



# **FORM 10-Q**

## **RADISYS CORP - RSYS**

**Filed: August 08, 2008 (period: June 30, 2008)**

Quarterly report which provides a continuing view of a company's financial position

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2008

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 0-26844

**RADISYS CORPORATION**

(Exact name of registrant as specified in its charter)

**OREGON**  
(State or other jurisdiction of  
Incorporation or Organization)

**93-0945232**  
(I.R.S. Employer  
Identification Number)

**5445 N.E. Dawson Creek Drive**  
**Hillsboro, OR 97124**  
(Address of principal executive offices, including zip code)

**(503) 615-1100**  
(Registrant's telephone number, including area code)

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 the filing requirements for the past 90 days. Yes  No

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

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

Indicate by check mark whether the registrant is a shell company (as defined in rule 12b-2 of the Exchange Act) Yes  No

Number of shares of common stock outstanding as of August 7, 2008: 22,611,463

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RADISYS CORPORATION  
FORM 10-Q

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## PART I. FINANCIAL INFORMATION

## Item 1. Consolidated Financial Statements

**RADISYS CORPORATION**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
**(In thousands, except per share amounts, unaudited)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2008	2007	2008	2007
Revenues	\$ 97,610	\$ 75,530	\$ 183,658	\$ 142,383
Cost of sales:				
Cost of sales	69,173	56,829	131,539	104,441
Amortization of purchased technology	3,923	3,233	8,038	6,467
Total cost of sales	<u>73,096</u>	<u>60,062</u>	<u>139,577</u>	<u>110,908</u>
Gross margin	24,514	15,468	44,081	31,475
Research and development	13,047	11,529	25,697	22,309
Selling, general and administrative	13,102	11,829	25,952	23,257
Intangible assets amortization	1,302	1,022	2,605	2,046
Restructuring and other charges	598	1,444	598	1,532
Loss from operations	(3,535)	(10,356)	(10,771)	(17,669)
Interest expense	(678)	(431)	(1,261)	(863)
Interest income	646	1,627	1,950	3,256
Other (expense) income, net	(146)	(65)	9	(121)
Loss before income tax benefit	(3,713)	(9,225)	(10,073)	(15,397)
Income tax benefit	(939)	(1,901)	(961)	(2,681)
Net loss	<u>\$ (2,774)</u>	<u>\$ (7,324)</u>	<u>\$ (9,112)</u>	<u>\$ (12,716)</u>
Net loss per share:				
Basic	\$ (0.12)	\$ (0.34)	\$ (0.41)	\$ (0.58)
Diluted	\$ (0.12)	\$ (0.34)	\$ (0.41)	\$ (0.58)
Weighted average shares outstanding:				
Basic	22,423	21,802	22,335	21,742
Diluted	22,423	21,802	22,335	21,742

The accompanying notes are an integral part of these financial statements.

**RADISYS CORPORATION**  
**CONSOLIDATED BALANCE SHEETS**  
**(In thousands)**

	<b>June 30, 2008</b>	<b>December 31, 2007</b>
	<b>(Unaudited)</b>	
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 56,645	\$ 50,522
Short-term investments	—	72,750
Accounts receivable, net	55,797	70,548
Other receivables	2,970	2,678
Inventories, net	33,533	23,101
Other current assets	4,414	5,299
Deferred tax assets, net	6,485	6,489
Total current assets	159,844	231,387
Property and equipment, net	12,170	11,233
Goodwill	67,644	67,644
Intangible assets, net	28,126	38,779
Long-term investments, net	58,311	—
Long-term deferred tax assets, net	42,503	40,078
Other assets	5,801	3,987
Total assets	<u>\$ 374,399</u>	<u>\$ 393,108</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 46,487	\$ 49,675
Accrued wages and bonuses	10,328	8,101
Deferred revenue	5,765	5,308
2023 convertible senior notes, net	36,611	97,548
Other accrued liabilities	11,272	8,915
Total current liabilities	110,463	169,547
Long-term liabilities:		
2013 convertible senior notes	55,000	—
Other long-term liabilities	3,511	3,585
Total long-term liabilities	58,511	3,585
Total liabilities	168,974	173,132
Shareholders' equity:		
Preferred stock - \$.01 par value, 5,664 shares authorized; none issued or outstanding	—	—
Common stock - no par value, 100,000 shares authorized; 22,609 and 22,312 shares issued and outstanding at June 30, 2008 and December 31, 2007	223,951	226,873
Accumulated deficit	(20,397)	(11,285)
Accumulated other comprehensive income:		
Cumulative currency translation adjustments	4,668	4,388
Unrealized gain on hedge instruments	8	—
Unrealized loss on available-for-sale investments	(2,805)	—
Total accumulated other comprehensive income	1,871	4,388
Total shareholders' equity	205,425	219,976
Total liabilities and shareholders' equity	<u>\$ 374,399</u>	<u>\$ 393,108</u>

The accompanying notes are an integral part of these financial statements.

RADISYS CORPORATION

CONSOLIDATED STATEMENT OF CHANGES IN SHAREHOLDERS' EQUITY  
(In thousands, unaudited)

	Common stock		Accumulated Other Comprehensive Income	Accumulated Deficit	Total	Total Comprehensive Loss (1)
	Shares	Amount				
Balances, December 31, 2007	22,312	\$ 226,873	\$ 4,388	\$ (11,285)	\$ 219,976	
Shares issued pursuant to benefit plans	283	2,537	—	—	2,537	
Stock-based compensation associated with employee benefit plans	—	5,048	—	—	5,048	
Restricted shares granted, net of cancellations	(4)	—	—	—	—	
Net settlement of restricted shares	18	(353)	—	—	(353)	
Impairment of available-for-sale investments, net of tax	—	—	(2,805)	—	(2,805)	(2,805)
Net adjustment for fair value of hedge derivatives	—	—	8	—	8	8
Purchase of capped call on 2013 convertible senior notes	—	(10,154)	—	—	(10,154)	
Translation adjustments	—	—	280	—	280	280
Net loss for the period	—	—	—	(9,112)	(9,112)	(9,112)
Balances, June 30, 2008	<u>22,609</u>	<u>\$ 223,951</u>	<u>\$ 1,871</u>	<u>\$ (20,397)</u>	<u>\$ 205,425</u>	
Comprehensive loss for the six months ended June 30, 2008						<u>\$ (11,629)</u>

- (1) For the three months ended June 30, 2008, total comprehensive loss amounted to \$3.4 million and consisted of net loss for the period of \$2.8 million, net losses from currency translation adjustments of \$44,000, net gains from adjustments for fair value of hedge derivatives of \$30,000 and an impairment of available-for-sale investments, net of tax, of \$615,000. For the three months ended June 30, 2007, other comprehensive loss amounted to \$7.3 million and consisted of net loss for the period of \$7.3 million and net gains from translation adjustments of \$6,000. For the six months ended June 30, 2007, other comprehensive loss amounted to \$12.7 million and consisted of net loss for the period of \$12.7 million and net gains from translation adjustments of \$44,000.

The accompanying notes are an integral part of these financial statements.

**RADISYS CORPORATION**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands, unaudited)

	For the Six Months	
	Ended June 30,	
	2008	2007
<b>Cash flows from operating activities:</b>		
Net loss	\$ (9,112)	\$ (12,716)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	13,777	12,708
Inventory valuation allowance	1,477	3,707
Deferred income taxes	(903)	(3,610)
Gain on early extinguishment of debt	(37)	—
Stock-based compensation expense	5,048	4,881
Provisions for allowance for doubtful accounts	157	—
Other	384	(110)
Changes in operating assets and liabilities:		
Accounts receivable	14,634	(15,426)
Other receivables	(293)	522
Inventories	(11,909)	2,718
Other current assets	1,459	304
Accounts payable	(3,206)	(247)
Accrued wages and bonuses	2,179	216
Accrued restructuring	509	1,318
Deferred revenue	435	417
Other accrued liabilities	1,726	729
Net cash provided by (used in) operating activities	<u>16,325</u>	<u>(4,589)</u>
<b>Cash flows from investing activities:</b>		
Proceeds from the sale of auction rate securities	10,025	23,700
Purchase of auction rate securities	—	(12,850)
Capital expenditures	(3,622)	(2,675)
Proceeds from the sale of property and equipment	—	2,208
Purchase of long-term assets	(331)	(106)
Net cash provided by investing activities	<u>6,072</u>	<u>10,277</u>
<b>Cash flows from financing activities:</b>		
Financing costs	(2,539)	—
Proceeds from issuance of 2013 convertible senior notes	55,000	—
Purchase of capped call	(10,154)	—
Repurchase of 2023 convertible senior notes	(60,915)	—
Payments on capital lease obligation	(77)	—
Net resettlement of restricted shares	(353)	(253)
Proceeds from issuance of common stock	2,537	2,485
Net cash (used in) provided by financing activities	<u>(16,501)</u>	<u>2,232</u>
Effect of exchange rate changes on cash	<u>227</u>	<u>17</u>
Net increase in cash and cash equivalents	6,123	7,937
Cash and cash equivalents, beginning of period	50,522	23,734
Cash and cash equivalents, end of period	<u>\$ 56,645</u>	<u>\$ 31,671</u>
<b>Supplemental disclosures of non-cash investing and financing activities:</b>		
Capital lease obligation	\$ 368	\$ —
Unrealized loss on assets measured at fair value, net	\$ 2,805	\$ —

The accompanying notes are an integral part of these financial statements.



RADISYS CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

**Note 1 — Significant Accounting Policies**

RadiSys Corporation (the “Company” or “RadiSys”) has adhered to the accounting policies set forth in its Annual Report on Form 10-K for the year ended December 31, 2007 in preparing the accompanying interim consolidated financial statements. The preparation of these statements in conformity with U.S. generally accepted accounting principles (“GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosure of contingent assets and liabilities. Actual results could differ from those estimates. Additionally, the accompanying financial data as of June 30, 2008 and for the three and six months ended June 30, 2008 and 2007 has been prepared by the Company, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”). Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been omitted pursuant to such rules and regulations. However, the Company believes that the disclosures are adequate to make the information presented not misleading. These consolidated financial statements should be read in conjunction with the consolidated financial statements and the notes thereto included in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2007.

The financial information included herein reflects all normal recurring adjustments that are, in the opinion of management, necessary for a fair presentation of the results for interim periods.

For the three and six months ended June 30, 2008, there have been no significant changes to these accounting policies except for the following:

*Derivatives*

During the first quarter of 2008, the Company entered into forward foreign currency exchange contracts to reduce the impact of foreign currency exchange risks where natural hedging strategies could not be effectively employed.

