giving the other Party sixty (60) days' written notice if such other Party has entered into or committed any act of liquidation, bankruptcy, insolvency, receivership, or assignment for the benefit of creditors, to the extent such act is permitted by law; or

(d) by Schering upon twelve (12) months' prior written notice to Heska of its intent to terminate this Agreement at the end of the succeeding Calendar Year and upon payment of all amounts due Heska through the effective date of termination.

7.3 *Payment upon Termination.* Schering shall receive a payment in the event that the Agreement is terminated, at Schering's option, for the following reasons: (a) Heska's inability to supply the Product due to force majeure or any other reason under the control of Heska that prevents Heska from supplying the Product for a period of longer than four (4) consecutive months; or (b) [***]. Such payment will be due [***] the termination date as set forth in this Section 7.3. The Parties hereby agree that the payment schedule shall be as follows:

Year of Termination	Amount Refunded to Schering
2003	[***]
2004	[***]
2005	[***]
2006	[***]
2007	[***]
2008	[***]

7.4 *Effect of Termination.* Upon termination of this Agreement, neither Party shall be released from any obligation that matured prior to the effective date of such termination. Schering shall, however, after the effective date of such termination, sell all Product in its inventory within six (6) months.

8. **Dispute Resolution**

The Parties agree to attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between representatives who have the authority to settle the controversy. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of the notice, the receiving Party shall submit to the other a written response. The notice and response shall include (a) a

statement of each Party's position and a summary of arguments supporting that position, and (b) the name and title of the representative who will represent that Party and any other person who will accompany the representative. Within thirty (30) days after delivery of the disputing Party's notice, the representatives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other will be honored.

All negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the dispute between the Parties is resolved, such decision shall be binding upon the Parties. If the dispute has not been resolved by negotiation within forty-five (45) days of the disputing Party's notice, the Parties shall endeavor to settle the dispute by mediation under the then current CPR Model Mediation Procedure for Business Disputes. If the dispute between the Parties is resolved by mediation, such decision shall be binding upon the Parties. Each Party will bear its own costs. The provisions of this Section shall not apply if one Party refuses to negotiate the dispute in good faith or if more prompt legal action is required to avoid material loss or damage.

9. **Miscellaneous**

9.1 *Relationship of Parties.* The relationship of Schering to Heska under this Agreement is intended to be that of an independent contractor. Nothing contained in this Agreement is intended or is to be construed so as to constitute Schering and Heska as employer/employee or principal/agent, or the employees or the agents of any Party hereto as employees or agents of the other Party hereto. Neither Party has any express or implied right or authority under this Agreement to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement, or undertaking with any third party, other than the successors and permitted assigns of the respective Parties hereto.

9.2 *Assignments.* Neither Party shall have the right to transfer or assign its interest in this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld; *provided*, *however*, that either Party may make such transfer or assignment to an Affiliate, or to an entity acquiring all or substantially all relevant assets of a Party to which this Agreement pertains, including, but not limited to, the transfer of assets in connection with a merger, acquisition or the like. No transfer or assignment will relieve the transferor or assignor of any liability or obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

9.3 *Publicity.* The Parties agree to mutually approve the text of any press releases or any other public statements to be issued announcing the execution of this Agreement or the transactions contemplated hereby, which approval shall not be unreasonably withheld. The foregoing shall not be deemed to prevent either Party from making any public disclosure which may be required of either Party or its Affiliates under the applicable government securities laws.

9.4 *Waiver.* No waiver by either Party of any default shall be effective unless in writing nor shall any such waiver operate as a waiver of any other default or of the same default on a future occasion.

9.5 *Severability.* If one or more provisions of this Agreement is held invalid, illegal or unenforceable, the remaining provisions shall not in any way be affected or impaired. In the event any provision is held invalid, illegal or unenforceable, the Parties shall use reasonable efforts to substitute a valid, legal and enforceable provision which, insofar as is practical, implements the purposes of such provision.

9.6 *Survival.* The provisions of Articles 4, 5, 6, 7, 8, and 9 shall survive the termination of this Agreement.

9.7 *Notices.* Except as expressly provided in this Agreement,all notices under this Agreement shall be in writing and shall be deemed given upon receipt if sent by facsimile, (except for the legal process in each case), certified or registered mail or commercial courier (return receipt or confirmation of delivery requested), or by personal delivery to the Party to receive such notices or other communications called for by this Agreement at the following addresses for a party as shall be specified by such Party by like notice:

If to Schering:

Schering-Plough Animal Health Corporation
1095 Morris Avenue
Union, New Jersey 07093-1982

[***]

If to Heska:

Heska Corporation
1613 Prospect Parkway
Fort Collins, CO 80525

Attention:	Chief Executive Officer
Facsimile:	1.970.484.9505
Copy to:	Executive Vice President, Intellectual Property and Business Development
Facsimile:	1.970.491.9976.

9.8 *Force majeure.* Either Party shall be excused from the performance of its obligations hereunder, or such performance may be delayed, by causes beyond its reasonable control, including, without limitation, acts of God, war, riot, epidemic, fire, flood, insurrection, military authorities, labor disputes, delay or inability to obtain supplies, labor, raw materials, energy or failure of transportation or communication and any other similar contingency, provided that if such nonperformance continues for more than ninety (90) days, the other Party may terminate the Agreement upon written notice, except as specified in Section 7.3.

9.9 *Governing Law.* This Agreement shall be governed by and construed under the laws of the State of Delaware without reference to conflicts of laws principles.

9.10 *Entire Agreement.* This Agreement and the Appendices hereto constitute the entire agreement and understanding of the Parties with regard to the subject matter hereof and supercede all prior agreements and understanding, written or oral, between the Parties. This Agreement may only be altered, modified or amended in a writing signed by the Parties.

9.11 *Counterparts.* This Agreement may be executed in counterparts, each of which is deemed to be an original, but all of which together shall constitute one and the same instrument. Facsimile and photocopy signatures shall carry the same force and effect, and shall bind the Parties hereto in the same manner, as original signatures to this Agreement.

9.12 *Construction.*

(a) The language and terms of this Agreement are to be understood in their ordinary sense (except where otherwise defined herein) and are not to be interpreted in a technical manner so as to unfairly deprive any Party of substantive rights.

(b) The text of this Agreement is the product of negotiation among both Parties and is not to be construed as having been prepared by one Party or the other.

(c) The headings used in this Agreement are for convenience only and are not part of this Agreement.

9.13 *Warranty of Authorized Signatories.* Each of the signatories to this Agreement warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the Party for whom he or she purports to sign.

9.14 *Insurance.*

(a) During the term of this Agreement and for a period of five (5) years thereafter, Heska shall, at its own cost and expense, (i) maintain, and shall cause any of its Affiliates to maintain, general liability insurance, including coverage for product liability and contractual liability, in an amount not less than Five Million Dollars (U.S.$5,000,000) and (ii) furnish to Schering, upon request, a certificate of insurance evidencing compliance with the requirements of this Section 9.14(a). Such certificate shall provide that Schering shall be notified in writing of any cancellation or material change in such insurance not less than thirty (30) days prior to the date of such cancellation or change.

(b) Schering represents that all insurance maintained by it or its Affiliates are consistent with industry practice and subject to deductibles and self-insurance limits.

The Parties have caused this Agreement to be signed by their duly authorized representatives.

SCHERING-PLOUGH ANIMAL HEALTH CORPORATION		HESKA CORPORATION	
By:	/s/ RAUL E. KOHAN	By:	/s/ CAROL TALKINGTON VERSER
Name:	Raul E. Kohan	Name:	Carol Talkington Verser, Ph.D.
Title:	President	Title:	Executive Vice President
Date:	4 August 2003	Date:	1 August 2003

APPENDIX A

PRICE, MINIMUM PURCHASE SIZE, AND ANNUAL MINIMUM PURCHASE REQUIREMENT

1. Product transfer price:

Small tablets	[***] per packet of six (6) tablets
Medium tablets	[***] per packet of six (6) tablets
Large tablets	[***] per packet of six (6) tablets

2. Minimum Purchase Size:

Small tablets	[***] packets, equivalent to [***] Display Cases
Medium tablets	[***] packets, equivalent to [***] Display Cases
Large tablets	[***] packets, equivalent to [***] Display Cases

3. Annual Minimum Purchase Requirement per Calendar Year:

Small tablets	[***] packets, equivalent to [***] Display Cases
Medium tablets	[***] packets, equivalent to [***] Display Cases
Large tablets	[***] packets, equivalent to [***] Display Cases

APPENDIX B

PRODUCT SPECIFICATIONS

A. SMALL TABLETS:

Labeled amount of ivermectin, per tablet: 68 mcg

Labeled amount of pyrantel (as pyrantel pamoate), per tablet: 57 mg

1. Appearance: Round, brown convex tablet with no imprinting, approximately 0.56 inches in diameter and 1.25 grams in weight
2. Identification:

Ivermectin: retention times of reference standard and sample compare satisfactorily

Pyrantel: retention times of reference standard and sample compare satisfactorily

3. Ivermectin content (average): 90.0 to 115.0% of labeled amount
4. Pyrantel content (average): 90.0 to 110.0% of labeled amount
5. Microbial limits:

Salmonella: none detected

Escherichia coli: not more than 2.2 CFU per gram

6. pH: 4.0 to 6.0
7. [***]

B. MEDIUM TABLETS:

Labeled amount of ivermectin, per tablet: 136 mcg

Labeled amount of pyrantel (as pyrantel pamoate), per tablet: 114 mg

1. Appearance: Round, brown convex tablet with no imprinting, approximately 0.75 inches in diameter and 2.5 grams in weight
2. Identification:

Ivermectin: retention times of reference standard and sample compare satisfactorily

Pyrantel: retention times of reference standard and sample compare satisfactorily

3. Ivermectin content (average): 90.0 to 115.0% of labeled amount
4. Pyrantel content (average): 90.0 to 110.0% of labeled amount
5. Microbial limits:

Salmonella: none detected

Escherichia coli: not more than 2.2 CFU per gram

6. pH: 4.0 to 6.0
7. [***]

C. LARGE TABLETS:

Labeled amount of ivermectin, per tablet: 272 mcg

Labeled amount of pyrantel (as pyrantel pamoate), per tablet: 227 mg

1. Appearance: Round, brown convex tablet with no imprinting, approximately 0.94 inches in diameter and 5.0 grams in weight
2. Identification:

Ivermectin: retention times of reference standard and sample compare satisfactorily

Pyrantel: retention times of reference standard and sample compare satisfactorily

3. Ivermectin content (average): 90.0 to 115.0% of labeled amount
4. Pyrantel content (average): 90.0 to 110.0% of labeled amount
5. Microbial limits:

Salmonella: none detected

Escherichia coli: not more than 2.2 CFU per gram

6. pH: 4.0 to 6.0

7. [***]

D. BLISTER CARDS AND DISPLAY CASE:

1. Blister Card: Preprinted, six (6) panels folded into three (3) sections, with six (6) Blisters in circular configuration in middle section, with one (1) tablet contained in each Blister.

2. Blister:

Barrier film: 7.5 mil PVC / 2 mil ACLAR laminate.

Push-through foil: Reynolds 701

3. Display Case: Preprinted, containing fourteen (14) Blister Cards.

APPENDIX C

[***]

APPENDIX D

[***]

QuickLinks

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Exhibit 10.35

HESKA CORPORATION

DIRECTOR COMPENSATION POLICY

Effective January 1, 2005, non-employee directors of Heska Corporation, a Delaware corporation (the "Company") shall receive the following compensation for their service as a member of the Board of Directors (the "Board") of the Company:

Initial Grant for New Directors

An automatic grant of an option to purchase 40,000 shares of common stock of the Company as of the date of first becoming a member of the Board at an exercise price equal to the fair market value of the common stock on the last trading date immediately preceding the date of grant. Initial grants are subject to vesting over a period of four years in equal annual installments commencing on the date of grant, subject to the non-employee director's continued service to the Company through the vesting dates. These options are immediately exercisable, but if "early exercised," unvested shares shall remain subject to the Company's right of repurchase upon termination of service prior to the fourth anniversary of the date of grant.

Annual Grant for Continuing Board Members

An automatic annual grant to continuing non-employee directors of an option to purchase 40,000 shares of common stock of the Company shall be granted on the date of each Company annual meeting of stockholders at an exercise price equal to the fair market value of the common stock on the last trading date immediately preceding the date of grant. Annual grants for continuing Board members vest in full on the first anniversary of the date of grant, subject to the non-employee director's continued service to the Company through the vesting date. These options are immediately exercisable, but if "early exercised," remain subject to the Company's right of repurchase upon termination of service prior to the first anniversary of the date of grant.

No new non-employee director may receive an initial 40,000-share grant and the annual 40,000-share grant in the same calendar year.

Annual Grant for Board Committee Chairpersons

An automatic annual grant to continuing non-employee directors who serve as Chairperson of the Company's Audit, Compensation or Corporate Governance committees shall be made of an option to purchase 2,000 shares of common stock of the Company as of the date of the annual meeting of stockholders at an exercise price equal to the fair market value of the common stock on the last trading date immediately preceding the date of grant. Annual grants for Board committee chairpersons vest in full on the first anniversary of the date of grant, subject to the non-employee director's continued service to the Company through the vesting date. These options are immediately exercisable, but if "early exercised," remain subject to the Company's right of repurchase upon termination of service prior to the first anniversary of the date of grant.

Director Compensation for Attendance at Board and Board Committee Meetings

In Person Board and Committee Meetings

Non-employee directors shall be entitled to receive a fee of $2,000.00 per day for any in person meeting of the Board or any in person meeting of any committee of the Board. The fee of $2,000.00 per day shall be payable irrespective of (i) the number of Board or committee meetings in a given day and (ii) of the length of any such meetings.

Those non-employee directors who elect to receive such meeting fees in equity, will be entitled to receive a fully vested grant of options to purchase a number of shares of common stock of the Company equal to $2,000.00 divided by two-thirds of the fair market value of the Company's common stock on the last trading date immediately preceding the date of grant, to be issued with an exercise price equal to the fair market value of such common stock on the last trading date immediately preceding the date of grant. The date of grant will be the first Monday or first business day of the week immediately following the conclusion of such in person Board meeting or, where in person Board meetings and Board committee meetings occur in succession, following conclusion of all such meetings.

Telephonic Board and Board Committee Meetings

Non-Employee directors will be entitled to receive a fee of $500.00 for each telephonic Board or committee meeting they attend. Where there is more than one Board or Board committee telephonic meeting in a single day, non-employee directors shall receive a $500.00 payment for each meeting attended, irrespective of the length of such meeting or meetings.

Those non-employee directors who elect to receive such meeting fees in equity, will be entitled to receive a fully vested grant of options to purchase a number of shares of common stock of the Company equal to $500.00 divided by two-thirds of the fair market value of the Company's common stock on the last trading date immediately preceding the date of grant, to be issued with an exercise price equal to the fair market value of such common stock on the last trading date immediately preceding the date of grant. The date of grant will be the first Monday or first business day of the week immediately following the conclusion of such telephonic Board or committee meeting.

Cash vs. Equity Election for Meeting Fees

Non-employee directors may elect to receive fees for meeting attendance in the form of a cash payment or in the form of a fully vested stock option as described above. Such election shall be made on an annual basis and shall be irrevocable for the year in question. Such irrevocable election must be made in the fiscal year prior to the applicable year in question for incumbent directors and following appointment to the Board for new directors. Cash payments for meeting attendance will be made following the fiscal quarter in which the meetings are held.

Provisions Applicable to All Non-Employee Director Equity Compensation Grants

Any unvested shares underlying non-employee director option grants shall become fully vested in the event of: (1) the termination of the non-employee director's services because of death, total and permanent disability or retirement at or after age 65; or (2) a Change in Control (as defined in the 1997 Incentive Stock Plan) with respect to the Company.

All grants shall be subject to the terms and conditions of the Company's 1997 Incentive Stock Plan, as amended, and the terms of the Stock Option Agreement issued thereunder.

Amended January 31, 2003
Further Amended November 6-7, 2003,
Further Amended December 2, 2004,
Effective January 1, 2005

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Exhibit 10.36

Summary Sheet for Executive Cash Compensation

Base Salaries

The following table sets forth the base salaries for 2005 provided to our chief executive officer and four most highly compensated executive officers, which salaries were determined by the Compensation Committee in December 2004 and remained unchanged from 2004 at the request of management:

Name	2005 Base Salary
Robert B. Grieve	$ 341,000
Jason A. Napolitano	$ 221,500
Carol T. Verser	$ 198,000
Joseph H. Ritter	$ 190,000
Michael A. Bent	$ 157,000

QuickLinks

Exhibit 10.36

Summary Sheet for Executive Cash Compensation

Exhibit 10.37

NET LEASE AGREEMENT

between

CCMRED 40, LLC
(as Landlord)

and

HESKA CORPORATION
(as Tenant)

NET LEASE AGREEMENT

THIS NET LEASE AGREEMENT ("Lease"), dated effective as May 24, 2004, is entered into by and between CCMRED 40, LLC, a Colorado Limited Liability Company ("Landlord"), and HESKA CORPORATION, a Delaware Corporation ("Tenant").

WITNESSETH:

1. *PRINCIPAL TERMS.* Capitalized terms, first appearing in quotations in this Section, elsewhere in the Lease, in the Development Agreement executed by Landlord and Tenant concurrently herewith ("Development Agreement") or in any Exhibits to the Lease and the Development Agreement, are definitions of such terms as used in the Lease, the Development Agreement and Exhibits and shall have the defined meaning whenever used.