The Company does not hold or issue derivative financial instruments for trading purposes. The purpose of the Company’s hedging activities is to reduce the risk that the eventual cash flows of the underlying assets, liabilities and firm commitments will be adversely affected by changes in exchange rates. In general, the Company’s hedging activities do not create foreign currency exchange rate risk because fluctuations in the value of the instruments used for hedging purposes are offset by fluctuations in the value of the underlying exposures being hedged. Counterparties to derivative financial instruments expose the Company to credit-related losses in the event of nonperformance. The Company does not believe there is a significant credit risk associated with its hedging activities because the counterparties are all large financial institutions with high credit ratings.

All derivatives, including foreign currency exchange contracts are recognized on the balance sheet at fair value. When specific criteria required by SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities” (SFAS 133) have been met, changes in the fair values of hedge contracts related to anticipated transactions are recorded in other comprehensive income (loss) rather than net income (loss) until the underlying hedged transaction affects net income. One of the criteria for this accounting treatment is that the forward foreign currency exchange contract amount should not be in excess of specifically identified anticipated transactions. By their nature, estimates of anticipated transactions may fluctuate over time and may ultimately vary from actual transactions. If anticipated transaction estimates or actual transaction amounts decrease below hedged levels, or when the timing of transactions change significantly, the Company would reclassify a portion of the cumulative changes in fair values of the related hedge contracts from other comprehensive income (loss) to other income (expense) during the quarter in which the changes occur.

The Company has adopted SFAS No. 157, “Fair Value Measurements,” (SFAS 157); however the adoption did not have a material impact on the Company’s results of operations.

*Revenue Recognition*

During 2007, the Company began to defer revenue associated with sales made to distributors brought over from its acquisition of certain assets of the Modular Communications Platform Division (“MCPD”) of Intel Corporation (“Intel”). Because of frequent sales price reductions and rapid technology obsolescence in the industry, sales made to some distributors under agreements allowing price

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protection and/or right of return are deferred until the distributors sell the merchandise. During the first quarter of 2008, the Company entered into new arrangements with its significant distributors servicing the MCPD business. For a few of these distributors, the Company eliminated some of the price adjustment programs. For those distributors where significant price adjustment programs remain in place, the Company will continue to defer revenue until the distributors sell the merchandise.

### Recent Accounting Pronouncements

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133," ("SFAS 161"). SFAS 161 requires enhanced disclosures about an entity's derivative and hedging activities, including (i) how and why an entity uses derivative instruments, (ii) how derivative instruments and related hedged items are accounted for under SFAS 133, and (iii) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. This standard becomes effective for the Company on January 1, 2009. Earlier adoption of SFAS 161 and, separately, comparative disclosures for earlier periods at initial adoption are encouraged. SFAS 161 requires enhanced disclosures, which will be provided in the Company's 2008 Consolidated Financial Statements.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations," ("SFAS 141R") and SFAS No. 160, "Non-controlling Interests in Consolidated Financial Statements, an Amendment of ARB No. 51," ("SFAS 160"). These statements require significant changes in the accounting and reporting for business acquisitions and the reporting of non-controlling interests in subsidiaries. Among many changes under SFAS 141R, an acquirer will record 100% of all assets and liabilities at fair value for partial acquisitions, contingent consideration will be recognized at fair value at the acquisition date with changes possibly recognized in earnings, and acquisition related costs will be expensed rather than capitalized. SFAS 160 establishes new accounting and reporting standards for the non-controlling interest in a subsidiary. Key changes under the standard are that non-controlling interests in a subsidiary will be reported as part of equity, losses allocated to a non-controlling interest can result in a deficit balance, and changes in ownership interests that do not result in a change of control are accounted for as equity transactions and, upon a loss of control, gain or loss is recognized and the remaining interest is remeasured at fair value on the date control is lost. SFAS 141R will apply prospectively to the Company's business combinations occurring on or after January 1, 2009. The Company will also apply SFAS 160 beginning January 1, 2009. Adoption of these statements will affect the Company's accounting for any business acquisitions occurring after the effective date and the reporting of any non-controlling interests in subsidiaries existing on or after the effective date.

In May 2008, the FASB issued FASB Staff Position ("FSP") No. APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)" ("FSP APB 14-1"). FSP APB 14-1 requires that issuers of such instruments separately account for the liability and equity components related to convertible debt instruments in a manner that will reflect the issuer's nonconvertible debt borrowing rate when interest expense is recognized in subsequent periods. Early adoption is not permitted and FSP APB 14-1 becomes effective for the Company on January 1, 2009. Based on preliminary analysis, the Company has determined that the new guidance should only affect its 1.375% convertible senior notes due November 15, 2023 (the "2023 convertible senior notes"). It is expected that by the time of adoption of FSP APB 14-1 the Company's 2023 convertible senior notes will be retired but the Company will still be required to retrospectively apply FSP APB 14-1 in all periods presented that include the Company's 2023 convertible senior notes. As a result of this retrospective adoption the Company's opening accumulated deficit balance and paid in capital balance will increase, however the Company is still assessing the magnitude.

### Reclassifications

Certain reclassifications have been made to amounts in prior years to conform to current year presentation.

### Note 2 — Investments

Short-term and long-term investments consisted of the following (in thousands):

	June 30, 2008	December 31, 2007
Short-term available for sale investments	\$ —	\$ 72,750
Long-term available for sale investments	\$ 58,311	\$ —

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The Company currently holds investments in auction rate securities (“ARS”), which are highly rated debt instruments with a long-term nominal maturity for which the interest rate is set through a “Dutch Auction” process. The majority of the Company’s ARS investments represent interests in collateralized debt obligations supported by pools of government-backed student loans with S&P AAA or Moody’s Aaa ratings at the time of purchase. These investments have been classified as available-for-sale investments. Available-for-sale securities are recorded at fair value, and unrealized holding gains and losses are recorded, net of tax, as a separate component of accumulated other comprehensive income. For the three and six months ended June 30, 2008, there were no realized gains or losses on the sales of available-for-sale investments.

Between December 31, 2007 and February 7, 2008, the Company sold at par value \$10.0 million in ARS of the total ARS balance of \$72.8 million which was held at December 31, 2007. During the first quarter of 2008, due to liquidity issues experienced in the global credit and capital markets, the Company’s entire remaining portfolio of ARS investments experienced multiple failed auctions as the amount of securities submitted for sale exceeded the amount of purchase orders. An auction failure, which is not a default in the underlying debt instrument, occurs when there are more sellers than buyers at a scheduled interest rate auction date and parties desiring to sell their auction rate securities are unable to do so. When an auction fails, the interest rate is adjusted according to the provisions of the associated security agreement, which may result in an interest rate that is higher than the interest rate the issuer pays in connection with successful auctions. The Company will not be able to liquidate the investments until a successful auction occurs, a buyer is found outside the auction process, the securities are called or refinanced by the issuer, or the securities mature. Due to the uncertainty of when it will be able to liquidate the investments, the Company reclassified the investments to long-term assets during the first quarter of 2008 and continues to hold them as such.

The Company recorded the ARS at fair value in accordance with SFAS 157. The Company considered various inputs, as defined in “*Note 3 – Fair Value of Financial Instruments*,” to estimate the fair value of its ARS, including the issuer’s credit quality, maturity, probability to be called, lack of liquidity, future cash flows based on maximum rate formulas and comparable securities of the issuer, if any. As of June 30, 2008, the Company determined that its investments were impaired by 7.0% or \$4.4 million, primarily due to the lack of liquidity. The Company believes declines in ARS fair values due to the lack of liquidity to be temporary as it has the ability and intent to hold these investments until they are sold or are called by the issuer at par. As such, the Company does not consider the impairment to be permanent and has recorded an unrealized loss of \$4.4 million gross, \$2.8 million net of tax, under other comprehensive income in the shareholders’ equity section of the accompanying Consolidated Balance Sheets at June 30, 2008.

### Note 3 — Fair Value of Financial Instruments

The Company measures at fair value certain financial assets and liabilities, including cash equivalents, long-term investments, and deferred compensation. SFAS No. 157 specifies a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect the Company’s market assumptions. These two types of inputs have created the following fair-value hierarchy:

Level 1—Quoted prices for identical instruments in active markets

Level 2—Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and

Level 3—Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

The following table summarizes the fair value measurements as of June 30, 2008, for the Company’s financial instruments, including its ARS (in thousands):

	Fair Value Measurements as of June 30, 2008			
	June 30, 2008	Level 1	Level 2	Level 3
Cash equivalents	\$ 26,486	\$ 26,486	\$ —	\$ —
Long-term available-for-sale-investments	\$ 58,311	\$ —	\$ —	\$ 58,311
Non-qualified deferred compensation assets	\$ 3,179	\$ 3,179	\$ —	\$ —
Non-qualified deferred compensation liabilities	\$ 2,366	\$ 2,366	\$ —	\$ —
Total	\$ 90,342	\$ 32,031	\$ —	\$ 58,311

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The following table contains a rollforward of the fair value of the Company's ARS, where fair value is determined using Level 3 inputs:

	<u>Fair Value</u>
Balance as of December 31, 2007	\$ —
Fair value transferred in from Level 1 securities	62,750
Sales of ARS	(25)
Temporary impairment charge reflected as a component of other comprehensive income (A)	<u>(4,414)</u>
Balance as of June 30, 2008	<u>\$ 58,311</u>

(A) For the three and six months ended June 30, 2008, the Company recognized in other comprehensive income temporary impairment charges of \$1.0 and \$4.4 million, respectively.

### Note 4 — Accounts Receivable and Other Receivables

Accounts receivable consists of trade accounts receivable. Accounts receivable balances consisted of the following (in thousands):

	<u>June 30, 2008</u>	<u>December 31, 2007</u>
Accounts receivable, gross	\$ 56,825	\$ 71,432
Less: allowance for doubtful accounts	(1,028)	(884)
Accounts receivable, net	<u>\$ 55,797</u>	<u>\$ 70,548</u>

The Company recorded additional provisions of \$157,000 for allowance for doubtful accounts during the six months ended June 30, 2008. The Company recorded no additional provisions for allowance for doubtful accounts during the three and six months ended June 30, 2007.

As of June 30, 2008 and December 31, 2007, the balance in other receivables was \$3.0 million and \$2.7 million, respectively. Other receivables consisted primarily of non-trade receivables including receivables for inventory sold to the Company's contract manufacturing partners. Sales to the Company's contract manufacturing partners are based on terms and conditions similar to the terms offered to the Company's regular customers. There is no revenue recorded associated with non-trade receivables.

### Note 5 — Inventories

Inventories consisted of the following (in thousands):

	<u>June 30, 2008</u>	<u>December 31, 2007</u>
Raw materials	\$ 33,913	\$ 28,752
Work-in-process	2,606	1,762
Finished goods	9,166	4,405
	45,685	34,919
Less: inventory valuation allowance	(12,152)	(11,818)
Inventories, net	<u>\$ 33,533</u>	<u>\$ 23,101</u>

During the three months ended June 30, 2008 and 2007, the Company recorded provisions for excess and obsolete inventory of \$0.7 million and \$1.9 million, respectively. During the six months ended June 30, 2008 and 2007, the Company recorded provisions for excess and obsolete inventory of \$1.5 million and \$3.7 million, respectively.