1.1	"BUILDING":	An office, laboratory and warehouse building to consist of approximately sixty thousand seven hundred fifty-six (60,756) gross square feet and approximately fifty-eight thousand ninety-six (58,096) square feet of Rentable Building Area as defined in Section 5 below to be constructed upon the Real Property legally described on **Exhibit B** attached hereto and located within the Centerra development in the City of Loveland, Colorado (the "City").
1.2	"REAL PROPERTY":	Approximately 5.52 acres of real property depicted upon the Site Plan attached hereto as **Exhibit A**. The Landlord will become the owner of the Real Property on or before the sixtieth (60th) day following the date of this Lease as set forth above.
1.3	"INITIAL TERM":	Eighteen (18) years.
	"Commencement Date":	The earlier of: (1) one hundred (100) days following the completion by Landlord of the Base Building Improvements as such term is defined in the Development Agreement, or (2) such earlier date upon which a temporary or final certificate of occupancy has been issued by the City permitting the lawful occupancy and use of the Building by the Tenant for the "Permitted Use." In no event shall the Commencement Date be delayed or extended as a result of Tenant's failure to timely discharge its obligations under the Development Agreement, including approval of the Plans and Specifications for the Building, the Development Budget, the description of Tenant Improvements or the completion of the Tenant Improvements, hereinafter referred to as "Tenant Delays."
	"Expiration Date":	The last day of the calendar month upon which the eighteenth (18th) anniversary of the Commencement Date occurs.
1.4	"BASE RENT":	The initial monthly Base Rent shall be equal to the sum of .00866667 multiplied times the final "Development Budget" approved by the parties in accordance with the terms and conditions of the Development Agreement of even date herewith entered into between Landlord and Tenant, as may thereafter be modified by change order. For example, if the final "Development Budget" approved by the parties is Eleven Million Seventy-One

		Thousand Eight Hundred Eighty-Six Dollars ($11,071,886.00) (without regard to the actual costs incurred by the Landlord in completion of the Project), then the initial monthly Base Rent shall be Ninety-Five Thousand Nine Hundred Fifty-Six Dollars and Thirty-Eight Cents ($95,956.38) computed as follows: $11,071,886.00 × .00866667 = $95,956.38 The amount of the monthly Base Rent shall increase on the first (1st) anniversary of each year during the remaining Term of the Lease and any renewal options exercised by Tenant as follows: 1. The monthly Base Rent during Lease Year 2 shall be equal to one hundred six percent (106%) of the initial monthly Base Rent. 2. The monthly Base Rent during Lease Years 3 through 18, inclusive, and during any renewal options exercised by Tenant, shall be equal to one hundred three percent (103%) of the adjusted monthly Base Rent during the previous Lease Year, resulting in a three percent (3%) increase over Lease Year 2 and each subsequent Lease Year, compounded annually. Upon determination of the exact amount of the Development Budget, as modified by any change orders, pursuant to the terms of the Development Agreement, and regardless of the actual costs incurred by Landlord in construction of the Project prior to the Commencement Date, the parties shall enter into an Addendum to this Lease setting forth the actual monthly Base Rent and the actual annual Base Rent during each year of the Initial Term of this Lease and any renewal options exercised by the Tenant hereunder.
1.5	"OPERATING EXPENSES":	This Lease is a total net lease (a "net, net, net lease") whereby Tenant has the obligation to pay or reimburse to Landlord, all costs and expenses (including, without limitation, the costs and expenses outlined in Sections 6, 7, 8, 9 and 32 of this Lease) incurred by Landlord as a result of Landlord's ownership or operation of the Building and the Real Property, except those expenses for which the Landlord is expressly made liable hereunder. The Building and the Real Property shall be hereinafter jointly referred to as "Leased Premises." Landlord shall not be responsible for payment of any taxes, insurance, maintenance, repairs, capital improvements (other than initial Base Building Improvements), utilities or other operating expenses for the Leased Premises.
1.6	"DEPOSIT":	None.
1.7	"PERMITTED USE":	General Office, Laboratory and Warehouse Purposes, expressly excluding any retail sales activity therefrom.
1.8	GUARANTOR:	None.
1.9	LANDLORD'S NOTICE ADDRESS:	CCMRED 40, LLC Attention: Manager 2725 Rocky Mountain Avenue, Ste. 200 Loveland, CO 80538 With copy to: Hasler, Fonfara and Maxwell LLP Attention: Joseph H. Fonfara 125 S. Howes, 6th Floor Fort Collins, CO 80521
1.10	LANDLORD'S TAX I.D.:	20-084509
1.11	TENANT'S NOTICE ADDRESS:	Heska Corporation

	Precommencement Address:	Attention: Jason Napolitano 1613 Prospect Park Way Fort Collins, CO 80525 With copy to: Equis Corporation Attention: Paul M. Keilt 8350 E. Crescent Parkway, Ste. 300 Greenwood Village, CO 80111 The Dow Law Firm, LLC Attention: Timothy J. Dow #7 Clock Tower Square 323 S. College Avenue Fort Collins, CO 80524
	Post Commencement Address:	Street address assigned to the Leased Premises by the City
1.12	TENANT'S TAX I.D.:	77-0192527
1.13	LANDLORD'S BROKER:	McWhinney Real Estate Services, Inc. 2725 Rocky Mountain Avenue, Ste. 200 Loveland, CO 80538
1.14	TENANT'S BROKER:	Equis Corporation 8350 E. Crescent Parkway, Ste. 300 Greenwood Village, CO 80111
1.15	ATTACHMENTS:	[check if applicable] ☒ Exhibit A—Site Plan ☒ Exhibit B—Legal Description of Real Property ☒ Exhibit C—List of Hazardous Substances ☒ Exhibit D—Lease Addendum ☒ Exhibit E—Commencement Certificate ☒ Exhibit F—Form of Estoppel Certificate

2. *GENERAL COVENANTS.*

2.1 *Tenant's Covenant.* Tenant covenants and agrees to pay Rent and perform the obligations hereafter set forth and in consideration therefor Landlord leases to Tenant the Real Property as depicted on the attached **Exhibit A** and legally described on **Exhibit B**. The Building and the Real Property are hereinafter jointly called the "Leased Premises."

2.2 *Restated and Amended Master Declaration.* Tenant acknowledges that the Leased Premises are or will be made subject to the Restated and Amended Master Declaration of Covenants, Conditions and Restrictions recorded December 28, 2001, at Reception No. 2001119890 of the Larimer County, Colorado records, together with any and all supplements thereto ("Centerra Declaration"). Tenant agrees to be bound by and to abide by all restrictions and requirements established by the Centerra Declaration.

2.3 *Public Improvement Fee.*

(a) Tenant acknowledges that in connection with the installation of and payment for certain public improvements and other related purposes as more fully described in the Master Financing and Intergovernmental Agreement ("MF&I Agreement") among the City of Loveland, Colorado ("City"), the Loveland Urban Renewal Authority ("LURA"), Centerra Metropolitan District No. 1 and other parties, which purposes generally benefit the Leased Premises and its occupants and other real property in the vicinity thereof, Landlord and/or its affiliates (collectively, "Ownership Entities") are in the process of implementing the imposition and recordation of covenants with the Clerk and Recorder of Larimer County, Colorado ("PIF Covenants"), and other contractual means to establish and collect a public improvement fee ("PIF") on all Sales (as defined herein) generated by occupants of the Leased Premises, as further provided herein, which PIF is intended to be collected and disbursed by the Centerra Public Improvement Collection Corporation (the "PIC"), provided, however, that the PIC may designate one or more entities (each a "PIF Designated Receiving Entity"), which may be but is not limited to the City, to collect the PIF and perform certain other functions on behalf of the PIC in connection with the PIF.

(b) In the event retail sales activities are hereafter permitted on the Leased Premises and only to the extent applicable due to such retail sales activities occurring on the Leased Premises, and as a material consideration and inducement to Landlord's entering into this Lease, Tenant agrees to and acknowledges the following:

(i) Upon recordation of the PIF Covenants with the Clerk and Recorder of Larimer County, Colorado, this Lease and the Leased Premises shall be subject to the terms and conditions of the PIF Covenants. Tenant shall, upon written request by Landlord, evidence its written consent to and approval of the PIF Covenants and/or other contractual provisions to establish and collect the PIF within ten (10) days following Tenant's receipt of a written request by Landlord to Tenant, but only if the PIF Covenants and/or other contractual provisions do not materially increase the

liability of Tenant under this Lease and under this Section 2.3 and shall be, in all material respects, consistent with the provisions of this Section 2.3.

(ii) Tenant acknowledges that Tenant and the public at large will be benefited by the improvements paid from the PIF revenues and hereby agrees that, for the duration of the Term of this Lease, unless previously notified by the PIC of the termination of this obligation, Tenant shall impose the PIF in the amount of 1.25 percent (or such lesser amount, as may be specified by the PIC, and consented to by the City, from time to time) on all Tenant's Sales (as defined in Section 2.5 hereof) originating from or occurring upon the Leased Premises, which PIF shall be used by the PIC for any lawful purpose. Whether or not collected from customers, Tenant shall pay the PIF monthly, as set forth herein, in arrears, in an amount equal to 1.25 percent of all Tenant's Sales (or such lesser amount, as may be specified by the PIC, and consented to by the City, from time to time) originating from or occurring upon the Leased Premises during such month. Such PIF shall be due and payable without notice within twenty (20) days after the close of each calendar month, and, unless the PIC in its sole discretion otherwise directs, shall be paid directly to the location of the PIF Designated Receiving Entity, in funds payable to the PIC or other payee in accordance with guidelines provided by the PIF Designated Receiving Entity. Tenant shall comply with all uniform guidelines established by the PIC or PIF Designated Receiving Entity with respect to the calculation and payment of the PIF due hereunder to the extent consistent with the definition of "Sales" herein. The PIF shall be calculated and imposed on transactions at the rate stated herein prior to the calculation and assessment of any sales taxes required to be imposed by law. The PIF shall be added to the sales price for transactions subject to sales tax prior to the addition of sales taxes. All sales taxes of other taxing entities shall be calculated and assessed on the sum of the sales price plus the amount of the PIF.

(iii) Tenant acknowledges that it is the intention of the parties to the MF&I Agreement that the PIF will be imposed only for so long as the City Sales Tax Credit (described below) remains in effect (including as a result of an inability to reinstate the full City Sales Tax after the intended termination date of the Sales Tax Credit), and only in the amount of the Sales Tax Credit (as the same may be decreased in accordance with the provisions of the MF&I Agreement), such that the imposition of the PIF will at no time result in a net increase in the combined City Sales Tax and PIF imposed on the Leased Premises. Pursuant to the MF&I Agreement, the City has agreed to provide for a credit (the "Sales Tax Credit") in the amount of 1.25% against the retail sales tax collected by the City on sales subject to the Sales Tax made within the Centerra PIF Property under all regulations in effect at the time the Sales Tax Credit is given. Such Sales Tax Credit is intended to be effective for a period not to exceed May 2029, and may be reduced in accordance with the provisions of the MF&I Agreement; provided, however, that, after such date, the effectiveness of the Sales Tax Credit may continue for an indeterminate time if voter approval is required to reinstate the Sales Tax to its previous level (in which case the PIF will continue as described above). The PIC is to provide notice of any change in the amount or termination of the PIF to the Tenant so as to cause, to the extent reasonably possible, the PIF to equal the amount of the Sales Tax Credit then in effect (including the Sales Tax Credit remaining in effect beyond its intended termination date as a result of an inability to reinstate the Sales Tax in full). Notwithstanding any of the foregoing, the Tenant shall be obligated to pay the PIF in the amount of 1.25 percent on all Sales, in accordance with the preceding subparagraph, unless advised of a reduction or termination of the PIF by the PIC (which reduction or termination shall be consented to by the City).

(iv) Tenant agrees to provide to the PIF Designated Receiving Entity copies of all written reports, returns, statements, records, declarations and any amendments or supplements thereto relating to its sales taxes paid to the City at such time as such documents are provided to the City and such reports relating to the PIF revenues as may be reasonably required by the PIC or its PIF Designated Receiving Entity as collector of the PIF; provided that, if available at the time that PIF revenues are to be paid to the PIF Designated Receiving Entity, such reports for the corresponding sales tax period shall be submitted to the PIF Designated Receiving Entity together with the PIF and PIF reports for such period. Tenant hereby authorizes the PIF Designated Receiving Entity, the PIC, Landlord, Centerra Metropolitan District No. 1, any trustee for bonds secured by the PIF, and the Centerra Public Improvement Development Corporation (collectively, the "PIF Enforcing Parties"), upon reasonable advance notice, to audit Tenant's books and records kept in connection with the Premises as reasonably necessary to determine compliance with the provisions of this Section 2.3, provided that the results of such audit shall be held confidential, and will be used only for purposes of collecting the PIF due, enforcing Tenant's obligations hereunder with respect to the PIF and otherwise monitoring compliance with the provisions hereof relating to the PIF, except with respect to information provided to Dissemination Agents and Investors (as defined below), and except for such disclosures or publications as may be required by applicable laws; provided, however that such information may be disclosed to the same entities and in the same manner as the reports described in the following subparagraph may be disclosed. If any subsequent adjustments, additions or modifications are made to any City sales taxes reported, remitted or paid by the Tenant to the City with respect to sales taxes, the Tenant will provide the PIF Designated Receiving Entity with true and complete copies of all revised sales tax reports or other written material issued or received by Tenant in regard thereto. If any such adjustment increases the amount of the PIF which the Tenant is required to remit or pay, or results in a refund of such PIF, the Tenant will immediately pay such additional PIF in the amount due, or will receive an appropriate credit against the next PIF due from the Tenant in the amount of such excess PIF. The Tenant will claim such credits or pay such additional PIF in the next monthly reporting period by use of the standard PIF reports relating to reporting and remittance forms. Tenant shall not be obligated to make any payment of PIF not specifically imposed under the PIF Covenants or other contractual means established by Landlord.

(v) Tenant agrees that any reports relating to City sales tax or the PIF provided by Tenant to the PIF Designated Receiving Entity may be disclosed by the PIF Designated Receiving Entity to a PIF Enforcing Party, the LURA, the Districts, any entity charged with distributing information to investors in bonds or other obligations secured by the PIF revenues (a "Dissemination Agent") and certain investors and potential investors in the Leased Premises and their consultants ("Investors") and otherwise will be kept confidential and used only for purposes of collecting the PIF due, enforcing Tenant's obligations hereunder with respect to the PIF and otherwise monitoring compliance with the provisions hereof relating to the PIF, except with respect to information provided to Dissemination Agents, and except for such disclosures or publications as may be required by applicable laws; provided that any information submitted by or pertaining specifically to the Tenant provided by the PIF Designated Receiving Entity to Dissemination Agents or Investors will be made only on an aggregated basis with the similar information submitted by other tenants of the Landlord and without separate identification (direct or indirect) of the PIF, the Sales or City or State sales taxes of the Tenant. If reasonably necessary, within twenty (20) days following a request in writing by Landlord, Tenant will execute a waiver in form reasonably acceptable to the PIC permitting use of its reports for this limited purpose.

(vi) Tenant shall not object to the execution and recordation of PIF Covenants and/or other reasonable instruments creating and enforcing the PIF, so long as the PIF payable by the Tenant does not exceed 1.25 percent of Tenant's Sales originating from or occurring upon the Leased Premises and the PIC notifies Tenant within ten (10) days after a determination that the PIF is no longer due.

(vii) Tenant shall comply with all reasonable policies and requirements established by the PIC or the PIF Designated Receiving Entity regarding notification to customers of the assessment and collection of the PIF as such policies and requirements are communicated to Tenant in writing from time to time by the PIC or its PIF Designated Receiving Entity.

(viii) In no event whatsoever shall any provisions of this Lease be deemed to reduce or abate Tenant's obligations respecting payment of the PIF as set forth in this Section 2.3. The failure or refusal of Tenant to assess, collect and/or remit the PIF, or comply with the requirements concerning notification to customers required in this Section 2.3 shall constitute a default by Tenant under this Lease pursuant to Section 19 of this Lease. Any payment of the PIF not paid when due hereunder shall bear interest at the rate specified in the PIF Covenants, and Tenant shall bear all costs of enforcement and collection thereof, including reasonable attorneys' fees.

(ix) Landlord covenants that for so long as the PIF Covenants and the MF&I Agreement are in effect with respect to the PIF, all land described in the MF&I Agreement will be subject to the PIF and the PIF Covenants.

(c) CENTERRA METROPOLITAN DISTRICT NO. 1, THE TRUSTEE OF ANY CENTERRA METROPOLITAN DISTRICT NO. 1 BONDS, THE CENTERRA PUBLIC IMPROVEMENT DEVELOPMENT CORPORATION, THE CENTERRA PUBLIC IMPROVEMENT COLLECTION CORPORATION ("PIC"), THE CITY AND ANY PIF DESIGNATED RECEIVING ENTITY AS COLLECTING AGENT ARE HEREBY EXPRESSLY MADE THIRD PARTY BENEFICIARIES (COLLECTIVELY, "THIRD PARTY BENEFICIARIES") OF TENANT'S OBLIGATIONS UNDER THIS SECTION 2.3, INCLUDING, BUT NOT LIMITED TO, THE ASSESSMENT, COLLECTION, AND REMITTANCE OF PIF, BUT NOT WITH RESPECT TO ANY OTHER PROVISION. TENANT ACKNOWLEDGES AND AGREES THAT EACH OF THE THIRD PARTY BENEFICIARIES SHALL HAVE A DIRECT CAUSE OF ACTION AND FULL RIGHT AND AUTHORITY TO ENFORCE TENANT'S OBLIGATIONS UNDER THIS SECTION 2.3, AND THAT NO DEFAULT BY LANDLORD UNDER ANY PROVISION OF THIS LEASE SHALL ENTITLE TENANT TO ANY OFFSET, DEDUCTION OR OTHER DEFENSE TO THE PAYMENT OF THE PIF DUE HEREUNDER.