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### Note 6 — Accrued Restructuring and Other Charges

Accrued restructuring and other charges, which is included in other accrued liabilities in the accompanying Consolidated Balance Sheets as of June 30, 2008 and December 31, 2007, respectively, consisted of the following (in thousands):

	June 30, 2008	December 31, 2007
Fourth quarter 2006 restructuring charge	\$ 29	\$ 57
Second quarter 2007 restructuring charge	—	11
Second quarter 2008 restructuring charge	550	—
Total	<u>\$ 579</u>	<u>\$ 68</u>

The Company evaluates the adequacy of the accrued restructuring charges on a quarterly basis. The Company records certain reclassifications between categories and reversals to the accrued restructuring charges based on the results of the evaluation. The total accrued restructuring charges for each restructuring event are not affected by reclassifications. Reversals are recorded in the period in which the Company determines that expected restructuring obligations are less than the amounts accrued.

#### Fourth Quarter 2006 Restructuring

During the fourth quarter of 2006, the Company initiated a restructuring plan that included the elimination of 12 positions primarily supporting the Company's contract manufacturing operations as a result of the termination of the relationship with one of the Company's contract manufacturers in North America. The restructuring plan also includes closing the Charlotte, North Carolina manufacturing support office. The Company expects this office closure to be completed by December 31, 2008.

The following table summarizes the changes to the fourth quarter 2006 restructuring costs (in thousands):

	Employee Termination and Related Costs	Facilities
Restructuring and other costs	\$ 329	\$ —
Balance accrued as of December 31, 2006	329	—
Additions	127	64
Expenditures	(252)	(7)
Reversals	(204)	—
Balance accrued as of December 31, 2007	—	57
Expenditures	—	(5)
Balance accrued as of March 31, 2008	\$ —	\$ 52
Expenditures	—	(23)
Balance accrued as of June 30, 2008	<u>\$ —</u>	<u>\$ 29</u>

#### Second Quarter 2007 Restructuring

During the second quarter of 2007, the Company incurred employee-related expenses associated with skill set changes for approximately 20 employees. The changes involved creating an integrated structure with the media server business along with some skill set changes in certain selling, general and administrative and engineering groups. The costs incurred in this restructuring event include employee severance and medical benefits, and associated legal costs. All restructuring activities were completed by March 31, 2008.

#### Second Quarter 2008 Restructuring

During the second quarter of 2008, the Company initiated a restructuring plan that included the elimination of 23 positions. The restructuring was primarily initiated with the intent to return the Company's engineering spend to levels which align with targeted profitability as well as refocus the Company's skill sets in new product deployment and provide enhanced service and support to existing customers. The Company expects to complete all activities associated with the restructuring by March 31, 2009.

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The following table summarizes the changes to the second quarter 2008 restructuring costs (in thousands):

	Employee Termination and Related Costs
Restructuring and other costs	\$ 598
Expenditures	(48)
Balance accrued as of June 30, 2008	<u>550</u>

### Note 7 — Short-Term Borrowings

The Company currently holds a line of credit facility of \$20.0 million at its investment bank. This line of credit facility bears an interest rate equal to the 30-day London Inter-Bank Offered Rate (“LIBOR”) plus 0.75%. The line of credit is collateralized by the Company’s non-equity investments. The market value of non-equity investments must exceed 125.0% of the borrowed facility amount. At June 30, 2008, the Company had a standby letter of credit outstanding related to one of its medical insurance carriers for \$105,000. As of June 30, 2008 and December 31, 2007, there were no outstanding balances on the standby letter of credit or line of credit.

On August 7, 2008, the Company entered into a secured revolving line of credit agreement with Silicon Valley Bank, which will replace the existing line of credit facility. Refer to “*Note 17 – Subsequent Events*” for a summary of the material terms of the agreement.

### Note 8 — Convertible Debt

#### 2023 Convertible Senior Notes

During November 2003, the Company completed a private offering of \$100 million in aggregate principal amount of the 2023 convertible senior notes due November 15, 2023 to qualified institutional buyers. The discount at issuance on the 2023 convertible senior notes amounted to \$3 million.

Convertible senior notes are unsecured obligations convertible into the Company’s common stock and rank equally in right of payment with all existing and future obligations that are unsecured and unsubordinated. Interest on the 2023 convertible senior notes accrues at 1.375% per year and is payable semi-annually on May 15 and November 15. The 2023 convertible senior notes are convertible, at the option of the holder, at any time on or prior to maturity under certain circumstances unless previously redeemed or repurchased, into shares of the Company’s common stock at a conversion price of \$23.57 per share, which is equal to a conversion rate of 42.4247 shares per \$1,000 principal amount of the 2023 convertible senior notes. The 2023 convertible senior notes are convertible if (i) the closing price of the Company’s common stock on the trading day prior to the conversion date reaches 120% or more of the conversion price of the notes on such trading date, (ii) the trading price of the notes falls below 98% of the conversion value or (iii) certain other events occur. Upon conversion, the Company will have the right to deliver, in lieu of common stock, cash or a combination of cash and common stock. The Company may redeem all or a portion of the 2023 convertible senior notes at its option on or after November 15, 2006 but before November 15, 2008 provided that the closing price of the Company’s common stock exceeds 130% of the conversion price for at least 20 trading days within a period of 30 consecutive trading days ending on the trading day before the date of the notice of the provisional redemption. On or after November 15, 2008, the Company may redeem the notes at any time. On November 15, 2008, November 15, 2013, and November 15, 2018, holders of the 2023 convertible senior notes will have the right to require the Company to purchase, in cash, all or any part of the notes held by such holder at a purchase price equal to 100% of the principal amount of the notes being purchased, together with accrued and unpaid interest and additional interest, if any, up to but excluding the purchase date. The accretion of the discount on the 2023 convertible senior notes is calculated using the effective interest method.

As of June 30, 2008 and December 31, 2007, the Company had outstanding 2023 convertible senior notes with a face value of \$37.5 million and \$100 million, and a book value of \$36.6 million and \$97.5 million, net of unamortized discount of \$0.9 million and \$2.5 million, respectively. Amortization of the discount on the 2023 convertible senior notes was \$16,000 and \$34,000 for the three months ended June 30, 2008 and 2007, respectively. Amortization of the discount on the 2023 convertible senior notes was \$45,000 and \$67,000 for the six months ended June 30, 2008 and 2007, respectively. The estimated fair value of the convertible senior notes was \$33.6 million and \$99.8 million at June 30, 2008 and December 31, 2007, respectively.

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During the first quarter of 2008, the Company repurchased \$52.5 million aggregate principal amount of the 2023 convertible senior notes, with an associated discount of \$1.3 million. The Company repurchased the notes in the open market for \$51.1 million and, as a result, recorded a gain of \$68,000.

During the second quarter of 2008, the Company repurchased \$10.0 million aggregate principal amount of the 2023 convertible senior notes, with an associated discount of \$240,000. The Company repurchased the notes in the open market for \$9.8 million and, as a result, recorded a loss of \$31,000.

### 2013 Convertible Senior Notes

On February 6, 2008, the Company offered and sold in a public offering pursuant to the shelf registration statement \$55.0 million aggregate principal amount of 2.75% convertible senior notes due 2013 (the "2013 convertible senior notes"). Interest on the 2013 convertible senior notes is payable semi-annually, in arrears, on each August 15 and February 15, beginning on August 15, 2008, to the holders of record at the close of business on the preceding August 1 and February 1, respectively. The 2013 convertible senior notes mature on February 15, 2013. Holders of the 2013 convertible senior notes may convert their notes into a number of shares of the Company's common stock determined as set forth in the indenture governing the notes at their option on any day to and including the business day prior to the maturity date. The 2013 convertible senior notes are initially convertible into 76,7448 shares of the Company's common stock per \$1,000 principal amount of the notes (which is equivalent to a conversion price of approximately \$13.03 per share), subject to adjustment upon the occurrence of certain events. Upon the occurrence of a fundamental change, holders of the 2013 convertible senior notes may require the Company to repurchase some or all of their notes for cash at a price equal to 100% of the principal amount of the notes being repurchased, plus accrued and unpaid interest, if any. In addition, if certain fundamental changes occur, the Company may be required in certain circumstances to increase the conversion rate for any 2013 convertible senior notes converted in connection with such fundamental changes by a specified number of shares of the Company's common stock. The 2013 convertible senior notes are the Company's general unsecured obligations and rank equal in right of payment to all of its existing and future senior indebtedness, including the Company's 2023 convertible senior notes, and senior in right of payment to the Company's future subordinated debt. The Company's obligations under the 2013 convertible senior notes are not guaranteed by, and are effectively subordinated in right of payment to all existing and future obligations of, its subsidiaries and are effectively subordinated in right of payment to its future secured indebtedness to the extent of the assets securing such debt.

In connection with the issuance of the 2013 convertible senior notes, the Company entered into a capped call transaction with a hedge counterparty. The capped call transaction is expected to reduce the potential dilution upon conversion of the 2013 convertible senior notes in the event that the market value per share of the Company's common stock, as measured under the terms of the capped call transaction, at the time of exercise is greater than the strike price of the capped call transaction of approximately \$13.03, which corresponds to the initial conversion price of the 2013 convertible senior notes and is subject to certain adjustments similar to those contained in the notes. If, however, the market value per share of the Company's common stock exceeds the cap price of the capped call transaction of \$23.085, as measured under the terms of the capped call transaction, the dilution mitigation under the capped call transaction will be limited, which means that there would be dilution to the extent that the then market value per share of the Company's common stock exceeds the cap price of the capped call transaction.

As of June 30, 2008, the Company had outstanding 2013 convertible senior notes with a face value and fair value of \$55.0 million and \$52.4 million, respectively. The cost of the capped call transaction was approximately \$10.2 million and was recorded as a charge to shareholders' equity.

The aggregate maturities of long-term liabilities for each of the years in the five year period ending December 31, 2012 and thereafter are as follows (in thousands):

For the Years Ending December 31,	2023	2013
	Convertible Senior Notes	Convertible Senior Notes
2008 (remaining six months) (A)	\$ 37,503	\$ —
2009	—	—
2010	—	—
2011	—	—
2012	—	—
Thereafter	—	55,000
	37,503	55,000
Less: unamortized discount	(892)	—
Less: current portion	(36,611)	—
Long-term liabilities	\$ —	\$ 55,000

- (A) The Company may redeem the 2023 convertible senior notes at any time on or after November 15, 2008. On November 15, 2008, November 15, 2013, and November 15, 2018, holders of the 2023 convertible senior notes will have the right to require the Company to purchase, in cash, all or any part of the notes held by such holder at a purchase price equal to 100% of the principal amount of the notes being purchased, together with accrued and unpaid interest and additional interest, if any, up to but excluding the purchase date.

## **Note 9 — Commitments and Contingencies**

### ***Adverse Purchase Commitments***

The Company is contractually obligated to reimburse its contract manufacturers for the cost of excess inventory used in the manufacture of the Company's products, if there is no alternative use. This liability, referred to as adverse purchase commitments, is provided for in other accrued liabilities in the accompanying Consolidated Balance Sheets. Estimates for adverse purchase commitments are derived from reports received on a quarterly basis from the Company's contract manufacturers. Increases to this liability are charged to cost of goods sold. When and if the Company takes possession of inventory reserved for in this liability, the liability is transferred from other accrued liabilities to the excess and obsolete inventory valuation allowance. Adverse purchase commitments amounted to \$2.2 million and \$1.9 million at June 30, 2008 and December 31, 2007, respectively. For the six months ended June 30, 2008 and 2007, the Company recorded a net provision for adverse purchase commitments of \$1.2 million and \$879,000, respectively.

### ***Guarantees and Indemnification Obligations***

As permitted under Oregon law, the Company has agreements whereby it indemnifies its officers, directors and certain finance employees for certain events or occurrences while the officer, director or employee is or was serving in such capacity at the request of the Company. The term of the indemnification period is for the officer's, director's or employee's lifetime. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is unlimited; however, the Company has a director and officer insurance policy that limits its exposure and enables the Company to recover a portion of any future amounts paid. To date, the Company has not incurred any costs associated with these indemnification agreements and, as a result, management believes the estimated fair value of these indemnification agreements is minimal. Accordingly, the Company has not recorded any liabilities for these agreements as of June 30, 2008.

The Company enters into customary indemnification agreements in the ordinary course of business. Pursuant to these agreements, the Company indemnifies, holds harmless, and agrees to reimburse the indemnified party for losses suffered or incurred by the indemnified party, generally the Company's business partners or customers, in connection with patent, copyright or other intellectual property infringement claims by any third party with respect to the Company's current products, as well as claims relating to property damage or personal injury resulting from the performance of services by the Company or its subcontractors. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is generally limited. Historically, the Company's costs to defend lawsuits or settle claims relating to such indemnity agreements have been minimal and accordingly management believes the estimated fair value of these agreements is immaterial.

The Company provides for the estimated cost of product warranties at the time it recognizes revenue. Products are generally sold with warranty coverage for a period of 24 months after shipment. Parts and labor are covered under the terms of the warranty agreement. The workmanship of the Company's products produced by contract manufacturers is covered under warranties provided by the contract manufacturer for a specified period of time ranging from 12 to 15 months. The warranty provision is based on historical experience by product family. The Company engages in extensive product quality programs and processes, including actively monitoring and evaluating the quality of its components suppliers; however, ongoing failure rates, material usage and service delivery costs incurred in correcting product failure, as well as specific product class failures out of the Company's baseline experience affect the estimated warranty obligation. If actual product failure rates, material usage or service delivery costs differ from estimates, revisions to the estimated warranty liability would be required.



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The following is a summary of the change in the Company's warranty liability for the six months ended June 30, 2008 and 2007 (in thousands):

	For the Six Months Ended June 30,	
	2008	2007
Warranty liability balance, beginning of the period	\$ 2,494	\$ 2,000
Product warranty accruals	2,891	1,544
Utilization of accrual	(2,175)	(1,411)
Warranty liability balance, end of the period	\$ 3,210	\$ 2,133

The warranty liability balance is included in other accrued liabilities in the accompanying Consolidated Balance Sheets as of June 30, 2008 and December 31, 2007.

### Note 10 — Basic and Diluted Net Loss per Share

A reconciliation of the numerator and the denominator used to calculate basic and diluted loss per share is as follows (in thousands, except per share amounts):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2008	2007	2008	2007
<b>Numerator — Basic</b>				
Net loss, basic	\$ (2,774)	\$ (7,324)	\$ (9,112)	\$ (12,716)
<b>Numerator — Diluted</b>				
Net loss, basic	(2,774)	(7,324)	(9,112)	(12,716)
Interest on convertible notes, net of tax benefit (A)	—	—	—	—
Net loss, diluted	\$ (2,774)	\$ (7,324)	\$ (9,112)	\$ (12,716)
<b>Denominator — Basic</b>				
Weighted average shares used to calculate income (loss) per share, basic	22,423	21,802	22,335	21,742
<b>Denominator — Diluted</b>				
Weighted average shares used to calculate income (loss) per share, basic	22,423	21,802	22,335	21,742
Effect of convertible notes (A)	—	—	—	—
Effect of dilutive stock options, ESPP, and unvested restricted stock (B)	—	—	—	—
Weighted average shares used to calculate income (loss) per share, diluted	22,423	21,802	22,335	21,742
<b>Net loss per share:</b>				
Basic	\$ (0.12)	\$ (0.34)	\$ (0.41)	\$ (0.58)
Diluted (A)	\$ (0.12)	\$ (0.34)	\$ (0.41)	\$ (0.58)

(A) For the three and six months ended June 30, 2008 as-if converted shares associated with the 2023 and 2013 convertible senior notes were excluded from the calculation as the Company was in a loss position and their effect would be anti-dilutive. For the three and six months ended June 30, 2007, as-if converted shares associated with the 2023 convertible senior notes and the Company's previously outstanding convertible subordinated notes were excluded from the calculation as the effect would be anti-dilutive. For the three and six months ended June 30, 2007, the total number of as-if converted shares excluded from the calculation associated with the convertible subordinated notes was 36,000. For the three and six months ended June 30, 2008, the total number of as-if converted shares associated with the 2023 convertible senior notes was 1.8 million and 2.6 million, respectively. For the three and six months ended June 30, 2007, the total number of as-if converted shares associated with the 2023 convertible senior notes was 4.2 million. For the three and six months ended June 30, 2008, the total number of as-if converted shares associated with the 2013 convertible senior notes was 4.2 and 3.2 million, respectively.

(B) For the three and six months ended June 30, 2008, options amounting to 3.6 million shares, were excluded from the calculation as the Company was in a loss position and the effect would be anti-dilutive. For the three and six months ended June 30, 2007, options amounting to 3.5 million shares, were excluded from the calculation as the Company was in a loss position and the effect would be anti-dilutive.

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### Note 11 — Income Taxes

The Company's effective tax rate for the three months ended June 30, 2008 and 2007 differs from the statutory rate primarily due to the following:

- Canadian scientific research and experimental development claims,
- Federal research tax credits,
- Impact of stock option expense under SFAS 123R,
- Amortization of goodwill for tax purposes,
- Discrete items related to the revaluation of certain net deferred tax assets due to changes in foreign currency exchange rates,
- Changes in foreign tax rates and taxes on foreign income that differ from U.S. tax rate.

The expensing of stock options will create differences in book and taxable income on both a permanent and temporary basis. The Company is projecting a tax effected permanent difference of approximately \$1.7 million attributable to statutory options and stock option expense related to all non U.S. employees for the year ending 2008. The annual effective tax rate impact for this permanent difference is projected to be approximately 16.3%.

The Company's unrecognized tax benefits decreased by \$18,000 during the three months ended June 30, 2008 primarily due to the decrease in certain foreign tax rates. The Company's liability for potential interest and penalties associated with uncertain tax positions increased by \$28,000 and \$60,000 for the three and six months ended June 30, 2008, respectively. The cumulative potential interest and penalty balance as of June 30, 2008 was \$687,000. The Company does not anticipate that total unrecognized tax benefits will significantly change due to the settlement of examinations within the next twelve months. Unrecognized tax benefits, including accrued interest and penalties, anticipated to be recognized within the next twelve months due to the expiration of statute of limitations, amount to \$350,000.

### Note 12 — Stock-based Compensation

During the three months ended June 30, 2008, 91,000 stock options and 32,000 restricted stock units were issued to employees under the 2007 Stock Plan. During the six months ended June 30, 2008, 536,000 stock options and 194,000 restricted stock units were issued to employees under the 2007 Stock Plan.

For the three and six months ended June 30, 2008 and 2007, stock-based compensation was recognized and allocated as follows (in thousands):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2008	2007	2008	2007
Cost of sales	\$ 270	\$ 270	\$ 514	\$ 532
Research and development	785	712	1,597	1,314
Selling, general and administrative	1,456	1,668	2,937	3,035
Total	<u>2,511</u>	<u>2,650</u>	<u>5,048</u>	<u>4,881</u>

### Note 13 — Hedging

The Company's activities expose it to a variety of market risks, including the effects of changes in foreign currency exchange rates. During the first quarter of 2008, the Company entered into forward exchange contracts, designated as foreign-currency cash flow hedges, to reduce the potentially adverse effects of foreign currency exchange rate fluctuations that occur in the normal course of business.

These derivatives are recognized on the balance sheet at their fair value. Unrealized gain positions are recorded as other current assets and unrealized loss positions are recorded as other current liabilities as all maturity dates are less than one year. Changes in the fair values of the outstanding derivatives that are highly effective are recorded in other comprehensive income until net income is affected by the variability of the cash flows of the hedged transaction. Changes in the fair values of the derivatives not effective as hedging instruments are recognized in earnings in the current period. Results of hedges are recorded in the expense line item being hedged, which is primarily research, development, and engineering ("R&D"), when the underlying hedged transaction affects net income (loss).

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The Company assesses, both at the inception of the hedge and on an ongoing basis, whether the derivatives that are used in hedging transactions have been highly effective in offsetting changes in the cash flows of hedged items and whether those derivatives are expected to remain highly effective in future periods.

For the three and six months ended June 30, 2008, the Company had net foreign exchange hedge-related transaction gains of \$25,000 and \$67,000, respectively. As of June 30, 2008, the Company had forward contracts of \$3.9 million that mature monthly over the next six months. For the three and six months ended June 30, 2008, the Company had deferred unrealized gains on outstanding derivatives recorded as other comprehensive gain of \$30,000 and \$8,000, respectively, (net of tax). These amounts are expected to be reclassified from other comprehensive income (loss) to other income (expense) within the next twelve months. As of June 30, 2008, the Company had no ineffective hedges because forward foreign currency contract amounts were less than the specifically identified anticipated transactions.

### Note 14 — Segment Information

The Company has adopted SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information" ("SFAS 131"). SFAS 131 establishes standards for the reporting by public business enterprises of information about operating segments, products and services, geographic areas, and major customers. The method for determining what information to report is based upon the way that management organizes the segments within the Company for making operating decisions and assessing financial performance. The Company is one operating segment according to the provisions of SFAS 131.