LANDLORD AND TENANT HEREBY ACKNOWLEDGE THAT THE PROVISIONS OF THIS SECTION 2.3 HAVE BEEN OR SHALL BE APPROVED OR AGREED TO BY EACH OF THE THIRD PARTY BENEFICIARIES, AND THAT SAID ENTITIES ARE OR WILL BE RELYING UPON THESE PROVISIONS IN TAKING CERTAIN ACTIONS WITH RESPECT TO THE PIF AND THE PUBLIC IMPROVEMENTS WITH THE EXPRESS CONDITION THAT THIS SECTION 2.3 SHALL NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE PRIOR WRITTEN CONSENT OF THE PIC, THE CITY AND CENTERRA METROPOLITAN DISTRICT NO. 1. LANDLORD AND TENANT THEREFORE AGREE THAT NO AMENDMENT OR MODIFICATION SHALL BE MADE TO, NOR ANY WAIVER MADE OR ACCEPTED BY LANDLORD, WITH RESPECT TO THIS SECTION 2.3 AND THAT ANY SUCH PROPOSED AMENDMENT, MODIFICATION OR WAIVER SHALL BE VOID AND OF NO FORCE AND EFFECT UNLESS THE PIC, THE CITY AND CENTERRA METROPOLITAN DISTRICT NO. 1 SHALL CONSENT IN WRITING TO THE PROPOSED AMENDMENT, MODIFICATION OR WAIVER.

(d) Any right, title or interest of the Landlord in the PIF and the obligations of the Tenant under this Lease relating thereto may be assigned by the Landlord to any other entity, including a PIF Enforcing Party; provided, however, notwithstanding any such assignment, Landlord shall be entitled to enforce this Section 2.3 against the Tenant in the event Tenant fails to comply with the provisions thereof.

(e) Notwithstanding anything contained in this Lease to the contrary the Landlord shall not have and will not be legally entitled, authorized or empowered to exercise any dominion or control over any of the PIF revenues imposed or collected pursuant to this Lease, the PIF Covenant and the MF&I Agreement. To the extent any PIF revenue is collected by the Landlord, such party shall be acting as agent for, and on behalf of, the PIC in implementing the provisions of this Lease relating to the PIF and providing for the collection and payment of PIF revenues pursuant to this Lease, the PIF Covenant and the MF&I Agreement. The PIF revenues shall be the property of the parties entitled thereto pursuant to the provision of the MF&I Agreement and any other agreement relating to the collection and payment of the PIF revenues entered into by the PIC, and shall not be the property of the Landlord.

2.4 *Retail Sales Fee.*

(a) Tenant acknowledges that in connection with the operation, maintenance and installation of and payment for certain public improvements and/or other purposes as more fully described in the MF&I Agreement, related to the Leased Premises and its occupants and other real property in the vicinity thereof, Landlord and/or its Ownership Entities are in the process of imposing and recording covenants with the Clerk and Recorder of Larimer County, Colorado ("RSF Covenants"), and other contractual means to establish and collect a private retail sales fee ("RSF") in an amount not to exceed 1.00 percent (or such lesser amount, as designated by the Primary RSF Recipient, as defined herein, from time to time) of all Sales generated by occupants of the Leased Premises. It is intended that the RSF will be payable to a profit or nonprofit entity (the "Primary RSF Recipient") to be, or to be designated by, Centerra Retail Sales Fee Corporation ("Centerra RSF Corporation"). The Primary RSF Recipient may designate one or more entities (each a "RSF Designated Receiving Entity"), which may be but is not limited to the City, to collect the RSF and perform certain other functions on behalf of the Primary RSF Recipient in connection with the RSF. All references to Primary RSF Recipient and RSF Designated Receiving Entity herein shall mean Centerra RSF Corporation until such time as Centerra RSF Corporation has designated in writing other entities to serve in such capacities and has caused notice thereof to be provided to the Tenant.

(b) In the event retail sales activities are hereafter permitted on the Leased Premises and only to the extent applicable due to such retail sales activities occurring on the Leased Premises, and as a material consideration and inducement to Landlord's entering into this Lease, Tenant agrees to and acknowledges the following:

(i) Upon recordation of the RSF Covenants with the Clerk and Recorder of Larimer County, Colorado, this Lease and the Leased Premises shall be subject to the terms and conditions of the RSF Covenants. Tenant shall, upon written request by Landlord, evidence its written consent to and approval of the RSF Covenants and/or other contractual provisions to establish and collect the RSF within ten (10) days following Tenant's receipt of a written request by Landlord or the Primary RSF Recipient to Tenant, but only if the RSF Covenants and/or other contractual provisions do not materially increase the liability of Tenant under this Lease and under this Section 2.4 and shall be, in all material respects, consistent with the provisions of this Section 2.4.

(ii) Tenant acknowledges that Tenant and the public at large will be benefited by the improvements paid from the RSF revenues and hereby agrees that, for the duration of the Term of this Lease, unless previously notified by the Primary RSF Recipient of the termination of this obligation, Tenant shall impose the RSF in the amount of 1.00 percent (or such lesser amount, as may be specified by the Primary RSF Recipient from time to time) on all Tenant's Sales (as defined in Section 2.5 hereof) originating from or occurring upon the Leased Premises, which RSF shall be used to pay for Eligible Costs (as defined herein). Whether or not collected from customers, Tenant shall pay the RSF monthly, as set forth herein, in arrears, in an amount equal to 1.00 percent of all Tenant's Sales (or such lesser amount, as may be specified by the Primary RSF Recipient from time to time) originating from or occurring upon the Leased Premises during such month. Such RSF shall be due and payable without notice within twenty (20) days after the close of each calendar month, and, unless the Primary RSF Recipient in its sole discretion otherwise directs, shall be paid directly to the location of the RSF Designated Receiving Entity, in funds payable to the Primary RSF Recipient or other payee in accordance with guidelines provided by the RSF Designated Receiving Entity. Tenant shall comply with all uniform guidelines

established by the Primary RSF Recipient or RSF Designated Receiving Entity with respect to the calculation and payment of the RSF due hereunder to the extent consistent with the definition of "Sales" herein. The RSF shall be calculated and imposed on transactions at the rate stated herein prior to the calculation and assessment of any sales taxes required to be imposed by law. The RSF shall be added to the sales price for transactions subject to sales tax prior to the addition of sales taxes. All sales taxes of other taxing entities shall be calculated and assessed on the sum of the sales price plus the amount of the RSF.

(iii) Tenant agrees to provide to the RSF Designated Receiving Entity copies of all written reports, returns, statements, records, declarations and any amendments or supplements thereto relating to its sales taxes paid to the City at such time as such documents are provided to the City and such reports relating to the RSF revenues as may be reasonably required by the Primary RSF Recipient or its RSF Designated Receiving Entity as collector of the RSF; provided that, if available at the time that RSF revenues are to be paid to the RSF Designated Receiving Entity, such reports for the corresponding sales tax period shall be submitted to the RSF Designated Receiving Entity together with the RSF and RSF reports for such period. Tenant hereby authorizes the RSF Designated Receiving Entity, the Primary RSF Recipient, any other RSF Recipient (as defined in subparagraph [d] hereof), the Landlord, and any trustee for bonds secured by the RSF (collectively, the "RSF Enforcing Parties"), upon reasonable advance notice, to audit Tenant's books and records kept in connection with the Premises as reasonably necessary to determine compliance with the provisions of this Section 2.4, provided that the results of such audit shall be held confidential, and will be used only for purposes of collecting the RSF due, enforcing Tenant's obligations hereunder with respect to the RSF and otherwise monitoring compliance with the provisions hereof relating to the RSF, except with respect to information provided to Dissemination Agents and Investors (as defined below), and except for such disclosures or publications as may be required by applicable laws; provided, however that such information may be disclosed to the same entities and in the same manner as the reports described in the following subparagraph may be disclosed. If any subsequent adjustments, additions or modifications are made to any City sales taxes reported, remitted or paid by the Tenant to the City with respect to sales taxes, the Tenant will provide the RSF Designated Receiving Entity with true and complete copies of all revised sales tax reports or other written material issued or received by Tenant in regard thereto. If any such adjustment increases the amount of the RSF which the Tenant is required to remit or pay, or results in a refund of such RSF, the Tenant will immediately pay such additional RSF in the amount due, or will receive an appropriate credit against the next RSF due from the Tenant in the amount of such excess RSF. The Tenant will claim such credits or pay such additional RSF in the next monthly reporting period by use of the standard RSF reports relating to reporting and remittance forms. Tenant shall not be obligated to make any payment of RSF not specifically imposed under the RSF Covenants or other contractual means established by Landlord.

(iv) Tenant agrees that any reports relating to City sales tax or the RSF provided by Tenant to the RSF Designated Receiving Entity may be disclosed by the RSF Designated Receiving Entity to an RSF Enforcing Party, any entity charged with distributing information to investors in bonds or other obligations secured by the RSF revenues (a "Dissemination Agent") and certain investors and potential investors in the Leased Premises and their consultants ("Investors") and otherwise will be kept confidential and used only for purposes of collecting the RSF due, enforcing Tenant's obligations hereunder with respect to the RSF and otherwise monitoring compliance with the provisions hereof relating to the RSF, except with respect to information provided to Dissemination Agents, and except for such disclosures or publications as may be required by applicable laws; provided that any information submitted by or pertaining specifically to the Tenant provided by the RSF Designated Receiving Entity to Dissemination Agents or Investors will be made only on an aggregated basis with the similar information submitted by other tenants of the Landlord and without separate identification (direct or indirect) of the RSF, the Sales or City or State sales taxes of the Tenant. If reasonably necessary, within twenty (20) days following a request in writing by Landlord, Tenant will execute a waiver in form reasonably acceptable to the Primary RSF Recipient permitting use of its reports for this limited purpose.

(v) Tenant shall not object to the execution and recordation of RSF Covenants and/or other reasonable instruments creating and enforcing the RSF, so long as the RSF payable by the Tenant does not exceed 1.00 percent of Tenant's Sales originating from or occurring upon the Premises and the Primary RSF Recipient notifies Tenant within ten (10) days after a determination that the RSF is no longer due.

(vi) Tenant shall comply with all reasonable policies and requirements established by the Primary RSF Recipient or the RSF Designated Receiving Entity regarding notification to customers of the assessment and collection of the RSF as such policies and requirements are communicated to Tenant in writing from time to time by the Primary RSF Recipient or its RSF Designated Receiving Entity.

(vii) In no event whatsoever shall any provisions of this Lease be deemed to reduce or abate Tenant's obligations respecting payment of the RSF as set forth in this Section 2.4. The failure or refusal of Tenant to assess, collect and/or remit the RSF, or comply with the requirements concerning notification to customers required in this Section 2.4 shall constitute a default by Tenant under this Lease pursuant to Section 19 of this Lease. Any payment of the RSF not paid when due hereunder shall bear interest at the rate specified in the RSF Covenants, and Tenant shall bear all costs of enforcement and collection thereof, including reasonable attorneys' fees.

(c) THE PRIMARY RSF RECIPIENT, ANY RSF DESIGNATED RECEIVING ENTITY AS COLLECTING AGENT, AND ANY OTHER RSF RECIPIENT ARE HEREBY EXPRESSLY MADE THIRD PARTY BENEFICIARIES (COLLECTIVELY, "THIRD PARTY BENEFICIARIES") OF TENANT'S OBLIGATIONS UNDER THIS SECTION 2.4, INCLUDING, BUT NOT LIMITED TO, THE ASSESSMENT, COLLECTION, AND REMITTANCE OF RSF, BUT NOT WITH RESPECT TO ANY OTHER PROVISION. TENANT ACKNOWLEDGES AND AGREES THAT EACH OF THE THIRD PARTY BENEFICIARIES SHALL HAVE A DIRECT CAUSE OF ACTION AND FULL RIGHT AND AUTHORITY TO ENFORCE TENANT'S OBLIGATIONS UNDER THIS SECTION 2.4, AND THAT NO DEFAULT BY LANDLORD UNDER ANY PROVISION OF THIS LEASE SHALL ENTITLE TENANT TO ANY OFFSET, DEDUCTION OR OTHER DEFENSE TO THE PAYMENT OF THE RSF DUE HEREUNDER.

LANDLORD AND TENANT HEREBY ACKNOWLEDGE THAT THE PROVISIONS OF THIS SECTION 2.4 HAVE BEEN OR SHALL BE APPROVED OR AGREED TO BY EACH OF THE THIRD PARTY BENEFICIARIES, AND THAT SAID ENTITIES ARE OR WILL BE RELYING UPON THESE PROVISIONS IN TAKING CERTAIN ACTIONS WITH RESPECT TO THE RSF AND THE PUBLIC IMPROVEMENTS AND ELIGIBLE COSTS WITH THE EXPRESS CONDITION THAT THIS SECTION 2.4 SHALL NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THE PRIOR WRITTEN CONSENT OF THE PRIMARY RSF RECIPIENT. LANDLORD AND TENANT THEREFORE AGREE THAT NO AMENDMENT OR MODIFICATION SHALL BE MADE TO, NOR ANY WAIVER MADE OR ACCEPTED BY LANDLORD, WITH RESPECT TO THIS SECTION 2.4 AND THAT ANY SUCH PROPOSED AMENDMENT, MODIFICATION OR WAIVER SHALL BE VOID AND OF NO FORCE AND EFFECT UNLESS THE PRIMARY RSF RECIPIENT SHALL CONSENT IN WRITING TO THE PROPOSED AMENDMENT, MODIFICATION OR WAIVER.

(d) Any right, title or interest of the Landlord or the Primary RSF Recipient in the RSF and the obligations of the Tenant under this Lease relating thereto may be, and is expected to be, assigned by the Landlord to any other entity, including an RSF Enforcing Party; provided, however, notwithstanding any such assignment, Landlord shall be entitled to enforce this Section 2.4 against the Tenant in the event Tenant fails to comply with the

provisions thereof. Any such party to whom rights to all or any portion of the RSF revenues are assigned by the Landlord or the Primary RSF Recipient is referred to herein as an "RSF Recipient."

(e) Notwithstanding anything contained in this Lease to the contrary the Landlord (i) shall not have and will not be legally entitled, authorized or empowered to exercise any dominion or control over any of the RSF revenues imposed or collected pursuant to this Lease or the RSF Covenant; and (ii) to the extent any RSF revenue is collected by the Landlord, such party shall be acting as agent for, and on behalf of, the Primary RSF Recipient in implementing the provisions of this Lease relating to the RSF and providing for the collection and payment of RSF revenues pursuant to this Lease and the RSF Covenant, unless the Landlord specifically claims or is assigned rights to the RSF revenues in any agreement relating to the collection or disbursement of the RSF revenues entered into by the Primary RSF Recipient. The RSF revenues shall be the property of the RSF Recipients entitled thereto pursuant to the provision of any agreement relating to the collection or disbursement of the RSF revenues entered into by the Primary RSF Recipient, and shall not be the property of the Landlord, unless so claimed or specified in any such agreement.

2.5 *Definition of Sales; Modification or Amendment of PIF and/or RSF; Not a Tax.*

(a)

(i) For purposes of Sections 2.3 and 2.4 above and the imposition and collection of the PIF and the RSF, subject to subparagraph (ii) hereof, the term "Sales" shall mean and refer to any and all retail sales transactions by Tenant of tangible personal property initiated, consummated, conducted, transacted, originated from or otherwise occurring from or within any portion of the Leased Premises which are on the date of recording of the PIF Covenant subject to a retail sales tax of the City and not a use tax pursuant to the Sales Tax Ordinances, plus any and all retail sales transactions by any Tenant of tangible personal property initiated, consummated, conducted, transacted, originated from or otherwise occurring from or within any portion of the Leased Premises which are from time to time in the future subject to a retail sales tax of the City and not a use tax pursuant to the Sales Tax Ordinances of the City, as amended from time to time, less any sales transactions specified by the PIC as exempt from the PIF or RSF, as applicable, from time to time (provided, however, that with respect to the PIF, such reduction shall be subject to the consent of the City).

(ii) For purposes of the imposition of RSF as set forth in Section 2.4 hereof, "Sales" shall not include any transaction relating to passenger vehicles, whether new or used; provided, however, that this exclusion does not apply to transactions relating to automotive parts.

(b) For purposes of Section 2.4 above and the imposition and collection of the RSF, the term "Eligible Costs" shall mean and refer to: (i) administrative costs of the PIC, PIF Designated Receiving Entity, RSF Designated Receiving Entity or any other entity charged with collecting, disbursing or performing any other functions in connection with the PIF or RSF, as applicable, to the extent such costs are related to the performance of such functions; (ii) Bond Requirements; (iii) the costs of public facilities and improvements generally benefiting the Centerra development the costs of which may, in accordance with the Colorado Special District Act, Colorado Revised Statutes Title 32, Article 1, Parts 1-16 inclusive, lawfully be paid for by the metropolitan districts, or may, in accordance with the Colorado Urban Renewal Law, Colorado Revised Statutes Title 31, Article 25, Part I, lawfully be paid for by the LURA, including costs of design, acquisition, construction, financing, operation and maintenance, and any reimbursements of such costs; (iv) any fees assessed by the City in connection with the construction of improvements in all or any portion of the Centerra development; (v) costs related to support of the High Plains Environmental Center; and (vi) any use of funds lawfully permitted to be undertaken by Centerra Metropolitan District No. 1.

(c) For purposes of the definition of Eligible Costs above and the imposition and collection of the PIF and the RSF, "Bond Requirements" shall mean and refer to principal, interest, premiums, if any, capitalized interest, costs of issuance, any necessary reserves or administrative fees, including bond trustee fees, or any other amounts due or which may become due on or in connection with, and any necessary and appropriate costs relating to the issuance of, and debt or obligations payable in whole or in part by the PIF revenues or RSF revenues, in accordance with the terms of such obligations or the terms of the MF&I Agreement, or bonds issued by the City of Loveland Special Improvement District No. 1, and any organizational costs related to the formation of metropolitan districts in connection with the Centerra development, the PIC or the Centerra Public Improvement Development Corporation, or costs related to the formation of the urban renewal area relating to the Centerra development.

(d) The terms of Sections 2.3 and 2.4 above may be modified or amended by Landlord without Tenant's consent, only if the following conditions are satisfied:

(i) Such modification or amendment is permitted by this Section 2.5, the PIF Covenants, the RSF Covenants and/or the MF&I Agreement.

(ii) Such modification or amendment shall be equally applicable to all tenants and/or owners who are subject to the PIF and RSF.

(iii) Such modification or amendment shall not materially increase the liability of Tenant under this Lease or Sections 2.3 or 2.4 hereof.

(iv) To the extent applicable, such modification or amendment shall comply with the provisions of the PIF Covenants, the RSF Covenants, the MF&I Agreement and/or the requirements of bond counsel to preserve the tax-exempt status of any bonds issued which are collateralized by a pledge of the PIF revenues.

(v) Any proposed modification or amendment to the provisions affecting the PIF shall be approved in writing by the PIC, the City, and Centerra Metropolitan District No. 1.

(e) TENANT HEREBY ACKNOWLEDGES THAT THE PIF AND RSF ARE NOT TAXES IN ANY FORM AND THAT THE COLLECTION THEREOF AND THE AUTHORITY TO COLLECT THE SAME ARE DERIVED THROUGH THIS LEASE, THE PIF COVENANTS, THE RSF COVENANTS AND/OR OTHER CONTRACTUAL PROVISIONS OBLIGATING THE PAYMENT OF THE SAME.

(f) Notwithstanding any provision of this Article 2 to the contrary, Tenant acknowledges and agrees that retail sales activities are not permitted on the Leased Premises and shall not be permitted without the prior written consent of Landlord. However, pursuant to the MF&I Agreement, a PIF Covenant will be recorded on certain real property, including the Leased Premises, and an RSF Covenant may be recorded on various parcels of property within the development known as Centerra, including, but not limited to, the Leased Premises. No obligation shall exist to collect the PIF or the RSF if "retail Sales" are not permitted on the Leased Premises.

(g) After the recordation of the PIF Covenants and the RSF Covenants, Landlord shall, upon written request by Tenant, enter into an amendment to this Lease modifying and amending Sections 2.3, 2.4 and 2.5 to indicate that the Leased Premises are subject to the terms, covenants and conditions of the

PIF Covenants and the RSF Covenants.

3. *TERM.* The Initial Term of the Lease commences at 12:01 a.m. on the Commencement Date and terminates at 12:00 midnight on the Expiration Date (the Initial Term together with any extensions thereof is herein referred to as the "Term"). Notwithstanding the foregoing, in the event that either Landlord or Tenant shall elect to terminate the Development Agreement prior to the expiration of the "Approval Period" as defined therein, then, in such event, this Lease shall be deemed terminated and cancelled, in which event neither party shall have any further rights or liabilities hereunder.

4. *RENT.*

4.1 Commencing on the Commencement Date and prorated to the first day of the following calendar month, if applicable, and on the first day of each month thereafter, Tenant shall pay Base Rent in the amount stated in Section 1.4, in advance without notice (all amounts, including Base Rent, to be paid by Tenant pursuant to this Lease as the context requires are sometimes referred to collectively as "Rent[s]"). Rents shall be paid without set off, abatement, or diminution, at the office of Landlord in Loveland, Colorado, or at such other place as Landlord from time to time designates in writing. The Rent Commencement Date and the Tenant's Rent obligations and other obligations under this Lease will not be delayed or extended as a result of Tenant Delays.

4.2 Tenant understands and agrees that this Lease is a total net lease (a "net, net, net lease") whereby Tenant has the obligation to pay or reimburse to Landlord, all costs and expenses (including, without limitation, the costs and expenses outlined in Sections 6, 7, 8 and 9 of this Lease) incurred by Landlord as a result of Landlord's ownership and operation of the Leased Premises, except as expressly provided otherwise herein. Landlord shall not be responsible for payment of any taxes, insurance, maintenance, repairs, capital improvements (following Completion of the initial Base Building Improvements), utilities or other expenses associated with the ownership, maintenance or operation of the Leased Premises. Landlord and Tenant further agree that any reimbursements owing by Tenant to Landlord pursuant to the terms of this Lease shall constitute additional rent due under the terms of this Lease.

4.3 In the event Tenant does not fully utilize the Tenant Improvement Allowance granted to Tenant pursuant to the Development Agreement, and if allowed by Landlord's Construction Lender, Landlord shall grant Tenant a credit against any Rent due hereunder in an amount equal to the unused Tenant Improvement Allowance, only to the extent permitted by Landlord's Construction Lender.

5. *COMPLETION OF LEASED PREMISES.*

5.1 Landlord shall, at its expense, construct the Base Building Improvements (as such term is defined in the Development Agreement) and, following substantial completion of the Base Building Improvements, Tenant shall commence and complete construction of the Tenant Improvements (as such term is defined in the Development Agreement), resulting in the construction of an office, laboratory and warehouse building containing approximately sixty thousand seven hundred fifty-six (60,756) gross square feet and approximately fifty-eight thousand ninety-six (58,096) square feet of Rentable Building Area computed substantially in accordance with the Building Owners and Managers Association International Standard Method for Measuring Floor Area in Office Buildings (ANSI/BOMA Z65.1-1996) ("Rentable Building Area"). Notwithstanding the foregoing, the actual gross square footage contained in the Building and the Rentable Building Area shall be determined by Landlord and Tenant prior to the expiration of the Approval Period (as such term is defined in the Development Agreement). The Building shall be a combined one (1) and two (2) story, pre-cast concrete structure. Such Building, together with accessory driveways, sidewalks, landscaping, signage, dumpster enclosures, parking and utilities shall be constructed in accordance with the Development Agreement by Landlord and Tenant. Landlord shall have no responsibility for the installation or construction of any improvements which are not identified and included in the Development Agreement as "Base Building Improvements" and Tenant shall be responsible for all other improvements required for completion of the Building, including the Tenant Improvements.

If Landlord fails to deliver possession of the substantially completed Base Building Improvements to Tenant on or before the date which is one hundred forty-six (146) business days (i.e. excluding Saturdays, Sundays and State and National holidays) after the issuance of a building permit by the appropriate governmental authorities for the construction of the Base Building Improvements, then for each day possession is delayed beyond that date for any reason other than Tenant Delays, Landlord shall pay to Tenant, in lieu of any other damages, liquidated damages in the amount of Seven Hundred Fifty Dollars ($750.00) per day until possession is delivered as required by this Lease up to a maximum of ninety (90) days or Sixty-Seven Thousand Five Hundred Dollars ($67,500.00) in total daily penalties.

5.2 Upon completion of the Base Building Improvements by Landlord pursuant to the terms of the Development Agreement, Tenant shall accept the Leased Premises in their "as is" condition on the Commencement Date subject only to outstanding "punchlist" items required of Landlord. Taking possession of the Leased Premises by Tenant for the purpose of completing Tenant Improvements shall be conclusive evidence that the Leased Premises are in the condition agreed between Landlord and Tenant subject only to such outstanding "punchlist" items required of Landlord and the one (1) year warranty set forth in Section 8 below.

6. *REAL AND PERSONAL PROPERTY TAXES AND ASSESSMENTS.*

6.1 Landlord shall deliver or cause to be delivered to Tenant within thirty (30) days after receipt thereof, copies of any notices for the payment of taxes and/or assessments received by Landlord relating to the Leased Premises. Tenant shall be responsible for, and shall promptly pay when due (before any penalty shall accrue thereon), all real property taxes and assessments, including assessments made pursuant to either the Special Improvement District or the Metropolitan District(s), levied against the Leased Premises by any governmental or quasi-governmental authority, including taxes, assessments, surcharges, or service or other fees of a nature not presently in effect which are hereafter levied on the Leased Premises as a result of the use, ownership or operation of the Leased Premises or for any other reason, whether in lieu of or in addition to, any current real estate taxes and assessments. "Taxes" also include special assessments, license taxes, business license fees, business license taxes, commercial rental taxes, levies, charges, penalties or taxes, imposed by any authority against the Leased Premises or any legal or equitable interest of Landlord, provided that in no event shall taxes and assessments include any federal or state income taxes levied or assessed on Landlord. Notwithstanding the foregoing, any taxes levied against the Leased Premises in the year in which the Term of this Lease shall commence and in the year in which the Term of this Lease shall expire shall be prorated between Landlord and Tenant as of the Commencement Date or Expiration Date, as appropriate. In the event any special assessment taxes are payable in installments, Tenant shall only be required to pay such installments thereof as shall become due and payable during the period for which Rent is hereunder. In the event of default in the payment of such taxes by Tenant, Landlord may pay the same (but shall be under no obligation to do so) and the amount so paid shall be due and payable to Landlord, together with interest thereon at the Default Rate (as defined in Section 19.6, below), at the time of the next monthly Rent payment. Without limiting the foregoing, by paying any such amount, Landlord does not waive any of its rights hereunder as a result of a default in payment by Tenant.

Notwithstanding any provision herein to the contrary, Tenant shall have no liability or responsibility for payments of assessments to the Special Improvement District and/or the Metropolitan District(s) of a combined mill levy in excess of thirty-five (35) mills or equivalent ("Mill Levy Cap"). The Mill Levy Cap shall be subject to adjustment if the laws of the State of Colorado are changed with respect to the assessment of property for taxation purposes, the ratio for determining assessed valuation changes or similar changes occur. Upon the occurrence of any of such events, the Mill Levy Cap shall be automatically adjusted so that the tax liability of the Leased Premises shall neither increase nor decrease as a result of any changes thereby.

6.2 Tenant shall be responsible for, and shall promptly pay when due, any and all taxes and/or assessments levied and/or assessed against any furniture, fixtures, equipment and items of a similar nature installed and/or located in or about the Leased Premises.

6.3 Tenant shall not take or participate in any act or action to protest or lower the total actual value of the Leased Premises (including all improvements located thereon) for tax assessment purposes to a value less than One Hundred Ninety Dollars ($190.00) per square foot contained within the Leased Premises. Subject to the foregoing, Tenant shall not be required to pay any tax, assessment, tax lien or other imposition or charge upon or against the Leased Premises or any part thereof, or of the improvements at any time situated thereon, so long as Tenant shall, in good faith and with due diligence, contest the same or the validity thereof by appropriate legal proceedings, which shall have the effect of preventing the collection of the tax, assessment, tax lien or other imposition or charge so contested. Subject to the restrictions contained in the first sentence of this Section 6.3, Landlord agrees to cooperate in good faith with Tenant in any such contest, protest or proceeding at the request of Tenant (which contest, protest or proceeding may be brought in the Landlord's name if required by applicable law), provided that Tenant shall bear all costs and expenses of such contest, protest or proceeding.

6.4 Tenant shall furnish to Landlord within sixty (60) calendar days after request by Landlord, cancelled checks or other official receipts from the appropriate taxing authority or other proof satisfactory to Landlord evidencing the payment thereof.

7. *INSURANCE AND INDEMNITY.*

7.1 Tenant shall, at its own cost and expense, during the Term of this Lease, including any extensions hereof, keep the Building and all other improvements on the Leased Premises insured against loss or damage by fire and such other contingencies covered by a special form or all-risk insurance policy, including boiler, machinery and equipment coverage, in an amount not less than the full replacement cost of the Building and improvements (whether personalty or fixtures) without reduction for depreciation as confirmed in writing by Landlord and Tenant from time to time (such confirmation of full replacement value not to be unreasonably withheld), without provision for co-insurance or for deductible in excess of Ten Thousand Dollars ($10,000.00). Such policy shall provide, subject to the rights of the Landlord's Mortgagee (defined below), if any, that all proceeds payable thereunder shall be paid directly to Landlord or the party designated by Landlord.

7.2 Tenant shall, at its own cost and expense, during the Term of this Lease, including any extensions hereof, carry broad form general liability insurance covering bodily injury, including death, personal injury, property damage and contractual liability insurance for the indemnification obligations of Tenant contained in this Lease. The broad form general liability insurance coverage shall provide coverage on an occurrence basis and shall include explosion, collapse, underground hazard and product/completed operations coverage. The minimum limits of liability provided by this coverage shall be not less than Two Million Dollars ($2,000,000.00) combined single limit per occurrence/Four Million Dollars ($4,000,000.00) annual aggregate per designated location.

7.3 Tenant shall, at its own cost and expense, during the Term of this Lease, including any extensions hereof, carry insurance against fire, vandalism, malicious mischief and such other perils as are from time to time included in a standard extended coverage endorsement insuring any betterments and improvements made by Tenant to the Leased Premises and all merchandise, furniture, trade fixtures, equipment and other items of personal property located at the Leased Premises. In addition, Tenant shall, at its own cost and expense, during the Term of this Lease and any extensions hereof, carry such additional insurance as shall be required by Landlord's Mortgagee with respect to the Leased Premises, provided that Landlord shall give Tenant not less than twenty-five (25) days' prior written notice of any such additional insurance required by Landlord's Mortgagee.

7.4 Tenant shall, at its own cost and expense, during the Term of this Lease, including any extensions hereof, maintain business interruption or loss of rent insurance to insure (without provision for deductibles or co-insurance in excess of one [1] month's Base Rent) the payment of rent under Section 4 of this Lease, the payment of taxes and assessments under Section 6 of this Lease and the payment of all other rental owed by Tenant pursuant to this Lease for a period of not less than nine (9) months in the event of a casualty as contemplated by Section 11 of this Lease. Tenant shall be responsible for the payment of any deductibles or co-insurance required pursuant to such business interruption or loss of rent insurance so that Landlord shall receive payment in full of all amounts contemplated by this Section 7.4.

7.5 All insurance policies required hereunder shall be written by an insurance company or companies reasonably acceptable to Landlord, Tenant and Landlord's mortgagees (if any) having a rating of Best's Insurance Guide A and VIII, or better, and admitted to engage in the business of insurance in the State of Colorado. Such insurance policies shall name the Tenant as the insured and the Landlord as an additional insured (except with respect to commercial general liability insurance for which Landlord shall accept contractual liability insurance in lieu thereof), Tenant, and Landlord's mortgagees (if any) as their interests appear. The liability and casualty insurance policies to be obtained by Tenant and provided for the benefit of Landlord shall contain such additional coverage and endorsements as shall be required by Landlord's mortgagees (if any), it being acknowledged that Landlord shall not be required to independently obtain any insurance coverage required by Landlord's mortgagees (if any). Such insurance shall be written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry and shall be non-cancelable and non-amendable without at least thirty (30) days' prior written notice to all such parties. A certificate evidencing such coverage in form reasonably acceptable to Landlord shall be furnished to Landlord with evidence of timely payment of the premium therefor prior to the Commencement Date and not less than ten (10) days prior to the expiration of any coverage. Landlord may at any reasonable time and from time to time inspect and/or copy any and all insurance policies required to be procured by Tenant under this Lease.

7.6 In addition to any indemnification or payments to which Landlord would otherwise be entitled pursuant to Sections 7.1 through 7.5 above, inclusive, Tenant hereby agrees to indemnify and hold Landlord harmless from and against any and all claims, actions, damages, liabilities and expenses by or on behalf of any person arising from (i) the conduct or management of or from any work or thing whatsoever done in or about the Leased Premises, excluding those matters arising from Landlord's gross negligence or willful misconduct or (ii) any breach or default on the part of the Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to this Lease or (iii) any act or negligence of Tenant, or any occupant of the Leased Premises or any part thereof, or of its or their agents, contractors, employees, guests, invitees, licensees or customers in or about the Leased Premises or (iv) any accident, injury or damage whatsoever caused to any person or property occurring during the Term of this Lease or any extensions hereof in or about the Leased Premises, except to the extent caused by any willful misconduct or gross negligence of Landlord, or of its agents, contractors, employees, guests, invitees, licensees or customers in or about the Leased Premises. Tenant, upon notice from Landlord, shall resist or defend

such action or proceeding by counsel reasonably satisfactory to Landlord. The foregoing covenants and indemnifications shall survive the expiration of the Term of this Lease and any extensions thereof.

7.7 Landlord shall not be responsible or liable to Tenant for any damage or injury to any property, fixtures, buildings or other improvements on the Leased Premises or for personal injury to Tenant or its agents, contractors, employees, guests, invitees, licensees or customers in or about the Leased Premises from any cause whatsoever except to the extent the same results from the gross negligence or willful misconduct of Landlord, its agents or employees.

7.8 Each party hereby expressly waives any right of recovery it may have against the other for loss to the Leased Premises or its contents due to fire or any other peril to the extent included in the coverage of any insurance policies maintained by Tenant hereunder, however caused, including such losses as may be due to the negligence of the released party or its agents or employees. All policies of insurance carried by Tenant hereunder shall contain a provision that they are not invalidated by the foregoing waiver.

8. *REPAIRS AND MAINTENANCE.* Tenant shall, at its own cost and expense, throughout the Term of this Lease and any extensions hereof, keep and maintain the Leased Premises in good operating condition and repair as a first class office, laboratory and warehouse complex, including the Building, parking lot, landscaped areas and all other improvements situated thereon, and all plumbing, electrical, heating, ventilating, air conditioning and other equipment and facilities contained in or about the Leased Premises so that at the expiration of the Lease or any renewal or extension thereof, the Leased Premises shall be surrendered to the Landlord in good operating condition and repair and at least in the same condition as existed upon completion of the Project on the Commencement Date of this Lease, ordinary wear and tear excepted, and except as provided in this Section 8 and Sections 11, 12 and 18 below. Tenant shall make such replacements as from time to time may be necessary. In addition, Tenant shall pay its prorata share of the cost of maintaining any parking areas, driveways, detention areas, landscaping and other items which are obligations encumbering or burdening the Real Property pursuant to the Centerra Declaration. Tenant shall not defer any repairs, renewals or replacements to the Leased Premises by reason of anticipation of the expiration of the Term hereof. The surrender of the Leased Premises upon the expiration or earlier termination of this Lease shall not relieve Tenant of the obligation to pay for all repairs or replacements to the Leased Premises which Tenant was obligated to perform during the Term of this Lease, which obligation shall survive the expiration or earlier termination of this Lease. Tenant shall also use all reasonable precautions to prevent waste, damage or injury to the Leased Premises. Tenant shall keep the Leased Premises in a clean, tenantable condition and shall not permit any garbage, rubbish, refuse or dirt of any kind to accumulate in or about the Leased Premises. Landlord shall not be required to make any repairs, alterations, capital improvements or replacements in or to the Leased Premises during the Term of this Lease except for the Base Building Improvements described in the Development Agreement. Landlord hereby assigns to Tenant all one (1) year warranties from the contractor or any subcontractors constructing the Base Building and providing FF&E to the Leased Premises.