Revenues on a product and services basis are as follows (in thousands):

	For the		For the	
	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2008	2007	2008	2007
Hardware	\$ 94,223	\$ 72,143	\$ 176,203	\$ 135,294
Software royalties and licenses	2,106	2,122	4,948	4,574
Software maintenance	803	517	1,579	753
Engineering and other services	478	748	928	1,762
Total revenues	\$ 97,610	\$ 75,530	\$ 183,658	\$ 142,383

Generally, the Company's customers are not the end-users of its products. The Company ultimately derives its revenues from two end markets as follows (in thousands):

	For the		For the	
	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2008	2007	2008	2007
Communications Networking	\$ 79,106	\$ 55,108	\$ 145,223	\$ 103,942
Commercial Systems	18,504	20,422	38,435	38,441
Total revenues	\$ 97,610	\$ 75,530	\$ 183,658	\$ 142,383

Information about the Company's geographic revenues and long-lived assets by geographical area is as follows (in thousands):

### Geographic Revenues

	For the		For the	
	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2008	2007	2008	2007
United States	\$ 26,694	\$ 27,331	\$ 49,728	\$ 50,120
Other North America	1,993	1,447	4,203	3,812
North America	28,687	28,778	53,931	53,932
Europe, the Middle East and Africa ("EMEA")	38,710	27,897	72,252	55,294
Asia Pacific	30,213	18,855	57,475	33,157
Total	\$ 97,610	\$ 75,530	\$ 183,658	\$ 142,383

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### Long-lived assets by Geographic Area

	June 30, 2008	December 31, 2007
<b>Property and equipment, net</b>		
United States	\$ 9,783	\$ 9,459
Other North America	799	987
EMEA	145	99
Asia Pacific	1,443	688
Total	<u>\$ 12,170</u>	<u>\$ 11,233</u>
<b>Goodwill</b>		
United States	\$ 37,033	\$ 37,033
Other North America	30,611	30,611
Total	<u>67,644</u>	<u>67,644</u>
<b>Intangible assets, net</b>		
United States	10,857	13,684
Other North America	5,703	9,838
EMEA	11,566	15,257
Total	<u>\$ 28,126</u>	<u>\$ 38,779</u>

For the three and six months ended June 30, 2008 and 2007, the following two customers accounted for more than 10% of total revenues:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2007	2008	2007
Nokia Siemens Networks	51.7%	39.3%	47.3%	36.3%
Nortel (A)	—	12.4%	—	10.6%

(A) For the three and six months ended June 30, 2008, sales to this customer did not represent more than 10% of the Company's total revenues.

As of June 30, 2008 and December 31, 2007, only one customer, Nokia Siemens Networks accounted for more than 10% of accounts receivable. This customer accounted for 51.1% and 39.4% of accounts receivable as of June 30, 2008 and December 31, 2007, respectively.

### Note 15 — Acquisition

On September 12, 2007, RadiSys completed its Acquisition (the "Acquisition") of certain assets of the MCPD, including products in the Advanced Telecommunications Architecture ("ATCA") and compact PCI lines, of Intel for \$31.8 million in cash at closing. The total preliminary purchase price of the Acquisition, which consists of the cash paid at closing and the estimated direct acquisition-related expenses of \$282,000, is currently estimated to be \$32.0 million and has been accounted for as a business combination using the purchase method under Statement of Financial Accounting Standards No. 141, "Business Combinations" ("SFAS 141"). Any additional direct expenses will be recorded as additional goodwill.

#### Preliminary Purchase Price Allocation

In accordance with the purchase method of accounting as prescribed by SFAS 141, the Company allocated the preliminary purchase price to the net tangible and identifiable intangibles assets, based on their estimated fair values. If information becomes available to the Company prior to the end of the purchase price allocation period or one year from the acquisition date, which would indicate that it is probable that such contingencies had existed and the amounts can be reasonably estimated, such items will be included in the final purchase price allocation. The preliminary purchase price has been allocated as follows (in thousands):

Prepaid inventory	6,580
Fixed assets	170
Identifiable intangible assets	15,200
Goodwill	<u>10,082</u>
Total preliminary purchase price	<u>\$32,032</u>

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**Note 16 — Legal Proceedings**

In the normal course of business, the Company may become involved in litigation. As of June 30, 2008, RadiSys had no pending litigation.

**Note 17 — Subsequent Events**

On August 7, 2008, the Company entered into a secured revolving line of credit agreement (the “Agreement”) with Silicon Valley Bank, as the Lender, which will replace the existing line of credit facility. The Agreement provides the Company with a two-year secured revolving credit facility of \$30.0 million, which is subject to a borrowing base and secured by its accounts receivable. Borrowings under the Agreement will bear interest at the LIBOR rate, currently at 2.47%, plus 1.25%. The Company is required to make interest payments monthly. The Company is further required to pay a commitment fee equal to 0.08% of the \$30.0 million maximum borrowing limit on an annual basis, and to pay quarterly in arrears, an unused facility fee in an amount equal to 0.375% per year of the unused amount of the facility. In addition, the credit facility provides sub-facilities for letters of credit and foreign exchange contracts to be issued on the Company’s behalf.

The credit facility requires that the Company make and maintain certain financial covenants, representations, warranties and other agreements that are customary in credit agreements of this type. The Agreement requires the Company to maintain a minimum current ratio (current assets divided by the sum of current liabilities less deferred revenue plus the amount of outstanding advances and letters of credit) of 1.3 through the third quarter of 2008, which rises to a ratio of 1.5 during quarterly periods thereafter. Additionally, any quarterly EBITDA (earnings before interest, taxes, depreciation, amortization, and stock based compensation, as defined in the Agreement) loss may not exceed \$2.5 million in any one quarter, and quarterly EBITDA may not be negative for any two consecutive quarters for the duration of the Agreement. Further, the Company’s EBITDA may not be negative for the nine months ended September 30, 2008 and the year ended December 31, 2008. For quarterly periods beginning after January 1, 2009, the Company must maintain a positive rolling four quarter EBITDA. In addition, the Company’s capital expenditures may not exceed \$12.0 million in any fiscal year.

Amounts borrowed and repaid are available for re-borrowing during the term of the facility. Outstanding amounts are due in full on the maturity date of August 6, 2010. Upon the occurrence of certain events of default specified in the Agreement, amounts due under the Agreement may be declared immediately due and payable.

**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

**Introduction and Overview**

RadiSys Corporation is a leading provider of advanced embedded solutions for the communications networking and commercial systems markets. Through innovative product planning, intimate customer collaboration, and the combination of innovative technologies and industry leading architecture, we help original equipment manufacturers (“OEMs”), systems integrators and solution providers bring better products to market faster and more economically. Our products include embedded boards, application enabling platforms and turn-key systems, which are used in today’s complex computing, processing and network intensive applications. Unless context otherwise requires, or as otherwise indicated, “we,” “us,” “our” and similar terms, as well as references to the “Company” and “RadiSys” refer to RadiSys Corporation and include all of our consolidated subsidiaries.

**Our Markets**

We provide application enabling solutions to the following two distinct markets:

- *Communications Networking* — The communications networking market consists primarily of networking infrastructure and applications for deployment within the wireless and IP networking and messaging markets. Applications in these markets include 2, 2.5 and 3G wireless infrastructure products, IP media server platforms, packet-based switches, unified messaging solutions, voice messaging, multimedia messaging, video distribution, network access, security and switching applications.
- *Commercial Systems* — The commercial systems market includes the following sub-markets: medical systems, military equipment, test and measurement equipment, transaction terminals and industrial automation equipment. Examples of products that incorporate our commercial embedded solutions include ultrasound equipment, X-Ray machines, MRI scanners, immunodiagnostics and hematology systems, CAT scan imaging equipment, network and production test equipment, consumer transaction terminals, semiconductor manufacturing equipment and electronics assembly equipment.

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### Market Drivers

We believe there are a number of fundamental drivers for growth in the embedded solutions market, including:

- Increasing desire by OEMs to utilize standards-based, merchant-supplied modular building blocks and platforms to develop their new systems. We believe OEMs are combining their internal development efforts with merchant-supplied building blocks and platforms, from partners like RadiSys, to deliver a larger number of more valuable new products to market faster at a lower total cost.
- Increasing usage levels of general purpose technologies, such as Ethernet, IP, Linux, media processing and central processing units (“CPUs”), graphics processing units and network processing units (“NPU’s”), to provide programmable, intelligent and networked functionality to a wide variety of applications, including wireless, wireline and data communications, network security, image processing, transaction and monitoring and control.
- Increasing demand for standards-based solutions, such as ATCA, Session Initiation Protocol, IP Multimedia Subsystem (“IMS”) and Computer-on-Module Express (“COM Express”), which motivates system makers to take advantage of proven and validated standards-based products.
- Continued emergence, growth and evolution of applications utilizing next generation technologies and standards such as long term evolution (“LTE”) and worldwide interoperability for microwave access (“WiMAX”), both of which are supported by ATCA.

### Our Solutions

We provide our customers with standards-based and custom advanced embedded solutions that enable them to focus their resources and development efforts on their key areas of differentiation and allow them to provide higher value systems with a time-to-market advantage and a lower total cost.

Key benefits of our solutions include:

*Broad portfolio of embedded solution products.* Our product lines include a large portfolio of embedded solutions, integrated platforms and turnkey systems. Our product portfolio allows us to address a range of customer requirements and applications. We believe that over time many of our customers will increasingly rely on a smaller set of vendors who can address a broader set of their embedded solution needs.

*Deep pool of technical resources.* Our research and development staff has extensive experience in designing embedded hardware and software solutions. Our customers benefit from the broad array of standards-based solutions that our R&D staff continues to develop and support, as well as our staff’s experience in designing perfect fit solutions for our customers.

*Reduced time to market.* We offer standards-based, ready-made solutions such as ATCA-based solutions for the communications networking market and COM Express solutions for the commercial market. These standards-based solutions combined with our strong technical resources provide our OEM customers with more flexibility and reduced time-to-market than if they developed these solutions internally.

*Leading, high-performance technology.* We have been the first to market with many technological advancements such as the industry’s first 10-Gigabit common managed platform, and we are a leader in areas such as IP conferencing and COM Express new product development. Our design capabilities extend to CPUs, NPUs, digital signal processing and integrated software managed platforms, such as media and application servers, as well as many other areas.

### Our Strategy

*Build market leadership in standards-based advanced embedded solutions in our target markets.* We believe this strategy enables our customers to focus their resources and development efforts on their key areas of competency allowing them to provide higher value systems with a time-to-market advantage and a lower total cost. We are currently one of the leading vendors in ATCA and COM Express embedded solutions, as well as IP Media Servers. We intend to continue to invest significant research and development and sales and marketing resources to build our presence in these market segments.