In addition to the foregoing, Tenant shall be responsible for all capital improvements required to the Leased Premises in order to comply with any local, state or federal laws, rules, regulations or ordinances and for the cost of any capital improvements and structural repairs and replacements designed primarily to reduce Operating Expenses for the Leased Premises, provided that all such capital improvements required to reduce Operating Expenses shall be approved by Landlord, which approval shall not be unreasonably withheld or delayed.

9. *UTILITIES.* From and after the Commencement Date, Tenant shall be solely responsible for and shall promptly pay all charges for heat, water, gas, electric, sewer service, telephone, telecommunications and any other utility service used or consumed on the Leased Premises during the Term of this Lease. Tenant shall forthwith upon taking occupancy of the Leased Premises make arrangements with all appropriate utility providers to pay the utilities used on the Leased Premises and to have the same billed to the Tenant at the address designated by the Tenant. In no event shall Landlord be liable for any interruption or failure in the supply of any such utility to the Leased Premises.

10. *CHARACTER OF OCCUPANCY.*

10.1 Tenant shall occupy the Leased Premises for the Permitted Use and for no other purpose, and shall use the Leased Premises in a careful, safe, and proper manner and shall be responsible for the prompt restoration of any damage to the Leased Premises, subject, however, to the waiver provided in Section 7.8, above. Tenant, at Tenant's expense, shall comply with all applicable federal, state, city, quasi-governmental and utility provider laws, codes, rules, and regulations now or hereafter in effect ("Applicable Laws") which impose any duty with respect to the occupation or alteration of the Leased Premises, or which otherwise affect the Leased Premises, including, but not limited to, any modifications to the Leased Premises required by any such Applicable Laws arising subsequent to the Commencement Date of this Lease, except where non-compliance resulted from construction deficiencies or failure to comply with applicable codes during construction of the Base Building Improvements. Tenant shall not commit or permit waste or any nuisance on or in the Leased Premises.

10.2 Tenant shall, at its own cost and expense, cause the removal and disposal of Tenant's refuse and garbage. Disposal of all refuse and garbage shall be accomplished in accordance with all Applicable Laws, ordinances, and regulations.

10.3 Tenant shall, during the entire Term of this Lease, including any extensions thereof, comply with all applicable federal, state and local environmental laws, ordinances and all amendments thereto and rules and regulations implementing the same, together with all common law requirements, which relate to discharge, emissions, waste, nuisance, pollution control, hazardous or toxic substances and other environmental matters as the same shall be in existence during the Term hereof. All of the foregoing laws, regulations and requirements are hereinafter referred to as "Environmental Laws." Tenant shall obtain all environmental licenses, permits, approvals, authorizations, exemptions, classifications, certificates and registrations (hereinafter collectively referred to as "Permits") and make all applicable filings required of Tenant under the Environmental Laws and necessary to operate at the Leased Premises. The Permits and required filings shall be made available for inspection and copying by Landlord at Tenant's offices upon reasonable notice and during business hours. Tenant shall not cause or permit any flammable explosive, oil, contaminant, radioactive material, hazardous waste or material, toxic waste or material or any similar substance (hereinafter collectively referred to as "Hazardous Substances") to be brought upon, kept or used in or about the Leased Premises except for such substances as are necessary for Tenant's business, provided that Tenant shall handle, store, use and dispose of any such Hazardous Substance in compliance with all applicable laws in a manner which is safe and does not contaminate the Leased Premises. Attached hereto as **Exhibit C** and incorporated herein by reference is a list of Hazardous Substances which Tenant shall keep or use in or about the Leased Premises in connection with its manufacturing activities. Except as set forth in **Exhibit C**, no other Hazardous Substances shall be brought upon the Leased Premises by Tenant unless Tenant shall first have given Landlord ten (10) days' prior written notice of its intent to introduce new Hazardous Substances on the Leased Premises, providing Landlord with such information as it shall require with respect to such new Hazardous Substances. If any governmental agency shall require testing to ascertain whether or not there has been any release of any Hazardous Substance on or about the Leased Premises during the Term of this Lease, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional rent. Tenant agrees to indemnify and hold Landlord harmless from any liability, claim or damage or expense (including reasonable attorneys' fees and the cost of any required or necessary repair, clean-up, remediation or detoxification) arising out of (i) the use, manufacture, handling, storage, disposal or release of any Hazardous Substances on, under or about the Leased Premises, or (ii) violation of Environmental Laws in any way relating to the Leased Premises. To the best of Landlord's knowledge, based upon its actual knowledge without investigation or inquiry, there are no

Hazardous Substances located on or under the Leased Premises nor have the Leased Premises been used for the storage or disposal of such Hazardous Substances. Upon the existence of any Hazardous Substance on the Leased Premises which was deposited thereon prior to the commencement of this Lease, Landlord shall undertake commercially reasonable efforts to remove the same and agrees to indemnify and hold Tenant harmless from any liability, claim, damage or expense (including reasonable attorneys' fees and the cost of any required or necessary repair, clean-up, remediation or detoxification) arising out of the presence of any Hazardous Substances existing on the Leased Premises prior to the Commencement Date or any Hazardous Substances brought or introduced into the Leased Premises by Landlord, its agents or employees; provided, however, Landlord shall have no liability whatsoever for any violation of any Environmental Laws or any Hazardous Substances on, under or about the Leased Premises, unless Landlord violated such Environmental Laws or disposed of or spilled any Hazardous Substances on the Leased Premises. The foregoing covenants and indemnifications shall survive the expiration of the Term of this Lease.

11. *DAMAGE OR DESTRUCTION.* If the Building is damaged by fire or other perils, Tenant agrees to forthwith repair the same; and this Lease shall remain in full force and effect except that Tenant shall be entitled to a proportionate reduction of the Rent while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs shall materially interfere with the business carried on by the Tenant in the Leased Premises, which proportionate reduction shall not exceed the proceeds of loss of rent insurance paid to Landlord pursuant to the policy to be carried pursuant to Section 7.4 above. If the damage is due to fault or neglect of Tenant, its employees, guests or invitees, there shall be no abatement of Rent unless Landlord shall receive loss of rent insurance proceeds equal to the Rent then owing by Tenant. Notwithstanding the foregoing, no insurance company shall be relieved of its obligation to pay Rent to Landlord on behalf of Tenant pursuant to business interruption or loss of rent insurance required pursuant to Section 7.4 above. In all events, Tenant shall not be obligated to repair such damage unless Landlord and Mortgagee allow all insurance proceeds arising from such event, paid pursuant to the insurance carried pursuant to Section 7.1, to be paid to Tenant.

12. *GOVERNMENTAL ACQUISITION OF LEASED PREMISES.* The parties agree that Landlord shall have complete freedom of negotiation and settlement of all matters pertaining to the acquisition of the Leased Premises, the Building, or any part thereof, by any governmental body or other person or entity via the exercise of the power of eminent domain, it being understood and agreed that any financial settlement made or compensation paid respecting said land or improvements to be so taken, whether resulting from negotiation and agreement or legal proceedings, shall be the exclusive property of Landlord, there being no sharing whatsoever between Landlord and Tenant of any sum so paid. In the event of any such taking, Landlord shall have the right to terminate this Lease on the date possession is delivered to the condemning person or authority. Such taking of the property shall not be a breach of this Lease by Landlord nor give rise to any claims by Tenant for damages or compensation from Landlord. Tenant may file its own separate claim as the result of such eminent domain proceeding, provided that the amount of Landlord's award shall not be reduced thereby. Nothing herein contained shall be construed as depriving the Tenant of the right to retain as its sole property any compensation paid for any tangible personal property or leasehold improvements owned by the Tenant which is taken in any such condemnation proceeding, together with any relocation expenses to which it is entitled. Notwithstanding the extent of the Landlord's right and authority pursuant to the foregoing provisions, Landlord agrees to provide notice to Tenant, as soon as practical, of any notification received by Landlord from any governmental agency or other authority of the intent to acquire the Leased Premises or any portion thereof by eminent domain, and to keep Tenant apprised of significant developments in the proceedings on a contemporaneous basis.

If a taking of the Leased Premises, the Building or any part thereof, pursuant to the above provisions occurs as to less than substantially all of the Leased Premises and Tenant, in the exercise of its reasonable opinion, can reasonably operate on the remainder of the Leased Premises the business being conducted on the Leased Premises at the time of such taking, this Lease shall not terminate and the monthly Rent thereafter due and payable by Tenant shall be reduced in such proportion as the value of the whole of the Leased Premises shall be reduced as a result of such taking. Notwithstanding the foregoing, and whether or not Tenant can conduct its business on the remainder of the Leased Premises, the monthly Rent shall not be reduced so long as one of the following occurs: (i) all eminent domain proceeds paid with respect to the Leased Premises are paid to Tenant; or (ii) all eminent domain proceeds paid to Landlord or Mortgagee with respect to the Leased Premises shall be credited against Tenant's monthly Rent obligations hereunder. If Landlord and Tenant are unable to agree whether substantially all of the Leased Premises has been taken as provided in the immediately preceding sentence, or the amount by which the monthly Rent should be reduced, such question shall be submitted to arbitration in accordance with the rules of the American Arbitration Association then in effect. The decision of such arbitration shall be binding and conclusive upon the parties thereto and all fees and expenses of such arbitration (exclusive of attorneys' fees) shall be shared by the parties thereto.

13. *QUIET ENJOYMENT.* So long as an uncured Event of Default has not occurred (subject to any unexpired cure period), Tenant is entitled to the quiet enjoyment and peaceful possession of the Leased Premises subject to the provisions of this Lease and subject to all restrictions, covenants, easements, reservations and rights of way currently of record or subsequently granted (i) with Tenant's consent, (ii) pursuant to the subdivision and/or development of the Leased Premises and as required by the City or (iii) lawfully created without the consent or permission of Landlord, affecting the Real Property. The Tenant's possession of the Leased Premises shall include twenty-four (24) hour access to the Leased Premises seven (7) days a week during the Term of the Lease.

14. *ALTERATIONS TO LEASED PREMISES.* After Completion of the initial Tenant Improvements, Tenant shall have the right, at Tenant's sole cost and expense, to make changes or alterations to the Building on the Leased Premises; provided, however, that in all cases, any such changes or alterations shall be made subject to the following conditions, which Tenant agrees to observe and perform:

(a) No change or alteration shall at any time be made which shall impair the structural soundness or diminish the value or useful life of any improvements on the Leased Premises.

(b) No changes or alterations shall be made involving expenditures in excess of Fifty Thousand Dollars ($50,000.00) without the prior written consent of the Landlord.

(c) No change or alteration shall be made or undertaken until Tenant shall have procured and paid for all required municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction and compliance with all covenants and, if changes to the Building's exterior are involved, approval of the Centerra Design Review Committee established pursuant to the Centerra Declaration as well as any other design review approvals required by the City. All plans and specifications relating to any change or alteration shall be submitted to the Centerra Design Review Committee if changes to the Building's exterior are involved and to the Landlord for approval. Landlord's approval shall not be unreasonably withheld and shall be based upon whether the proposed exterior alterations are permitted by Landlord's Mortgagee and whether such exterior alterations adversely affect the value of the Leased Premises.

(d) All work done in connection with any change or alteration shall be done in a good and workmanlike manner and in compliance with all covenants, building and zoning laws, and with all other laws, ordinances, orders, rules, regulations, and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and officers thereof.

(e) At all times when any change or alteration is in progress, Tenant shall maintain, at Tenant's sole cost and expense, workmen's compensation insurance in accordance with the law or laws now or hereafter enacted governing all persons employed in connection with the change or alteration and

general liability insurance for the mutual benefit of Landlord and Tenant, expressly covering the additional hazards due to the change or alteration.

15. *LIENS.* Tenant agrees to pay or cause to be paid promptly any and all bills and charges for any material, labor, services or otherwise incurred in connection with or arising out of any such alterations, improvements or additions to the Leased Premises, and Tenant shall indemnify and hold Landlord harmless from and against any and all liens (but not including the liens of any Mortgagee of Landlord, if any), filed against the Leased Premises or Building, or any part thereof, and against any other expense or liability in connection therewith. Landlord shall also retain the right, but shall not have the obligation, to post the Leased Premises or take such other action as is then permitted by law, to protect the Landlord and the Leased Premises against the assertion of mechanic's liens on account of work undertaken on behalf of Tenant. If any lien is recorded against the Leased Premises or Building or any suit affecting title thereto is commenced, Tenant shall cause such lien to be removed of record within twenty (20) days after notice from Landlord. If Tenant desires to contest any claim, Tenant must furnish Landlord adequate security of at least one hundred fifty percent (150%) of the amount of the claim, plus estimated costs and interest, and, if a final judgment establishing the validity of any lien is entered, Tenant shall immediately pay and satisfy the same. If Tenant fails to proceed as aforesaid, Landlord may pay such amount and any costs, and the amount paid, together with reasonable attorneys' fees incurred, shall be immediately due Landlord upon notice.

16. *ENTRY BY LANDLORD.* Tenant shall permit Landlord and its authorized representatives to enter upon the Leased Premises at all reasonable times and upon reasonable notice for the purpose of exhibiting or inspecting the same or performing any work on the Leased Premises which Landlord has the right or obligation to perform hereunder. In case of an emergency (the existence of which shall be determined reasonably by Landlord), if Tenant shall not be present to permit entry, Landlord or its representatives may enter the same forcibly without rendering Landlord or its representatives liable therefor or affecting Tenant's obligations under this Lease. During any such entry by Landlord, Landlord shall use reasonable means to minimize any interference with Tenant's business operations in the Leased Premises and to prevent compromise of Tenant's trade secrets or other confidential information.

17. *SUBLETTING AND ASSIGNMENT.*

17.1 Tenant, as well as any other party that has acquired an interest in this Lease by virtue of a sublease or assignment, shall not sublet any part of the Leased Premises nor assign or otherwise transfer this Lease or any interest herein (sometimes referred to as "Transfer," and the subtenant or assignee may be referred to as "Transferee") without the consent of Landlord first being obtained, which consent will not be unreasonably withheld provided that: (1) Tenant complies with the provisions of this Section 17; (2) the Transferee is engaged in the Permitted Use; (3) no uncured default exists by Tenant prior to the effective date of the Transfer; and (4) the Transferee is not a governmental or quasi-governmental agency. Subject to the foregoing conditions, if the Transferee is a parent, subsidiary, affiliate or successor company of Tenant ("Affiliated Transferee") having a net worth equal to or greater than Tenant at the time of the Commencement Date of this Lease and at the time of the assignment or subletting of this Lease, Landlord shall grant its consent to the Transfer. If the proposed Transferee is not an Affiliated Transferee ("Non-Affiliated Transferee"), the Non-Affiliated Transferee's financial condition shall be deemed satisfactory if the Non-Affiliated Transferee has a net worth equal to or greater than Tenant at the time of the Commencement Date of this Lease and at the time of the assignment or subletting of this Lease. Any such sublease or assignment shall be subject to and subordinate to this Lease and must, at Landlord's option, include the obligation of the subtenant or assignee to attorn to Landlord. "Transfer" includes a sale by Tenant of substantially all of its assets or stock if Tenant is a publicly traded corporation, a merger of Tenant with another corporation if the net worth of the surviving entity immediately following the merger is less than Tenant's net worth as of the Commencement Date of this Lease or at the time of the merger, the transfer of fifty percent (50%) or more of the stock in a corporate tenant whose stock is not publicly traded, or transfer of fifty percent (50%) or more of the beneficial ownership interests in a partnership or limited liability company tenant.

17.2 Following any Transfer in accordance with this Section 17, Landlord may, after default by Tenant, collect rent from the Transferee or occupant and apply the net amount collected to the Rent, but no Transfer or collection will be deemed an acceptance of the Transferee or occupant as Tenant or release Tenant from its obligations. Consent to a Transfer shall not relieve Tenant from obtaining Landlord's consent to any other Transfer. Notwithstanding Landlord's consent to a Transfer, Tenant shall continue to be primarily liable for all Tenant's obligations under the Lease. If any proposed Transfer provides for the payment of rent by a Transferee in excess of the Rent owing to Landlord hereunder, Landlord and Tenant shall each be entitled to receive fifty percent (50%) of any such excess rent (net of leasing expenses) paid by the Transferee.

17.3 All documents utilized by Tenant to evidence a Transfer are subject to approval by Landlord, not to be unreasonably withheld. Tenant shall pay Landlord's expenses, including reasonable attorneys' fees, of determining whether to consent and in reviewing and approving the documents. Tenant shall provide Landlord with such information as Landlord reasonably requests regarding a proposed subtenant, including financial information.