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*Develop our offering of higher value platform solutions.* Historically, the majority of our revenues have been from the sale of boards or blades. While we will continue to focus on these products, we have spent and continue spending considerable resources developing turnkey platform solutions that incorporate complete hardware systems as well as embedded software developed by us or third parties. These platforms provide an additional revenue opportunity for us, and we believe revenues from these products have the potential to generate higher average selling prices and higher gross margins than those provided from the sale of boards or blades alone.

*Expand our global customer base.* We continue to expand the number of customers that we work with, particularly as more customers become aware of the benefits of standards-based embedded solutions. Our global reach allows us to market our solutions to most leading system vendors in our target markets. In addition, our acquisitions of Convedia Corporation (“Convedia”) and certain assets of the MCPD business from Intel provide us access to additional customers to whom we intend to market our full product line.

*Explore new partnerships and strategic acquisitions as a means to build leadership in our target markets.* We continue to investigate partnerships and strategic relationships which can expand the number of solutions we offer and increase our market reach. We also continue to evaluate potential acquisition opportunities to acquire new capabilities, which can help us achieve our strategic goals. For example, in the last two years, we acquired Convedia, a closely-held vendor of IP media servers, and the Intel MCPD business which included ATCA and compact PCI product lines.

In the following discussion of our financial condition and results of operations, we intend to provide information that will assist in understanding our consolidated financial statements, the changes in certain key items in those financial statements from year to year, and the primary factors that accounted for those changes. This discussion should be read in conjunction with our consolidated financial statements and the related notes included elsewhere in this filing and in our annual report on Form 10-K for the year ended December 31, 2007.

Certain statements made in this section of the report are forward-looking statements. Please see the information contained herein under the sections entitled “Forward-looking Statements” and “Risk Factors.”

## Overview

*Promentum® ATCA Product Line*—During the first half of 2008, we introduced two new products in our Promentum® ATCA product portfolio. First was the Promentum® ATCA-4310, a 10 Gigabit ATCA single-slot processor blade. We believe this product provides enhanced features for compute-intensive applications where transaction and subscriber load can increase dramatically in short intervals, such as IMS, IPTV and Wireless Control Plan based applications. The second was the Promentum® ATCA-7220 Dual OCTEON™ PLUS Packet Processing Module, the industry’s first blade to enable highest density of Gigabit Ethernet interfaces in a single slot with significantly higher processing power and bandwidth access when compared to other platforms available today.

During the second quarter of 2008, we received the 2007 Communications Solutions Product of the Year Award for the Promentum ATCA MCPBL0050 CPU blade and the Promentum ATCA 7220 CPU blade with smart front-end architecture. The Communications Solutions Product of the Year Awards recognize the most innovative products that facilitate voice, data and video communications, or combinations thereof.

*Procelerant® COM Express Product Line*—During the first half of 2008, we introduced two new products in our Procelerant® portfolio. First was the Procelerant® Quad-core server, the industry’s first embedded server to incorporate the latest Intel® Quad-core Xeon® processors. Intended for medical and other imaging, test and measurement, and other digital signal processing applications, the Procelerant® RMS420-5000XSL Quad-core server supports superior image processing at a higher resolution and with greater speed compared to previous embedded servers. Second was the Procelerant® CE945GM2A COM Express module that targets value-priced industrial automation, gaming and test and measurement applications. The Procelerant® CE945GM2A replaces older ETX technology at a comparable price point, enabling high-speed serial interface options such as PCI Express, Serial ATA (SATA) and gigabit ethernet.

During the second quarter of 2008, we introduced CEGM45, with the Intel® Core™ 2 Duo processor T9400 for high-performance portable implementations in medical and machine imaging, test and measurement, and communications. This product is early to market and brings lower power and increased processing capability.

*Convedia® Media Server Product Line*—In the second quarter of 2008, we announced the addition of continuous presence (CP) capabilities in our Convedia® media server family. More specifically, our new “continuous presence” (CP) video conferencing mode will support multiple real-time video streams within a unified multi-pane display and deliver an “immersive” video experience for desktop conferencing users. This new capability will benefit our customers who wish to add feature-rich video conferencing capabilities to their communications solutions.



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In addition, in the second quarter of 2008, we announced that our Convedia<sup>®</sup> media server family now supports automatic speech recognition (ASR), or converting human speech to computer data, and text-to-speech (TTS) capabilities in multiple languages for IP contact center application developers and service providers. This new capability will not only allow our customers to accelerate the introduction of new services, but will also competitively differentiate their products in next-generation IP contact centers.

### ***Financial Results***

Total revenue was \$97.6 million and \$75.5 million for the three months ended June 30, 2008 and 2007, respectively. Total revenue was \$183.7 million and \$142.4 million for the six months ended June 30, 2008 and 2007, respectively. Backlog was approximately \$49.4 million and \$33.8 million at June 30, 2008 and December 31, 2007, respectively. Backlog includes all purchase orders scheduled for delivery within 12 months. The increase in revenues for the three and six months ended June 30, 2008 compared to the same periods in 2007 is primarily due to the addition of MCPD revenues, higher wireless revenues, higher next generation communications revenues from ATCA and media server products, partially offset by decreased revenues from our older products in the IP networking and messaging submarket and decreased revenues in the commercial test and measurement and medical submarkets.

Net loss was \$2.8 million and \$7.3 million for the three months ended June 30, 2008 and 2007, respectively. Net loss per share was \$0.12 and \$0.34 for the three months ended June 30, 2008 and 2007, respectively. Net loss was \$9.1 million and \$12.7 million for the six months ended June 30, 2008 and 2007, respectively. Net loss per share was \$0.41 and \$0.58 for the six months ended June 30, 2008 and 2007, respectively. The decrease in net loss from 2007 to 2008 is primarily due to increased revenues resulting from the addition of MCPD along with increased wireless and next generation communication revenues from ATCA and media server products. Gross margin increased favorably for the three and six months ended June 30, 2008 primarily due to operational improvements including lower excess and obsolete inventory charges, the absence of significant charges associated with the transition from our North Carolina manufacturer, as well as a greater amount of revenues from higher margin products. Furthermore, our operating expenses as a percent of revenues decreased 5.5 percentage points to 28.7% for the three months ended June 30, 2008 from 34.2% for the three months ended June 30, 2007. Operating expenses as a percent of revenues decreased 4.6 percentage points to 29.9% for the six months ended June 30, 2008 from 34.5% for the six months ended June 30, 2007. Operating expenses are up \$2.2 million and \$5.8 million for the three and six months ended June 30, 2008, respectively, as compared to the same periods in 2007 primarily due to the addition of MCPD acquired operating expenses, increased MCPD intangible asset amortization, increased sales commissions and increased incentive compensation, all of which were partially offset by decreased restructuring charges.

Cash and cash equivalents and investments amounted to \$115.0 million and \$123.3 million at June 30, 2008 and December 31, 2007, respectively. The decrease in cash and cash equivalents and investments during the six months ended June 30, 2008, is primarily due to the repurchase of \$60.9 million of our 2023 senior convertible notes offset partially by net proceeds from the issuance of our 2013 convertible senior notes of \$42.3 million. The decrease is also due to a temporary impairment charge of \$4.4 million recognized during the six months ended June 30, 2008 to reflect our auction rate securities ("ARS") at fair value. These decreases were partially offset by cash provided by operating activities during the six months ended June 30, 2008 of \$16.3 million.

### ***Convertible Debt***

On February 6, 2008, we offered and sold in a public offering pursuant to a shelf registration statement \$55.0 million aggregate principal amount of our 2013 convertible senior notes. In connection with the issuance of the 2013 convertible senior notes, we entered into a capped call transaction with a hedge counterparty. The net proceeds from the sale of the 2013 convertible senior notes were approximately \$42.3 million, after deducting underwriting discounts and commissions, estimated offering expenses and the cost of the capped call transaction.

Also during the first quarter of 2008, we repurchased \$52.5 million aggregate principal amount of our 2023 convertible senior notes, with an associated discount of \$1.3 million. We repurchased the notes in the open market for \$51.1 million and, as a result, recorded a gain of \$68,000. During the second quarter of 2008, we repurchased \$10.0 million aggregate principal amount of our 2023 convertible senior notes, with an associated discount of \$240,000. We repurchased the notes in the open market for \$9.8 million and, as a result, recorded a loss of \$31,000.

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### **Critical Accounting Policies and Estimates**

We reaffirm our critical accounting policies and use of estimates as reported in our Annual Report on Form 10-K for the year ended December 31, 2007. There have been no significant changes during the three and six months ended June 30, 2008 to the items that we disclosed as our critical accounting policies and estimates in Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the fiscal year ended December 31, 2007 except as follows:

#### ***Derivatives***

During the first quarter of 2008, we entered into forward foreign currency exchange contracts to reduce the impact of foreign currency exchange risks where natural hedging strategies could not be effectively employed.

We do not hold or issue derivative financial instruments for trading purposes. The purpose of our hedging activities are to reduce the risk that the eventual cash flows of the underlying assets, liabilities and firm commitments will be adversely affected by changes in exchange rates. In general, our hedging activities do not create foreign currency exchange rate risk because fluctuations in the value of the instruments used for hedging purposes are offset by fluctuations in the value of the underlying exposures being hedged. Counterparties to derivative financial instruments expose us to credit-related losses in the event of nonperformance. We do not believe there is a significant credit risk associated with our hedging activities because the counterparties are all large financial institutions with high credit ratings.

All derivatives, including foreign currency exchange contracts are recognized on the balance sheet at fair value. When specific criteria required by SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities" (SFAS 133) have been met, changes in the fair values of hedge contracts related to anticipated transactions are recorded in other comprehensive income (loss) rather than net income (loss) until the underlying hedged transaction affects net income. One of the criteria for this accounting treatment is that the forward foreign currency exchange contract amount should not be in excess of specifically identified anticipated transactions. By their nature, estimates of anticipated transactions may fluctuate over time and may ultimately vary from actual transactions. If anticipated transaction estimates or actual transaction amounts decrease below hedged levels, or when the timing of transactions change significantly, we would reclassify a portion of the cumulative changes in fair values of the related hedge contracts from other comprehensive income (loss) to other income (expense) during the quarter in which the changes occur.

We adopted SFAS No. 157, "Fair Value Measurements," (SFAS 157); however the adoption did not have a material impact on the Company's results of operations.

#### ***Revenue Recognition***

During 2007, we began to defer revenue associated with sales made to distributors brought over from our acquisition of certain MCPD assets of Intel. Because of frequent sales price reductions and rapid technology obsolescence in the industry, sales made to some distributors under agreements allowing price protection and/or right of return are deferred until the distributors sell the merchandise. During the first quarter of 2008, we entered into new arrangements with our significant distributors servicing the MCPD business. For a few of these distributors, we eliminated some of the price adjustment programs. For those distributors where significant price adjustment programs remain in place, we will continue to defer revenue until the distributors sell the merchandise.