18. *SURRENDER AND NOTICE.* Upon the expiration or other termination of this Lease, Tenant shall immediately quit and surrender to Landlord the Leased Premises, including any improvements affixed to the Leased Premises constituting FF&E and purchased with the Tenant Improvement Allowance pursuant to the Development Agreement, broom clean, in good order and condition, ordinary wear and tear and loss by fire or other casualty excepted. Upon request by Tenant, Landlord shall, within ten (10) days after receipt of written request by Tenant, advise Tenant of any proposed alterations or fixtures which Tenant desires to install on the Leased Premises which must be removed from the Leased Premises upon expiration of the Lease. Upon expiration or other termination of this Lease, Tenant shall remove any fixtures or alterations installed upon or made by Tenant upon the Leased Premises, as specified by Landlord pursuant to the preceding sentence. If Tenant fails to timely vacate the Leased Premises as required, Tenant shall be responsible to Landlord for all proximately resulting costs and damages of Landlord, including payment of any amounts for which Landlord has a legal obligation to pay third parties who are delayed in occupying the Leased Premises.

19. *DEFAULT BY TENANT.*

19.1 Each of the following events is an "Event of Default:"

(1) Any failure by Tenant to pay Rent on the due date or within five (5) business days thereafter;

(2) Tenant vacates or abandons the Leased Premises for a period in excess of one (1) month other than as a result of force majeure;

(3) This Lease or Tenant's interest is transferred whether voluntarily or involuntarily or by operation of law except as permitted in Section 17;

(4) Commencement by Tenant of a proceeding to obtain relief from its creditors under any provision of federal or state law relating to insolvency, bankruptcy, or reorganization ("Bankruptcy Proceeding");

(5) Commencement of a Bankruptcy Proceeding against Tenant, unless dismissed within sixty (60) days after commencement;

(6) The insolvency of Tenant or execution by Tenant of a general assignment for the benefit of creditors; the convening by Tenant of a meeting of substantially all of its creditors or any significant class thereof for purposes of effecting a moratorium upon or extension or composition of its debts; or the failure of Tenant generally to pay its debts as they mature;

(7) Tenant fails to take possession of the Leased Premises within fifteen (15) days following the Commencement Date;

(8) Tenant fails to perform any of its other obligations and non-performance continues for thirty (30) days after notice by Landlord or, if such performance cannot be reasonably had within such thirty (30) day period, Tenant does not in good faith commence performance within such thirty (30) day period and diligently proceed to completion; provided, however, Tenant's right to cure shall not exceed ninety (90) days.

Notwithstanding any provision of this Section 19.1 to the contrary, upon the occurrence of an Event of Default pursuant to Section 19.1(1), Landlord shall give Tenant ten (10) days' prior written notice before taking enforcement action with respect to such Event of Default, during which ten (10) day period, Tenant may cure such Event of Default. Payment of the Rent within said ten (10) day period shall restore Tenant to its rights under this Lease as though a default in the payment of Rent had not occurred. In no event shall Landlord be required to provide Tenant with notice and a ten (10) day cure period as set forth in this subparagraph more than three (3) times during the Term of this Lease and any extensions hereof, nor shall Landlord be required to provide Tenant with notice and a ten (10) day cure period in the event Landlord has previously given such notice to Tenant during the preceding twelve (12) month period.

19.2 *Remedies of Landlord.* If an Event of Default occurs, Landlord may then or at any time thereafter, either:

(1) (a) Without further notice except as required by Applicable Laws, reenter and repossess the Leased Premises or any part and expel Tenant and those claiming through or under Tenant and remove the effects of both without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrears of Rent or preceding breach of this Lease. Should Landlord reenter or take possession pursuant to legal proceedings or any notice provided for by Applicable Law, Landlord may, from time to time, without terminating this Lease, relet the Leased Premises or any part thereof in Landlord's or Tenant's name but for the account of Tenant, for such periods (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions and upon such other terms (which may include concessions of free rent and alteration and repair of the Leased Premises) as Landlord, in its sole discretion, determines and Landlord may collect the rents therefor. Landlord is not in any way responsible or liable for failure to relet the Leased Premises, or any part thereof, or for any failure to collect any rent due upon such reletting. No such reentry or repossession or notice from Landlord shall be construed as an election by Landlord to terminate this Lease unless specific notice of such intention is given Tenant. Landlord reserves the right following any reentry and/or reletting to exercise its right to terminate this Lease by giving Tenant notice, in which event this Lease will terminate as specified in the notice.

(b) If Landlord takes possession of the Leased Premises without terminating this Lease, Tenant shall pay Landlord (i) the Rent which would be payable if repossession had not occurred, less (ii) the net proceeds, if any, of any reletting of the Leased Premises after deducting all of Landlord's expenses incurred in connection with such reletting, including all reasonable repossession costs, brokerage commissions, attorneys' fees, expenses of employees, alteration, and repair costs (collectively "Reletting Expenses"). If, in connection with any reletting, the new lease term extends beyond the Term or the premises covered thereby include other premises not part of the Leased Premises, a fair apportionment of the rent received from such reletting and the Reletting Expenses, will be made in determining the net proceeds received from the reletting. In determining such net proceeds, rent concessions will also be apportioned over the term of the new lease. Tenant shall pay such amounts to Landlord monthly on the days on which the Rent would have been payable if possession had not been retaken, and Landlord is entitled to receive the same from Tenant on each such day; or

(2) Give Tenant notice of termination of this Lease on the date specified and, on such date, Tenant's right to possession of the Leased Premises shall cease and the Lease will terminate except as to Tenant's liability as hereafter provided as if the expiration of the term fixed in such notice were the end of the Term. If this Lease terminates pursuant to this Section, Tenant remains liable to Landlord for damages in an amount equal to the Rent which would have been owing by Tenant for the balance of the Term had this Lease not terminated, less the net proceeds, if any, of reletting of the Leased Premises by Landlord subsequent to termination after deducting Reletting Expenses. Landlord may collect such damages from Tenant monthly on the days on which the Rent would have been payable if this Lease had not terminated and Landlord shall be entitled to receive the same from Tenant on each such day. Alternatively, if this Lease is terminated, Landlord at its option may recover forthwith against Tenant as damages for loss of the bargain and not as a penalty an amount equal to the worth at the time of termination of the excess, if any, of the Rent reserved in this Lease for the balance of the Term over the then Reasonable Rental Value of the Leased Premises for the same period plus all Reletting Expenses, reduced to its net present value using a discount factor equal to the Prime Rate as defined in Section 19.6, below but in no event more than twelve percent (12%) per annum nor less than seven percent (7%) per annum. "Reasonable Rental Value" is the amount of rent Landlord should be able to obtain for the remaining balance of the Term in an arms-length transaction.

19.3 *Cumulative Remedies.* Suits to recover Rent and damages may be brought by Landlord, from time to time, and nothing herein requires Landlord to await the date the Term would expire had there been no Event of Default or termination, as the case may be. Each right and remedy provided for in this Lease is cumulative and non-exclusive and in addition to every other right or remedy now or hereafter existing at law or equity, including suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of one or more rights or remedies shall not preclude the simultaneous or later exercise by Landlord of other rights or remedies. All costs incurred by Landlord to collect any Rent and damages or to enforce this Lease are also recoverable from Tenant. If any suit is brought because of an alleged breach of this Lease, the prevailing party is also entitled to recover from the other party all reasonable attorneys' fees and costs incurred in connection therewith.

19.4 *No Waiver.* No failure by Landlord to insist upon strict performance of any provision or to exercise any right or remedy upon a breach thereof, and no acceptance of full or partial Rent during the continuance of any breach constitutes a waiver of any such breach or such provision, except by written instrument executed by Landlord. No waiver shall affect or alter this Lease but each provision hereof continues in effect with respect to any other then existing or subsequent breach thereof.

19.5 *Bankruptcy.* Nothing contained in this Lease limits Landlord's right to obtain as liquidated damages in any bankruptcy or similar proceeding the maximum amount allowed by law at the time such damages are to be proven, whether such amount is greater, equal to, or less than the amounts recoverable, either as damages or Rent, referred to in any of the preceding provisions of this Section.

19.6 *Late Payment Charge.* Any Rent not paid by the due date shall thereafter bear interest at three (3) percentage points above the Prime Rate or the highest rate permitted by law, whichever is lower, (the "Default Rate") until paid. Further, if such Rent is not paid by the due date, Tenant agrees Landlord will incur additional expenses, the amount of which will be difficult to determine; Tenant therefore shall also pay Landlord a late charge for each late payment of five percent (5%) of such payment. Any amounts paid by Landlord to cure a default of Tenant which Landlord has the right but not the obligation to do, shall, if not

repaid by Tenant within ten (10) days of demand by Landlord, thereafter bear interest at the Default Rate until paid. "Prime Rate" means the base rate on Corporate Loans posted by the *Wall Street Journal* on the date closest to the date interest commences.

19.7 *Waiver of Jury Trial.* Tenant and Landlord waive any right to a trial by jury in suits arising out of or concerning the provisions of this Lease.

20. *DEFAULT BY LANDLORD/REMEDIES.* In the event that Landlord shall at any time be in default in the observance or performance of any of the covenants and agreements required to be performed and observed by Landlord hereunder and any such default shall continue for a period of thirty (30) days after written notice to Landlord (or if such default is incapable of being cured in a reasonable manner within thirty [30] days, then such additional period as may be necessary to cure such default with diligence), and provided further that if Landlord's failure is in the giving of any notice or the doing of any task or thing at a particular time or times, then it shall be deemed a sufficient cure for the purposes hereof if such notice is given or thing is done within such thirty (30) day cure period (extended as may be necessary for the due diligence completion of any such thing to be done), notwithstanding that Landlord's performance thereof will not occur at the time or times specified herein, Tenant shall be entitled, at its election, to exercise concurrently or successively any one (1) or more of the following rights, in addition to all remedies otherwise provided in this Lease and otherwise available in law or equity under the laws of the United States or the laws of the State of Colorado:

(a) To bring suit for the collection of any amounts for which Landlord may be in default, or for the performance of any other covenant or agreement of Landlord, without terminating this Lease, provided that in no event shall Landlord be liable for consequential damages or lost profits; and/or

(b) To bring legal or equitable action to (i) enjoin Landlord from performing any act in violation of this Lease, or (ii) to require Landlord to perform any act required of Landlord under this Lease.

Tenant waives the right to claim a constructive eviction hereunder unless Landlord has been given written notice of the facts giving rise to such claim and the opportunity to cure, as provided in this Section 20. In the case of any breach or default by Landlord, Tenant shall use reasonable efforts to mitigate its damages. If Landlord's interest in the Leased Premises or any part thereof is at any time subject to a mortgage or a deed of trust and this Lease or the rentals due from Tenant hereunder are assigned as security to such mortgagee, trustee or beneficiary (called "Assignee" for purposes of this Article 20 only) and Tenant is given written notice thereof, including the address of such Assignee, then there shall be no default on the part of Landlord without Tenant first giving written notice thereof to such Assignee, specifying the default in reasonable detail, and affording such Assignee the same opportunity as to which Landlord is entitled, to make performance for and on behalf of Landlord. If and when said Assignee has made performance on behalf of Landlord, such default shall be deemed cured, provided that such performance has timely occurred. Nothing contained in this Article 20 shall grant to Tenant the right to terminate this Lease or to exercise a right of set off with respect to any rental payments due to Landlord hereunder.

21. *SUBORDINATION AND ATTORNMENT.*

21.1 This Lease at Landlord's option will be subordinate to any mortgage, deed of trust and related documents now or hereafter placed upon the Leased Premises (including all advances made thereunder), and to all amendments, renewals, replacements, or restatements thereof (collectively, "Mortgage"), provided that the holder of any such Mortgage ("Mortgagee") agrees not to disturb Tenant's use and possession of the Leased Premises as long as Tenant is not in default (subject to any right to cure).

21.2 If any Mortgagee elects to have this Lease superior to the lien of its Mortgage and gives notice to Tenant, this Lease will be deemed prior to such Mortgage whether this Lease is dated prior or subsequent to the date of such Mortgage or the date of recording thereof.

21.3 In confirmation of subordination or superior position, as the case may be, Tenant will execute such documents (including any subordination, non-disturbance and attornment agreement) as reasonably may be required by Mortgagee and if it fails to do so within two (2) weeks after demand, Tenant hereby irrevocably appoints Landlord as Tenant's attorney-in-fact and in Tenant's name, place, and stead, to do so. Tenant agrees that no documentation other than this Lease is required to evidence such subordination; provided, that Landlord shall provide to Tenant, on or before the Commencement Date, a subordination, non-disturbance and attornment agreement ("SNDA") from the holder of any Mortgage now or then encumbering the Building, in such Mortgagee's standard SNDA form, provided the form is not inconsistent with any of the other provisions of this Lease. Landlord shall also deliver to Tenant a SNDA from any Mortgagee hereinafter encumbering the Building, in such future Mortgagee's standard form, provided the form is not inconsistent with any of the other provisions of this Lease.

21.4 Tenant hereby attorns and agrees to attorn to all successor owners of the Building, whether such ownership is acquired by sale, foreclosure of a Mortgage, or otherwise.

22. *REMOVAL OF TENANT'S PROPERTY.* All movable personal property of Tenant which is not removed from the Leased Premises upon vacation, abandonment or termination of this Lease shall be conclusively deemed abandoned and may be sold, or otherwise disposed of by Landlord without notice to Tenant and without obligation to account; Tenant shall pay Landlord's expenses in connection with such disposition.

23. *HOLDING OVER: TENANCY MONTH-TO-MONTH.* If, after the expiration or termination of this Lease, Tenant remains in possession of the Leased Premises and continues to pay rent without a written agreement as to such holding over, even though Landlord accepts such rent, such possession is a tenancy from month-to-month, subject to all provisions hereof but at a monthly rent equivalent to one hundred twenty-five percent (125%) of the monthly Rent paid by Tenant immediately prior to such expiration or termination. Rent shall continue to be payable in advance on the first day of each calendar month. Such tenancy may be terminated by either party upon ten (10) days' notice prior to the end of any monthly period. Nothing contained herein obligates Landlord to accept rent tendered after the expiration of the Term or relieves Tenant of its liability under Section 18.

24. *PAYMENTS AFTER TERMINATION.* No payments by Tenant after expiration or termination of this Lease or after any notice (other than a demand for payment of money) by Landlord to Tenant reinstates, continues, extends the Term, or affects any notice given to Tenant prior to such payments. After notice, commencement of a suit, or final judgment granting Landlord possession of the Leased Premises, Landlord may collect any amounts due or otherwise exercise Landlord's remedies without waiving any notice or affecting any suit or judgment.

25. *STATEMENT OF PERFORMANCE.* Tenant agrees at any time upon not less than two (2) weeks' notice to execute and deliver to Landlord or Mortgagee a written statement certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified stating the modifications); that there have been no defaults by Landlord or Tenant (or, if there have been defaults, setting forth the nature thereof); the date to which Rent has been paid in advance and such other information as Landlord or Mortgagee requests. Such statement shall be in the form attached hereto as **Exhibit F**. Such statement may be relied upon by a prospective purchaser of Landlord's interest or Mortgagee. Tenant's failure to timely deliver such statement is conclusive upon Tenant that: (i) this Lease is in full force and effect without modification except as may be represented by Landlord;

(ii) there are no uncured defaults in Landlord's performance; and (iii) not more than one (1) month's Rent has been paid in advance. Upon request, Tenant will furnish Landlord an appropriate resolution confirming that the party signing the statement is authorized to do so.

26. *MISCELLANEOUS.*

26.1 *Transfer by Landlord.* The term "Landlord" means so far as obligations of Landlord are concerned, only the owner of the Building at the time in question and, if any transfer of the title occurs, Landlord herein named (and in the case of any subsequent transfers, the then grantor) is automatically released from and after the date of such transfer of all liability as respects performance of any obligations of Landlord first accruing thereafter. Any funds in Landlord's possession at the time of transfer in which Tenant has an interest will be turned over to the grantee and any amount then due Tenant under this Lease will be paid to Tenant.

26.2 *No Merger.* The termination or mutual cancellation of this Lease will not work a merger of any sublease, and such termination or cancellation will at the option of Landlord either terminate all subleases or operate as an automatic assignment to Landlord of such subleases.

26.3 *Independent Covenants.* This Lease is to be construed as though the covenants between Landlord and Tenant are independent and not dependent and Tenant is not entitled to any setoff of the Rent against Landlord if Landlord fails to perform its obligations; provided, however, the foregoing does not impair Tenant's right to commence a separate suit against Landlord for any default by Landlord.

26.4 *Validity of Provisions.* If any provision is invalid under present or future laws, then it is agreed that the remainder of this Lease is not affected and that in lieu of each provision that is invalid, there will be added as part of this Lease a provision as similar to such invalid provision as may be possible and is valid and enforceable.

26.5 *Captions.* The caption of each Section is added for convenience only and has no effect in the construction of any provision of this Lease.

26.6 *Construction.* The parties waive any rule of construction that ambiguities are to be resolved against the drafting party. Any words following the words "include," "including," "such as," "for example," or similar words or phrases shall be illustrative only and are not intended to be exclusive, whether or not language of non-limitation is used.

26.7 *Applicability.* Except as otherwise provided, the provisions of this Lease are applicable to and binding upon Landlord's and Tenant's respective heirs, successors and assigns. Such provisions are also considered to be covenants running with the land to the fullest extent permitted by law.

26.8 *Authority.* Tenant and the party executing this Lease on behalf of Tenant represent to Landlord that such party is authorized to do so by requisite action of Tenant and agree, upon request, to deliver Landlord a resolution, similar document, or opinion of counsel to that effect.

26.9 *Severability.* If there is more than one party which is the Tenant, the obligations imposed upon Tenant are joint and several.

26.10 *Acceptance of Keys, Rent or Surrender.* No act of Landlord or its representatives during the Term, including any agreement to accept a surrender of the Leased Premises or amend this Lease, is binding on Landlord unless such act is by a partner, member or officer of Landlord, as the case may be, or other party designated in writing by Landlord as authorized to act. The delivery of keys to Landlord or its representatives will not operate as a termination of this Lease or a surrender of the Leased Premises. No payment by Tenant of a lesser amount than the entire Rent owing is other than on account of such Rent nor is any endorsement or statement on any check or letter accompanying payment an accord and satisfaction. Landlord may accept payment without prejudice to Landlord's right to recover the balance or pursue any other remedy available to Landlord.