Our revenue reporting for these distributors is highly dependent on receiving pertinent and accurate data from our distributors in a timely fashion. Distributors provide us periodic data regarding the product, price, quantity, and end customer when products are resold as well as the quantities of our products they still have in stock. We must use estimates and apply judgments to reconcile distributors' reported inventories to their activities. Any error in our judgment could lead to inaccurate reporting of our revenues, deferred income and allowances on sales to distributors, and net income.

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**Results of Operations**

The following table sets forth certain operating data as a percentage of revenues for the three and six months ended June 30, 2008 and 2007 (in thousands, except percentages).

	For the		For the	
	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2008	2007	2008	2007
Revenues	100.0%	100.0%	100.0%	100.0%
Cost of sales:				
Cost of sales	70.9	75.2	71.6	73.4
Amortization of purchased technology	4.0	4.3	4.4	4.5
Total cost of sales	74.9	79.5	76.0	77.9
Gross margin	25.1	20.5	24.0	22.1
Research and development	13.4	15.3	14.0	15.6
Selling, general, and administrative	13.4	15.7	14.1	16.3
Intangible assets amortization	1.3	1.3	1.4	1.5
Restructuring and other charges	0.6	1.9	0.4	1.1
Loss from operations	(3.6)	(13.7)	(5.9)	(12.4)
Interest expense	(0.7)	(0.6)	(0.7)	(0.6)
Interest income	0.7	2.2	1.1	2.3
Other (expense) income, net	(0.2)	(0.1)	0.0	(0.1)
Loss before income tax benefit	(3.8)	(12.2)	(5.5)	(10.8)
Income tax benefit	(1.0)	(2.5)	(0.5)	(1.9)
Net loss	(2.8)%	(9.7)%	(5.0)%	(8.9)%

**Comparison of Three and Six Months Ended June 30, 2008 and 2007**

**Revenues**

Revenues increased by \$22.1 million or 29.2%, from \$75.5 million in the three months ended June 30, 2007 to \$97.6 million in the three months ended June 30, 2008. Revenues increased by \$41.3 million or 29.0%, from \$142.4 million in the six months ended June 30, 2007 to \$183.7 million in the six months ended June 30, 2008.

The increase in revenues for the three and six months ended June 30, 2008 compared to the same periods in 2007 is primarily due to increases in the communications networking market of \$24.0 million and \$41.3 million, respectively. These increases were slightly offset by decreased revenues in the commercial systems market of \$1.9 million during the three months ended June 30, 2008. For the six months ended June 30, 2008, revenues in the commercial systems market were flat when compared to the same period in the prior year.

The following table sets forth our revenues by market (in thousands):

	For the			For the		
	Three Months Ended			Six Months Ended		
	June 30,			June 30,		
	2008	2007	Change	2008	2007	Change
Communications Networking	\$ 79,106	\$ 55,108	\$ 23,998	\$ 145,223	\$ 103,942	\$ 41,281
Commercial Systems	18,504	20,422	(1,918)	38,435	38,441	(6)
Total revenues	\$ 97,610	\$ 75,530	\$ 22,080	\$ 183,658	\$ 142,383	\$ 41,275

**Communications Networking Market**

Revenues in the communications networking market increased in the three and six months ended June 30, 2008 compared to the same periods in 2007 primarily due to the addition of MCPD revenues along with increased wireless and next generation communication revenues from ATCA and media server products. These increased revenues were partially offset by lower revenues from older products in the IP networking and messaging submarket as some of these products are approaching end of life.

**Commercial Systems Market**

Revenues in the commercial systems market decreased in the three months ended June 30, 2008 compared to the same period in 2007, primarily due to decreased revenues in the commercial medical market. The decreased revenues during the three months ended June 30, 2008 were due to the absence of a significant buy from one of our customers which occurred in the second quarter of 2007 along with overall softness in this market. These decreases were partially offset by increased revenues for new products associated with military applications, which are now ramping into production.

Given the dynamics of these markets, we may experience general fluctuations in the percentage of revenue attributable to each market and, as a result, the quarter to quarter comparisons of our markets often are not indicative of overall economic trends affecting the long-term performance of our markets. We currently expect that each of our markets will continue to represent a significant portion of total revenues.

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From a geographic perspective, for the three and six months ended June 30, 2008 compared to the same periods in 2007 the percentage of non-US revenues by delivery destination increased as a percentage of total revenues. Revenues from the EMEA and Asia Pacific regions increased by \$10.8 million and \$11.4 million, respectively for the three months ended June 30, 2008, as compared to the three months ended June 30, 2007. Revenues from the EMEA and Asia Pacific regions increased by \$17.0 million and \$24.3 million, respectively for the six months ended June 30, 2008 as compared to the six months ended June 30, 2007. The increase in revenues in the Asia Pacific region is primarily due to the addition of MCPD revenues along with increased wireless and media server revenues. These increases were partially offset by lower test and measurement revenues. The increase in revenues from the EMEA region is primarily due to higher wireless, media server, and new MCPD revenues. These increases were partially offset by decreases in IP networking and messaging and medical revenues. For the three and six months ended June 30, 2008, revenues from North America remained flat compared to the same periods in 2007. We currently expect continued fluctuations in the percentage of revenue from each geographic region.

### Gross Margin

Gross margins as a percentage of revenues were 25.1% and 20.5% for the three months ended June 30, 2008 and 2007, respectively. Gross margins as a percentage of revenues were 24.0% and 22.1% for the six months ended June 30, 2008 and 2007, respectively. The increase in gross margin as a percentage of revenues for the three and six months ended June 30, 2008 compared to the same periods in 2007 is primarily due to operational improvements including lower excess and obsolete inventory charges, the absence of charges associated with the transition from our North Carolina manufacturer, as well as a greater amount of revenues from higher margin products.

### Research and Development

R&D expenses consist primarily of salary, bonuses and benefits for product development staff, and cost of design and development supplies and equipment, net of reimbursements for nonrecurring engineering services. R&D expenses increased \$1.5 million, or 13.2%, from \$11.5 million for the three months ended June 30, 2007 to \$13.0 million for the three months ended June 30, 2008. R&D expenses increased \$3.4 million, or 15.2%, from \$22.3 million for the six months ended June 30, 2007 to \$25.7 million for the six months ended June 30, 2008. This increase, compared to the same period in 2007, is primarily due to the addition of the MCPD business, which includes headcount and integration expenses as well as stock-based compensation expense, along with increased incentive compensation costs.

### Selling, General, and Administrative

Selling, general and administrative ("SG&A") expenses consist primarily of salary, commissions, bonuses and benefits for sales, marketing, executive and administrative personnel, as well as professional services and costs of other general corporate activities. SG&A expenses increased by \$1.3 million or 10.8%, from \$11.8 million for the three months ended June 30, 2007 to \$13.1 million for the three months ended June 30, 2008. SG&A expenses increased by \$2.7 million or 11.6%, from \$23.3 million for the six months ended June 30, 2007 to \$26.0 million for the six months ended June 30, 2008. This increase, as compared to the same period in 2007, is primarily due to increased incentive compensation, including sales commission costs, associated with both new product design wins as well as improved operating results. The increase in SG&A from the same period in 2007 was further driven by the addition of the MCPD business, which includes increased headcount and integration expenses, as well as an additional stock-based compensation expense compared to the same period in 2007.

### Stock-based Compensation Expense

Stock-based compensation expense consists of amortization of stock-based compensation associated with stock options, restricted shares and shares issued to employees as a result of the employee stock purchase plan ("ESPP"). Stock-based compensation expense decreased by \$0.2 million or 5.0%, from \$2.7 million for the three months ended June 30, 2007 to \$2.5 million for the three months ended June 30, 2008. Stock-based compensation expense increased by \$0.1 million or 3.4%, from \$4.9 million for the six months ended June 30, 2007 to \$5.0 million for the six months ended June 30, 2008.

We recognized stock-based compensation expense as follows (in thousands):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2008	2007	2008	2007
Cost of sales	\$ 270	\$ 270	\$ 514	\$ 532
Research and development	785	712	1,597	1,314
Selling, general and administrative	1,456	1,668	2,937	3,035
Total	2,511	2,650	5,048	4,881

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### Deferred Compensation Expense

On September 1, 2006, all outstanding Convedia stock options vested and were considered exercised immediately. The proceeds of which were distributed as follows: 75% of the purchase price per share less the exercise price was paid to the option holder at closing and the remaining 25% will be paid in full to those Convedia employees still employed by RadiSys after one year of service. The 75% paid at the time of the acquisition is included in the purchase price and is allocated to goodwill. The remaining 25% is recorded as deferred compensation and amortized through the Consolidated Statement of Operations for the life of the asset (one year). Pursuant to the purchase agreement any forfeitures are reallocated to the remaining Convedia employees. We paid the remaining 25% of the proceeds calculation on September 30, 2007.

We recognized deferred compensation expense as follows (in thousands):

	For the		For the	
	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2007	2008	2007
Cost of sales	\$ —	\$ 25	\$ —	\$ 50
Research and development	—	160	—	320
Selling, general and administrative	—	282	—	564
Total	\$ —	\$ 467	\$ —	\$ 934

### Intangible Assets Amortization

Intangible assets consist of purchased technology, patents and other identifiable intangible assets. Intangible assets amortization expense included within operating expenses was \$1.3 million and \$1.0 million for the three months ended June 30, 2008 and 2007, respectively. Intangible assets amortization expense included within operating expenses was \$2.6 million and \$2.0 million for the six months ended June 30, 2008 and 2007, respectively. Intangible assets amortization increased due to intangible assets acquired with the purchase of the MCPD business. We perform reviews for impairment of the purchased intangible assets when events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

### Restructuring and Other Charges

We evaluate the adequacy of the accrued restructuring and other charges on a quarterly basis. As a result, we record certain reclassifications and reversals to the accrued restructuring and other charges based on the results of the evaluation. The total accrued restructuring and other charges for each restructuring event are not affected by reclassifications. Reversals are recorded in the period in which we determine that expected restructuring and other obligations are less than the amounts accrued. Tables summarizing the activity in the accrued liability for each restructuring event are contained in Note 6 — *Accrued Restructuring and Other Charges* of the Notes to the Unaudited Consolidated Financial Statements.

#### Fourth Quarter 2006 Restructuring

During the fourth quarter of 2006, we initiated a restructuring plan that included the elimination of 12 positions primarily supporting our contract manufacturing operations as a result of the termination of our relationship with one of our contract manufacturers in North America. The restructuring plan also includes closing our Charlotte office, which we expect to be completed in December 2008. During the three and six months ended June 30, 2007, we incurred additional severance and other employee-related separation costs of \$52,000 and \$113,000 partially offset by reversals of \$97,000 and \$197,000 and expenditures of \$30,000 and \$80,000, respectively, associated with three employees that found new positions within the Company. During the three and six months ended June 30, 2008, we recorded \$23,000 and \$28,000 of amortization, respectively, associated with the closing of our Charlotte office.