26.11 *Diminution of View.* Tenant agrees that no diminution of light, air, or view from the Building entitles Tenant to any reduction of Rent under this Lease, results in any liability of Landlord, or in any way affects Tenant's obligations.

26.12 *Limitation of Liability.* Notwithstanding anything to the contrary contained in this Lease, Landlord's liability is limited to Landlord's interest in the Building.

26.13 *Non-Reliance.* Tenant confirms it has not relied on any statements, representations, or warranties by Landlord or its representatives except as set forth herein or in the Development Agreement.

26.14 *Written Modification.* No amendment or modification of this Lease is valid or binding unless in writing and executed by all of the parties.

26.15 *Lender's Requirements.* Tenant will make such modifications to this Lease as may hereafter be required to conform to any lender's requirements, so long as such modifications do not increase Tenant's obligations or materially alter its rights.

26.16 *Effectiveness.* Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option to lease and it is not effective unless and until execution and delivery by both Landlord and Tenant.

26.17 *Survival.* This Lease, notwithstanding expiration or termination, continues in effect as to any provisions requiring observance or performance subsequent to termination or expiration.

26.18 *Time of Essence.* Time is of the essence herein.

26.19 *Recording.* Tenant will not record this Lease. Recording of the Lease by or on behalf of Tenant shall constitute an Event of Default.

27. *AUTHORITIES FOR ACTION AND NOTICE.*

27.1 Unless otherwise provided, Landlord may act through Landlord's Property Manager or other designated representatives from time to time.

27.2 All notices or other communications required or desired to be given to Landlord must be in writing and shall be deemed received when delivered personally to any officer, partner, or member of Landlord (depending upon the nature of Landlord) or the Landlord's property manager ("Property Manager") or when deposited in the United States mail, postage prepaid, certified or registered, return receipt requested, addressed as set forth in Section 1.9. All notices or communications required or desired to be given to Tenant shall be in writing and deemed duly served when delivered personally to any officer, employee, partner, or member of Tenant (depending upon the nature of Tenant), Tenant whose office is in the Building, when deposited in the United States mail, postage prepaid, certified or registered, return receipt requested, addressed to the appropriate address set forth in Section 1.11. Either party may designate in writing served as above provided a different address to which notice is to be mailed. The foregoing does not prohibit notice from being given as provided in Rule 4 of Colorado Rules of Civil Procedure, as amended from time to time.

28. *BROKERAGE.* Tenant represents it has not employed any broker with respect to this Lease and has no knowledge of any broker's involvement in this transaction except as listed in Sections 1.13 and 1.14 (jointly, "Broker[s]"). McWhinney Real Estate Services, Inc. is acting as exclusive agent on behalf of Landlord and shall be compensated by Landlord. Equis Corporation is acting as exclusive agent on behalf of Tenant and shall be compensated by Landlord for its services in connection with this Lease and the Development Agreement in an amount equal to Six Dollars ($6.00) per square foot of Rentable Building Area as defined in Section 5 above (but not any subsequent extensions or expansions of the Building unless specifically requested in writing by Tenant) and shall be paid, subject to the Lender's approval, upon the closing of the construction loan for the Building. Tenant shall indemnify Landlord against any expense incurred by Landlord as a result of any claim for commissions or fees by any other broker, finder, or agent, whether or not meritorious, employed by Tenant or claiming by, through, or under Tenant. Landlord shall be solely responsible for the payment of any real estate commissions owing to Landlord's Broker and Tenant's Broker in accordance with the provisions of this Section 28 and shall indemnify and hold the Tenant harmless therefrom. Tenant acknowledges that Landlord is not liable for any representations by the Tenant's Brokers regarding the Leased Premises, Building or this Lease.

29. *REAL ESTATE BROKER DISCLOSURE.* The Tenant expressly acknowledges that Troy C. McWhinney, an indirect owner of Landlord, is a licensed Colorado real estate broker and Chad C. McWhinney, an indirect owner of Landlord, is a former licensed Colorado real estate broker, both of whom are acting on their own behalf and are not representing Tenant in connection with this transaction.

30. *COUNTERPARTS.* This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any one or more counterpart signature pages may be removed from one counterpart of the Lease and annexed to another counterpart of the Lease to form a completely executed original instrument without impairing the legal effect of the signature thereon.

31. *EXHIBITS.* See Exhibits A, B, C, D, E and F attached hereto and incorporated herein.

32. *PARKING.* Throughout the Term of this Lease, the Leased Premises shall include four (4) full-size parking spaces (including handicapped parking spaces) per one thousand (1,000) square feet of Rentable Building Area, provided that such parking fits within the original Site Plan for the Leased Premises. However, in no event shall the parking contain less than 3.3 full-size parking spaces (including handicapped parking spaces) per one thousand (1,000) square feet of Rentable Building Area.

33. *PROPERTY MANAGEMENT FEE.* Commencing upon the Completion Date, Landlord, or Landlord's designated assigns, successors or affiliates, shall have the option to provide full-service property management services throughout the Term of the Lease. The property management agreement between the Landlord and the property management firm shall be in customary form and shall provide for a property management fee to be paid by Tenant as an Operating Expense in an amount equal to the greater of three and one-half percent (3.5%) of the total Base Rent (as increased from time to time) to be paid by Tenant hereunder, or Fifty Cents ($.50) per square foot of Rentable Building Area.

34. *RELEASE RELATING TO AIRPORT.* Tenant acknowledges that the Leased Premises are located within the inner critical zone of the Fort Collins-Loveland Municipal Airport ("Airport") as such term is defined in the "Land Use Plan Fort Collins-Loveland Municipal Airport, Loveland, Colorado," as amended. As a result of the close proximity of the Leased Premises to the Airport, Tenant further acknowledges that, during the Term of the Lease, various types of aircraft will occupy the airspace above and adjacent to the Leased Premises, including, but not limited to, jet aircraft, propeller-driven aircraft, civil aircraft, military aircraft, commercial aircraft, helicopters and all types of aircraft or vehicles now in existence or hereafter developed, regardless of existing or future noise levels, for the purpose of transporting persons or property through the air. Tenant enters into this Lease with full knowledge of the potential impact of the proximity of the Airport to the Leased Premises and the operations conducted thereon. In consideration of Landlord entering into this Lease with Tenant, Tenant hereby fully waives, remises and releases Landlord, its members, managers, agents, employees, contractors, successors and assigns (collectively, "Released Parties"), from any claims, damages, actions, causes of action or rights which it may now have or which it may have in the future against the Released Parties due to noise, vibrations, fumes, dust, fuel particles and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on the Airport, including aircraft landing at the Airport as part of air shows conducted at special events authorized by the City.

35. *SIGNAGE.* Tenant shall have the right to place exterior signage on the Leased Premises, which signage shall first be approved by the Centerra Design Review Committee and shall comply with the Centerra Planned Sign Program and the City's sign codes.

36. *ROOF AND CONNECTING RIGHTS.* Tenant shall have the right to place upon the roof of the Building, one (1) or more satellite dishes, antennae, microwave dishes, towers and similar communication devices ("Communication Structures"), provided that such Communication Structures (i) have been reviewed and approved by the Centerra Design Review Committee and the City; (ii) are authorized under the Millennium General Development Plan and (iii) are installed in a manner which shall not impair or damage the structural components of the Building. In connection with the placement of Communication Structures upon the roof of the Building, Tenant shall have the right to connect cabling to the Building through pipe chase space and conduits for telecommunication systems and other uses. In addition, Tenant shall have the right to use the Real Property for such cables and conduits. No additional charge shall be made for the exercise of such rights and such rights shall terminate upon the termination of this Lease.

37. *EXPANSION.* Landlord and Tenant acknowledge that the Real Property and the Building constructed thereon have been configured and designed to allow for expansion of the existing Building. Upon request of Tenant, Landlord and Tenant shall engage in negotiations to expand the existing Building upon terms and conditions similar to those set forth in this Lease and the Development Agreement for the purpose of accommodating any such requested expansion. The parties acknowledge that except for the obligation to negotiate in good faith to achieve such expansion, Landlord has not guaranteed and does not guarantee that such expansion can occur, it being acknowledged that any such expansion will be dependent upon factors beyond the control of Landlord, including, but not limited to, governmental regulations, the ability to secure financing, interest rates and similar items.

38. *OPTION TO EXTEND.* Landlord grants to Tenant the right, privilege and option to extend the Initial Term of this Lease for two (2) additional terms of five (5) years each ("Extension Options") upon the following conditions:

(a) Written notice of Tenant's exercise of any Extension Option must be given to the Landlord no earlier than eighteen (18) months and no less than eight (8) months prior to the expiration of the Initial Term or any extended term ("Extension Term") then in effect after the Initial Term of this Lease.

(b) Tenant's right to exercise any Extension Option is conditioned on (i) Tenant not being in default beyond the expiration of any cure period at the time of the exercise of the Extension Option or at the time of the commencement of the applicable Extension Term and (ii) Tenant has exercised the preceding Extension Term. Except with respect to the assignment of the Lease to an Affiliated Transferee, upon assignment or subletting of this Lease, all unexercised Extension Options shall become null and void.

(c) The Extension Options granted hereunder will be upon the terms and conditions of the Lease, except that the monthly Base Rent to be paid by Tenant to Landlord during the Extension Term shall be the applicable rate as set forth in Section 1.4 above.

(d) In the event that Tenant fails to exercise any Extension Option within the specified period, then that Extension Option and any subsequent Extension Option shall immediately lapse and be of no further force and effect.

39. *PRIOR AGREEMENTS.* Except as otherwise provided in the Development Agreement, this Lease contains all agreements of the parties with respect to any matter mentioned herein, and no other prior agreement or understanding pertaining to any such matter shall be effective.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written and it is effective upon delivery of a fully-executed copy to Tenant.

HESKA CORPORATION,
a Delaware Corporation

By: /s/ ROBERT B. GRIEVE

Print Name: ROBERT B. GRIEVE

Print Title: Chairman and CEO

ATTEST:

By: /s/ JASON NAPOLITANO

Print Name: JASON NAPOLITANO

Print Title: EVP, CFO and Secretary

"Tenant"

CCMRED 40, LLC, a Colorado Limited Liability Company

By: McWhinney Real Estate Services, Inc.,
a Colorado Corporation, Manager

By /s/ DOUGLAS L. HILL

DOUGLAS L. HILL
Chief Operating Officer

"Landlord"

EXHIBIT A TO LEASE

SITE PLAN

EXHIBIT B TO LEASE

LEGAL DESCRIPTION OF REAL PROPERTY

DESCRIPTION

Proposed Lot 1, Plat of Myers Group Partnership #949 Addition, First Subdivision being a portion of the West $^{1}/_{2}$ of Section 3, Township 5 North, Range 68 West of the 6th Principal Meridian, City of Loveland, Larimer County, Colorado and being more particularly described as follows:

Considering the West line of the Northwest Quarter of said Section 3 as bearing North 01°20'51" East and with all bearings contained herein relative thereto:

Commencing at the West Quarter Corner of said Section 3; thence along said West line, North 01°20'51" East, 527.58 feet; thence, South 88°39'09" East, 224.11 feet to the POINT OF BEGINNING, said point being the Southwest corner of proposed Lot 1, Plat of Myers Group Partnership #949 Addition, First Subdivision; thence along a non-tangent curve concave to the West having a central angle of 1l°36'11"with a radius of 1135.00 feet, an arc length of 229.85 feet and the chord of which bears North 07°52'20" West, 229.46 feet; thence, North 13°40'26" West, 216.45 feet; thence along a curve concave to the Northeast having a central angle of 03°57'05" with a radius of 2231.00 feet, an arc length of 153.86 feet and the chord of which bears North 11°41'54" West, 153.83 feet; thence, North 37°27'38" East, 110.83 feet; thence, North 83°36'59" East, 167.67 feet; thence along a curve concave to the South having a central angle of 19°16'31" with a radius of 470.00 feet, an arc length of 158.12 feet and the chord of which bears South 86°44'46" East, 157.37 feet; thence, South 77°06'30" East, 18.07 feet; thence, South 00°02'36" West, 682.12 feet; thence, North 89°57'24" West, 294.48 feet to the Point of Beginning.

The above proposed Lot 1 contains 240,593 square feet more or less and is subject to all easements and rights-of-way now on record or existing.

EXHIBIT C TO LEASE

LIST OF HAZARDOUS SUBSTANCES

Chemical Name	CAS No.	Quantity
(plus-minus)-isoproterenol hydrochloride	949-36-0	5 g

1,2-butanediol	548-03-2	250 g
1,3-butanediol	107-88-0	100 g
1,3-dicyclohexylcarbodiimide, 99%	538-75-0	0.25 g
1,4-dioxane HPLC grade	123-91-1	1 L
1-butanol	34193-38-9	500 ml
1-propanol, or n-propyl alcohol or propyl alcohol	71-23-8	5 L
2 methylbutane	78-78-4	13 L
2,3 butanediol	513-85-9	50 ml
2-mercaptoethanol	60-24-2	2.0 L
2-mercaptoethylamine (cysteamine)	60-23-1	0.25 g
2-propanol, or isopropanol, 99%	67-63-0	59.55 L
3-(1-pyridino)-1-propane sulfonate (also NDSB-201)	15471-17-7	0.25 g
3-methyl butanol (isoamyl alcohol or isopentyl alcohol)	123-51-3	3.525 L
4-allyl-2-methoxyphenol (eugenol)	97-53-0	100 ml
5-bromo-4-chloro-3-indolyl B-D-galactopyranoside; x-gal	7240-90-6	460 mg
8-hydroxyquinoline	148-24-3	25 g
acetic acid	64-19-7	7.5 L
acetone	67-64-1	45 L
acetonitrile	75-05-8	61 L
acetylacetone	123-54-6	100 ml
acrylamide	79-06-1	3.9 kg
alpha terpineol	98-55-5	50 g
aluminum potassium sulfate, dodecahydrate	7784-24-9	100 g
aluminum sulfate	10043-01-3	350 g
amiloride hydrochloride	2016-88-8	1 g
ammonia solution, strong	7664-41-7	500 ml
ammonium acetate	631-61-8	2.1 kg
ammonium chloride	12125-02-9	2 kg
ammonium hydroxide	1336-21-6	2.5 kg
ammonium peroxydisulfate	7727-54-0	500 g
ammonium persulfate	7727-54-0	710 g
ammonium sulfate	7783-20-2	5.5 kg
arsenic acid	7778-39-4	50 g
barium acetate	543-80-6	100 g
barium chloride	10361-37-2	100 g
benzethonium chloride	121-54-0	1 kg
boric acid	10043-35-3	6 kg
butylated hydroxytoluene	128-37 -0	200 g
butyric acid	107-92-6	1 g
cadmium chloride	10108-64-2	100 g
calcium acetate	62-54-4	100 g
calcium chloride, dihydrate	10035-04-8	2.5 kg
cesium chloride	7647-17-8	350 g
cetylpyridinium chloride	123-03-5	100 g
cetyltrimethylammonium chloride	112-02-7	500 ml
charcoal, activated	68647-86-9	3.5 kg
chloroform	67-66-3	1 L
chloroform hplc	67-66-3	8 L
chromium chloride	10025-73-7	100 g
chromium trioxide	1333-82-0	100 g
citric acid	77-92-9	8 kg
cobalt chloride	7646-79-9	175 g
colchicine	64-86-8	500 mg
cupric chloride	7447-39-4	850 g
cupric sulfate pentahydrate	7758-99-8	750 g
cyanogen bromide	506-68-3	6g
diethanolamine	111-42-2	500 g
diethyl pyrocarbonate	1609-47-8	160 ml
diethylamine	109-89-7	750 ml
dimethyl sulfoxide (DMSO)	67-68-5	10.15 L
dimethyldichlorosilane	75-78-5	200 ml
eosin y	17372-87-1	1.5 L
eosin y	17372-87-1	25 g
ethanolamine (mono)	141-43-5	7.1 L
ethidium bromide	1239-45-8	10 g
ethyl acetate, 99% HPLC Grade	141-78-6	3 L
ethyl alcohol, 200 proof (ethanol)	64-17-5	19 pints
ethyl alcohol, anhydrous, denatured (or ethanol)	64-17-5	36.2 L
ethylene glycol	107-21-1	1.75 L
ethylene glycol monomethyl ether	109-86-4	500 ml
ferric chloride	7705-08-0	1.2 kg
ferrous sulfate	7720-78-7	750 g
formaldehyde	50-00-0	10.1 L
formalin, 10% neutral buffered		4 L
formamide	75-12-7	4.4 L
formic acid	64-18-6	11 L

formic acid	64-18-6	2.1 kg
glycerol	56-81-5	6.1 L
glyoxal	107-22-2	300 g
guanidine hydrochloride	50-01-1	106.2 kg
hematoxylin stain solution (gill formulation)		2L
hematoxylin stain solution (gill formulation)		5g
hexadecyltrimethylammonium bromide	57-09-0	100 g
hexane, 95+% HPLC grade	110-54-3	2 L
hydrochloric acid; HCL 12N	7647-01-0	30 L
hydrogen peroxide, 30% w/w solution (H202)	7722-84-1	16.1 L
hydroxylamine	7803-49-8	100 g
imidazole	288-32-4	4.5 kg
indomethacin (formvar Resin)	53-86-1	8.25g
iodine—(technical grade)	7553-56-2	50 g
isooctane	540-84-1	1 L
lactic acid	50-21-5	100 g
lanthanum chloride, anhydrous	10099-58-8	50 g
lead citrate	512-26-5	35 g
lead nitrate	10099-74-8	500 g
lithium carbonate	554-13-2	250 g
lithium chloride	7447-41-8	200 g
magnesium chloride	7786-30-3	2.05 kg
magnesium chloride hexahydrate	7786-30-3	750 g
maleic acid	110-16-7	500 g
malic acid	6915-15-7	100 g
mercuric chloride	7487-94-7	525 g
methanol (methyl alcohol)	67-56-1	50 L
methyl acetate	79-20-9	100 ml
methyl formamide	123-39-7	100 g
methylamine	74-89-5	500 ml
methylene chloride (dichloromethane, or MeC12)	75-09-2	600 ml
methylene chloride mixture	75-09-2	500 ml
methylsulfoxide	67-68-5	1 L
metrizamide	31112-62-6	50 g
N,N,N',N'-tetramethylethylene diamine, or temed	110-18-9	110 ml
n,n-dimethylformamide	68-12-2	2.075 L
n,n'-methylenebisacrylamide	110-26-9	200 g
nessler reagent		500 ml
n-heptafluoroacetic acid, HPLC grade	375-22-4	100 ml
nickel(ll) chloride hexahydrate	7791-20-0	1.1 kg
nitric acid	7697-37 -2	500 ml
octanol	111-87-5	5 ml
o-phosphoric acid	7664-38-2	4 L
paraformaldehyde	30525-89-4	2 kg
p-chloromercuribenzoic acid	59-85-8	1 g
pentane-1,5-dial (glutaraldehyde)	111-30-8	1 L
periodic acid (hydrated)	10450-60-9	25 g
permount mounting media	10888-33	2.0 L
phenol buffer, saturated	108-95-2	300 ml
phenol chloroform		100 ml
phenol, ultrapure	108-95-2	100 g
phenol:chloroform:isoamyl alcohol 25:24: 1	136112-00-0	1.6 L
phenylhydrazine hydrochloride	59-88-1	5 g
phosphoric acid	7664-38-2	100 g
phosphorus pentoxide	1314-56-3	500 g
polyvinyl alcohol	9002-89-5	500 g
polyvinylpyrrolidone	9003-39-8	3.205 kg
potassium carbonate	584-08-7	500 g
potassium chloride	7447-40-7	4.0 kg
potassium ferrocyanide	13943-58-3	1 kg
potassium hydroxide	1310-58-3	1 kg
potassium iodate	5/6/58	100 g
potassium iodide	7681-11-0	100 g
potassium metabisulfite	16731-55-8	500 g
potassium permanganate	7722-64-7	500 g
potassium thiocyanate	333-20-0	500 g
p-phenylenediamine (1,4-phenylenediamine)	106-50-3	150 g
protein assay reagent	151-21-3	2.005 L
pyridine	7291-22-7	500 ml
pyrimethamine	58-14-0	35 g
quinine sulfate, dihydrate	6119-70-6	5 g
reagent alcohol	6591-63-5	8 L
rotenone technical	83-79-4	1 g
salicylic acid	69-72-7	200 g
saponin	8047-15-2	110 g
schiffs reagent		500 ml

semicarbazide hydrochloride	563-41-7	100 g
sigmacote		10 g
sigmacote		300 ml
silica	60676-86-0	100 g
silica gel 30-60 mesh, grade 15	112926-00-8	300 g
silver nitrate	7761-88-8	230 g
sodium azide	26628-22-8	1.35 kg
sodium bisulfate	7681-38-1	1.1 kg
sodium borohydride	7790-28-5	325 g
sodium carbonate	497-19-8	4.5 kg
sodium chlorite	7758-19-2	100 g
sodium cyanoborohydride	25895-60-7	90 g
sodium formate	141-53-7	500 g
sodium hydrosulfite	7775-14-6	100 g
sodium hydroxide 50% solution, lw/w	1310-73-2	28 L
sodium hydroxide solution, 5.0N	1310-73-2	4.0 L
sodium hydroxide solution, 6.0N	1310-73-2	1 L
sodium hydroxide, pellets	1310-73-2	15.45 kg
sodium hypochlorite	7681-52-9	500 ml
sodium iodate	7681-55-2	400 g
sodium nitrite	7632-00-0	1.6 kg
sodium nitroprusside	14402-89-2	50 g
sodium selenite	10102-18-8	20 g
sodium thiocyanate	540-72-7	5.6 kg
sulfosalicylic acid, dihydrate	5965-83-3	1.6 kg
sulfuric acid	7664-93-9	7.5 L
sulfuric acid, 2.5 N	7664-93-9	2.0 L
tannic acid	1401-55-4	300 g
test cholera toxin		1 mg
tetramethylammonium chloride	75-57-0	500 g
tetramethylammonium chloride	75-57-0	500 ml
tetramethylammonium hydroxide	10424-65-4	5 g
thimerosal	54-64-8	125 g
thymol	89-83-8	50 g
tolbutamide	64-77-7	0.25 g
toluene	108-88-3	500 ml
toluene	108-88-3	500 ml
trichloroacetic acid	76-03-9	2.5 kg
trichloroacetic acid	76-03-9	570 ml
triethanolamine	102-71-6	100 g
triethanolamine	102-71-6	500 ml
triethylamine	121-44-8	1.5 L
trifluoroacetic acid (also; TFA)	76-05-1	3.12 L
urea	57-13-6	30.04 kg
xylenes	1330-20-7	8 L
zinc acetate	557-34-6	500 g
zinc chloride	7646-85-7	875 g
zinc sulfate	7733-02-0	2.3 kg

EXHIBIT D TO LEASE

ADDENDUM
(Rent)

THIS LEASE ADDENDUM is made and entered into this _____ day of _____, 2004, by and between CCMRED 40, LLC, a Colorado Limited Liability Company ("Landlord"), and HESKA CORPORATION, a Delaware Corporation ("Tenant").

RECITALS

1. Landlord and Tenant previously entered into a Net Lease Agreement dated as of _____, 2004, pursuant to which Landlord leased to Tenant the "Leased Premises" as more fully described therein ("Lease Agreement").

2. The Lease Agreement contains a formula to establish the Base Rent during the initial eighteen (18) year term and the two (2) five (5) year renewal options.

3. The parties desire to establish and set forth the annual Base Rent and the monthly Base Rent during the Initial Term and each of the two (2) Extension Options thereafter.

NOW, THEREFORE, for and in consideration of the foregoing recitals and mutual promises of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby confessed and acknowledged, the parties hereto agree as follows:

1. *Base Rent.* Section 1.4 of the Lease Agreement entitled "Base Rent" is hereby amended and restated in its entirety to provide as follows:

1.4 "BASE RENT":	**Years**	**Annual Base Rent**	**Monthly Base Rent**

2	**The annual and monthly Base Rent during Lease Year 2 shall be equal to one hundred six percent (106%) of the initial annual and monthly Base Rent**
3-18	**The annual and monthly Base Rent during Lease Years 3 through 18, inclusive, and during any renewal options exercised by Tenant, shall be equal to one hundred three percent (103%) of the adjusted annual and monthly Base Rent during the previous Lease Year, resulting in a three percent (3%) increase over Lease Year 2 and each subsequent Lease Year, compounded annually**

2. *Validity Reaffirmed.* Except as expressly amended or modified herein, all of the terms and provisions of the Lease Agreement shall remain the same and the validity of the Lease Agreement is hereby reaffirmed by the parties hereto.

3. *Effective Date.* The effective date of this Lease Addendum shall be as of _____, ____.

IN WITNESS WHEREOF, the parties have executed this Lease Addendum on the day and year first above written.

HESKA CORPORATION,
a Delaware Corporation

By: _____

Print Name: _____

Print Title: _____

ATTEST:

By: _____

Print Name: _____

Print Title: _____

"Tenant"

CCMRED 40, LLC, a Colorado Limited Liability Company

By: McWhinney Real Estate Services, Inc.,
a Colorado Corporation, Manager

By _____

DOUGLAS L. HILL
Chief Operating Officer

"Landlord"

EXHIBIT E TO LEASE

COMMENCEMENT CERTIFICATE

Heska Corporation
Attention: _____
1613 Prospect Park Way
Fort Collins, CO 80525

RE: Net Lease Agreement dated as of _____, 2004 ("Lease"), by and between CCMRED 40, LLC, a Colorado Limited Liability Company, as Landlord, and HESKA CORPORATION, a Delaware Corporation, as Tenant, pertaining to approximately 5.52 acres of real property with a building containing approximately sixty thousand seven hundred fifty-six (60,756) gross square feet and approximately fifty-eight thousand ninety-six (58,096) square feet of Rentable Building Area constructed thereon

Dear Tenant:

With regard to the referenced Lease (initially capitalized words not otherwise defined have the same meaning set forth in the Lease), Landlord and Tenant acknowledge that, in accordance with Sections 1.3, 3 and 5 of the Lease, the Commencement Date is 12:01 a.m., _____, 2004, and the Expiration Date is 12:00 midnight, _____, ____.

Please acknowledge the foregoing by having an authorized officer sign in the space provided below and return this Commencement Certificate to our office. This document may be executed in counterparts, each of which shall constitute the original. Facsimile signatures shall be binding as original signatures.

Very truly yours,

CCMRED 40, LLC, a Colorado
Limited Liability Company

By: McWhinney Real Estate Services,
Inc., a Colorado Corporation, Manager

By _____

Douglas L. Hill
Chief Operating Officer

"Landlord"

ACKNOWLEDGED AND AGREED
this _____ day of _____, ____.

HESKA CORPORATION,
a Delaware Corporation

By: _____

Print Name: _____

Print Title: _____

ATTEST:

By: _____

Print Name: _____

Print Title: _____

"Tenant"

EXHIBIT F TO LEASE

TENANT ESTOPPEL CERTIFICATE

DATE: _____

The undersigned, Heska Corporation, a Delaware corporation ("Tenant") hereby certifies to _____ ("Lender"):

1. The undersigned is the tenant under that certain Net Lease Agreement (together with all amendments, modifications, extensions and supplements thereto, the "Lease"), dated as of _____, 2004, made by _____, a Colorado limited liability company, as landlord (the "Landlord"), to Tenant, covering those certain premises described therein and located in the City of Loveland, Larimer County, Colorado (the "Premises"). Tenant is the sole owner of the entire lessee's interest in the Lease.

2. Tenant has inspected the Premises and accepted possession of the Premises pursuant to the Lease and Landlord has fulfilled all of the requirements with respect to the delivery of possession of the Premises to Tenant under the Lease. The term of the Lease is for eighteen (18) years, which Lease term commenced on _____. The termination date of the Lease term, excluding renewals and extensions, is _____.

3. Any improvements required by the terms of the Lease to be made at any time by Landlord have been completed to the satisfaction of Tenant in all respects, all allowances or reimbursements payable to Tenant under the Lease have been paid in full, and Landlord has fulfilled all of its duties under the Lease.

4. All obligations of the Landlord under the Lease required to have been completed on or before the date hereof and under any other agreements between the Tenant and the Landlord relating to the purchase, sale and development of the Premises have been duly performed and completed including, without limitation, any obligations of the Landlord to make or pay the Tenant for any improvements, alterations, work, repairs or maintenance done on the Premises.

5. The Lease has not been assigned, modified, supplemented or amended in any way. The Lease and the Development Agreement entered into by the parties in connection with the construction of the Premises constitute the entire agreement between the parties with respect to the rental of the Premises. There are no other agreements between Landlord and Tenant concerning the Premises. Attached hereto as Exhibit A is a true, correct and complete copy of the Lease, together with all amendments, modifications, extensions and supplements thereto.

6. The Lease is valid, binding and enforceable against the Landlord and the Tenant and in full force and effect, and neither Landlord nor Tenant are in default under the Lease and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease. Tenant has no defense, setoff or counterclaim against Landlord arising out of the Lease or in any way relating thereto.

7. The initial Base Rent (as defined in the Lease) is $_____ per year payable in equal monthly installments of $_____ (the "Rent"). Tenant has paid and is presently paying the full Rent together with all additional rent, real estate taxes, insurance and operating expenses and all other sums or charges due and payable under the Lease by Tenant. The Tenant's security deposit paid to Landlord is $-0-.

8. No Rent or other sum payable under the Lease has been paid more than one month in advance.

9. Tenant has no rights under the Lease to any offset of Rents and Tenant has no rights under the Lease to terminate the Lease.

10. The Lease contains, and the Tenant has, no options or rights of first refusal to purchase the Premises or any part thereof or all or any part of the real property or improvements of which the Premises are a part. The Lease contains, and the Tenant has, no right to terminate the Lease or to an abatement of Rent in

connection with a casualty or condemnation.

11. No actions, whether voluntary or otherwise, are pending against the Tenant or any partner or member of the Tenant under the bankruptcy laws of the United States or any state thereof.

12. The Tenant has not sublet the Premises to any sublessee and has not assigned any of its rights under the Lease. No one except the Tenant and its employees occupies the Premises. Tenant agrees that it will not subordinate the Lease or its interest in the Premises to any mortgage or encumbrance, other than the Deed of Trust and Security Agreement (the "*Deed of Trust*"), dated as of _____, made by Landlord, as grantor, to the trustee named therein for the benefit of Lender, without the prior written consent of Lender.

13. Tenant acknowledges that Tenant has received notice that the Lease will be assigned to Lender, and Tenant has received no notice of a prior assignment, hypothecation or pledge of the Lease or the rents, income, deposits or profits arising thereunder. Tenant understands that under the provisions of the assignment, the Lease cannot be terminated by the Landlord (either directly or by the exercise of any option which could lead to termination) or modified in any of its terms, or consent be given to the release of any party having liability thereon, without the prior written consent of Lender, in the Lender's sole discretion, that without such consent, no Rent may be collected or accepted more than one month in advance and that the interest of the Landlord in the Lease has been assigned to Lender solely for the purposes specified in the assignment and Lender assumes no duty, liability or obligations whatever under the Lease or any extension or renewal thereof.

14. Tenant agrees to send to Lender a copy of any notice of default under the Lease and to allow Lender a period of thirty (30) days after the receipt by Lender of the foregoing notice to commence to cure such default. If the Lender commences to cure such default, Tenant will not terminate the Lease so long as the Lender complies with all provisions of the Lease requiring the payment or expenditure of money by Landlord. Tenant shall give such written notice of default to any successor in interest of Lender, any purchaser at a foreclosure sale under the Deed of Trust, any transferee who acquired the Premises pursuant to exercise of a power of sale or by deed in lieu of foreclosure or any successor or assign thereof.

15. Tenant shall not look to Lender, as mortgagee, mortgagee in possession, or successor in title to Landlord in connection with the return of or accountability with respect to any security deposit held by Landlord, unless said sums have actually been received by Lender as security for Tenant's performance under the Lease.

16. Tenant shall neither suffer nor itself manufacture, store, handle, transport, dispose of, spill, leak, dump any toxic or hazardous waste, waste product or substance (as they may be defined in any federal or state statute, rule or regulation pertaining to or governing such wastes, waste products or substances) on the property mortgaged to Lender at any time during the term, or extended term, of the Lease.

17. All notices and other communications from Tenant to Lender shall be in writing and shall be delivered or mailed by certified or registered mail, postage paid, return receipt requested, addressed to Lender at _____, or at such other address as Lender or any successor, purchaser or transferee shall furnish to Tenant in writing.

18. This Estoppel Certificate is being executed and delivered by Tenant to induce Lender to make a loan to Landlord in the amount of $_____ for the construction of certain improvements upon the Premises, which loan is to be secured in part by an assignment to Lender of Landlord's interest in the Lease and with the intent and understanding that the above statements will be relied upon by Lender.

TENANT:

HESKA CORPORATION,
a Delaware Corporation

By: _____

Print Name: _____

Print Title: _____

ATTEST:

By: _____

Print Name: _____

Print Title: _____

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Exhibit 21.1

SUBSIDIARIES OF COMPANY

Diamond Animal Health, Inc., an Iowa corporation

Heska Holding AG, a corporation incorporated under the laws of Switzerland

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Exhibit 21.1

SUBSIDIARIES OF COMPANY

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Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors
Heska Corporation:

We consent to the incorporation by reference in the Registration Statements File Nos. 333-55602 and 333-76374 (Form S-3), and 333-102871, 333-89738, 333-82096, 333-55112, 333-39448, 333-38138, 333-72155, 333-47129, 333-34111, 333-30951, 333-106679, and 333-123196 (Form S-8) of Heska Corporation and subsidiaries of our report dated March 30, 2005, with respect to the consolidated balance sheets of Heska Corporation and subsidiaries as of December 31, 2003 and 2004, and the related consolidated statements of operations and comprehensive loss, stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2004 and related financial statement schedule, which report appears in the December 31, 2004 annual report on Form 10-K of Heska Corporation and subsidiaries.

/s/ KPMG LLP

Denver, Colorado
March 30, 2005

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Exhibit 31.1

CERTIFICATION

I, Robert B. Grieve, Chief Executive Officer of Heska Corporation, certify that:

1. I have reviewed this annual report on Form 10-K of Heska Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2005

/s/ ROBERT B. GRIEVE

ROBERT B. GRIEVE
Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

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CERTIFICATION

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Exhibit 31.2

CERTIFICATION

I, Jason A. Napolitano, Chief Financial Officer of Heska Corporation, certify that:

1. I have reviewed this annual report on Form 10-K of Heska Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2005

/s/ JASON A. NAPOLITANO

JASON A. NAPOLITANO
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

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CERTIFICATION

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Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert B. Grieve, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of Heska Corporation on Form 10-K for the year ended December 31, 2004 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Form 10-K fairly presents in all material respects the financial condition and results of operations of Heska Corporation.

By: /s/ ROBERT B. GRIEVE

Name: ROBERT B. GRIEVE
Title: Chairman of the Board and Chief Executive Officer

I, Jason A. Napolitano, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of Heska Corporation on Form 10-K for the year ended December 31, 2004 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Form 10-K fairly presents in all material respects the financial condition and results of operations of Heska Corporation.

By: /s/ JASON A. NAPOLITANO

Name: JASON A. NAPOLITANO
Title: Executive Vice President and Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to Heska Corporation and will be retained by Heska Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

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CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002