#### Second Quarter 2007 Restructuring

During the three and six months ended June 30, 2007, we incurred employee-related expenses of \$1.4 million associated with skill set changes for approximately 20 employees. No such charges were incurred in the three or six months ended June 30, 2008. The changes involved creating an integrated structure with the media server business along with some skill set changes in certain selling, general and administrative and engineering groups. The costs incurred in this restructuring event include employee severance and medical benefits, and associated legal costs. All restructuring activities were completed by March 31, 2008.

#### Second Quarter 2008 Restructuring

During the second quarter of 2008, we initiated a restructuring plan that included the elimination of 23 positions and as a result, we incurred employee-related expenses of \$598,000, during the three and six months end June 30, 2008. The restructuring was primarily initiated with the intent to return our engineering spend to levels which align with targeted profitability as well as refocus our skill sets in order to promote new product growth and provide enhanced service and support to existing customers. We expect to complete all activities associated with the restructuring by March 31, 2009.

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### ***Interest Expense***

Interest expense includes interest incurred on the convertible senior notes. Interest expense increased \$247,000 or 57.3%, from \$431,000 for the three months ended June 30, 2007 to \$678,000 for the three months ended June 30, 2008. Interest expense increased \$398,000 or 46.1%, from \$863,000 for the six months ended June 30, 2007 to \$1,261,000 for the six months ended June 30, 2008. The increase in the interest expense for the three and six months ended June 30, 2008 compared to the same periods in 2007 is due to the issuance of \$55.0 million of our 2013 convertible senior notes on February 6, 2008 with an interest rate of 2.75% partially offset by the repurchase of \$62.5 million of our 2023 convertible senior notes during the six months ended June 30, 2008 with an interest rate of 1.375%.

### ***Interest Income***

Interest income decreased \$1.0 million, or 60.3%, from \$1.6 million for the three months ended June 30, 2007 to \$646,000 for the three months ended June 30, 2008. Interest income decreased \$1.3 million, or 40.1%, from \$3.3 million for the six months ended June 30, 2007 to \$2.0 million for the six months ended June 30, 2008. Interest income decreased as a result of a lower average balance of cash, cash equivalents and investments for the three and six months ended June 30, 2008 compared to the same period in 2007 as well as a decline in the average yield on investment holdings. The decline in our average investment yield was driven primarily by lower reset interest rates associated with our ARS interest rates coupled with a shift in our investment portfolio.

### ***Other Income (Expense), Net***

Other income (expense), net, primarily includes foreign currency exchange gains and losses. Other income (expense), net, was \$(146,000) and \$(65,000) for the three months ended June 30, 2008 and 2007, respectively. Other income (expense), net, was \$9,000 and \$(121,000) for the six months ended June 30, 2008 and 2007, respectively.

Foreign currency exchange rate fluctuations resulted in a net loss of \$122,000 and \$56,000 for the three months ended June 30, 2008 and 2007, respectively. Foreign currency exchange rate fluctuations resulted in a net gain of \$3,000 and a net loss of \$71,000 for the six months ended June 30, 2008 and 2007, respectively.

In addition to foreign currency exchange rate fluctuations, other income (expense), net, for the three and six months ended June 30, 2008 included losses associated with our deferred compensation plan of \$11,000 and \$53,000. Other income (expense), net, for the three and six months ended June 30, 2007 included losses associated with our deferred compensation plan of \$8,000 and \$44,000. Also, during the three and six months ended June 30, 2008, we repurchased \$10.0 million and \$62.5 million aggregate principal amount of the 2023 convertible senior notes resulting in a net loss of \$31,000 and a net gain \$37,000, respectively.

### ***Income Tax Benefit***

We recorded tax benefits of \$939,000 and \$1.9 million during the three months ended June 30, 2008 and 2007, respectively. We recorded tax benefits of \$961,000 and \$2.7 million during the six months ended June 30, 2008 and 2007, respectively. The decrease in the effective tax rate for the six months ended June 30, 2008, from the tax rate for the year ended December 31, 2007, is primarily due to revaluation of certain net deferred tax assets caused by changes in foreign currency exchange rates and taxes on foreign income that differ from U.S. tax rate.

The Tax Relief and Health Care Act of 2006 extended the research and development tax credit through December 31, 2007. We have not recognized a tax benefit for the federal research and development tax credit in our tax provision for the three months ended June 30, 2008. If the research and development tax credit is extended through December 31, 2008, we will evaluate the tax benefit at that time.

The 2008 estimated effective tax rate is based on current tax law and current expected income and assumes that we continue to receive tax benefits associated with certain income associated with foreign jurisdictions. The tax rate may be affected by potential acquisitions, restructuring events or divestitures, the jurisdictions in which profits are determined to be earned and taxed, and the ability to realize deferred tax assets.

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### Liquidity and Capital Resources

The following table summarizes selected financial information as of the dates indicated and for the six months ended June 30, 2008 and 2007 and for the year ended December 31, 2007:

	June 30, 2008	December 31, 2007	June 30, 2007
	(Dollar amounts in thousands)		
Cash and cash equivalents	\$ 56,645	\$ 50,522	\$ 31,671
Short-term investments	\$ —	\$ 72,750	\$ 91,400
Long-term investments, net	\$ 58,311	\$ —	\$ 10,000
Cash and cash equivalents and investments	\$ 114,956	\$ 123,272	\$ 133,071
Working capital	\$ 49,381	\$ 61,840	\$ 162,994
Accounts receivable, net	\$ 55,797	\$ 70,548	\$ 57,959
Inventories, net	\$ 33,533	\$ 23,101	\$ 28,758
Accounts payable	\$ 46,487	\$ 49,675	\$ 39,451
2023 convertible senior notes, net	\$ 36,611	\$ 97,548	\$ 97,480
2013 convertible senior notes	\$ 55,000	\$ —	\$ —
Convertible subordinated notes	\$ —	\$ —	\$ 2,416
Days sales outstanding (A)	52	79	70
Days to pay (B)	61	76	63
Inventory turns (C)	8.3	8.2	7.9
Inventory turns — days (D)	44	29	46
Cash cycle time — days (E)	35	32	53

(A) Based on ending net trade receivables divided by daily revenue (quarterly revenue, annualized and divided by 365 days).

(B) Based on ending accounts payable divided by daily cost of sales excluding amortization of purchased technology (quarterly cost of sales, annualized and divided by 365 days).

(C) Based on quarterly cost of sales excluding amortization of purchased technology, annualized divided by ending inventory.

(D) Based on ending inventory divided by daily cost of sales excluding amortization of purchased technology (quarterly cost of sales, annualized and divided by 365 days).

(E) Days sales outstanding plus inventory turns - days, less days to pay.

Cash and cash equivalents increased by \$6.1 million from \$50.5 million at December 31, 2007 to \$56.6 million at June 30, 2008. Activities impacting cash and cash equivalents are as follows:

#### Cash Flows

	For the Six Months Ended June 30,	
	2008	2007
	(In thousands)	
Cash provided by (used in) operating activities	\$ 16,325	\$ (4,589)
Cash provided by investing activities	6,072	10,277
Cash (used in) provided by financing activities	(16,501)	2,232
Effects of exchange rate changes	227	17
Net increase in cash and cash equivalents	\$ 6,123	\$ 7,937

During the six months ended June 30, 2008 and 2007, we used \$3.6 million and \$2.7 million, respectively, for capital expenditures. During the six months ended June 30, 2008, capital expenditures were primarily associated with integrating the MCPD business as well as various hardware purchases made to upgrade our internal infrastructure. During the six months ended June 30, 2007, capital expenditures were primarily associated with integrating the media server business, upgrading our internal infrastructure as well as increasing manufacturing capabilities in our Hillsboro facility.

During the six months ended June 30, 2008 and 2007, we received \$2.5 million, in each period, in proceeds from the issuance of common stock through our stock compensation plans.

Changes in foreign currency rates impacted beginning cash balances during the six months ended June 30, 2008 by \$227,000. Due to our international operations where transactions are recorded in functional currencies other than the U.S. Dollar, the effects of changes in foreign currency exchange rates on existing cash balances during any given period results in amounts on the consolidated statements of cash flows that may not reflect the changes in the corresponding accounts on the Consolidated Balance Sheets.

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As of June 30, 2008 and December 31, 2007 working capital was \$49.4 million and \$61.8 million, respectively. Working capital decreased by \$12.4 million due primarily to the reclassification of short-term investments to long-term partially offset by the repurchase of our 2023 convertible senior notes.

### Investments

Investments consisted of the following (in thousands):

	June 30, 2008	December 31, 2007
Short-term available for sale investments	\$ —	\$ 72,750
Long-term available for sale investments	\$ 58,311	\$ —

We currently hold investments in ARS, which are highly rated debt instruments with a long-term nominal maturity for which the interest rate is set through a "Dutch Auction" process. The majority of our ARS investments represent interests in collateralized debt obligations supported by pools of government-backed student loans with S&P AAA ratings or Moody's Aaa ratings at the time of purchase. These investments have been classified as available-for-sale investments. Available-for-sale securities are recorded at fair value, and unrealized holding gains and losses are recorded, net of tax, as a separate component of accumulated other comprehensive income.

Between December 31, 2007 and February 7, 2008, we sold at par value \$10.0 million in ARS of the total ARS balance of \$72.8 million which was held at December 31, 2007. During the first quarter of 2008, due to liquidity issues experienced in the global credit and capital markets, our remaining portfolio of ARS investments experienced multiple failed auctions as the amount of securities submitted for sale exceeded the amount of purchase orders. An auction failure, which is not a default in the underlying debt instrument, occurs when there are more sellers than buyers at a scheduled interest rate auction date and parties desiring to sell their auction rate securities are unable to do so. When an auction fails, the interest rate is adjusted according to the provisions of the associated security agreement, which may result in an interest rate that is higher than the interest rate the issuer pays in connection with successful auctions. We will not be able to liquidate the investments until a successful auction occurs, a buyer is found outside the auction process, the securities are called or refinanced by the issuer, or the securities mature. Due to the uncertainty of when we will be able to liquidate the investments, we reclassified the investments to long-term assets during the first quarter of 2008 and we will continue to hold our ARS investments as such.

We considered various inputs to estimate the fair value of its ARS, including the issuer's credit quality, maturity, probability to be called, lack of liquidity, future cash flows based on maximum rate formulas and comparable securities of the issuer, if any. As of June 30, 2008 we determined that our investments were impaired by 7.0% or \$4.4 million, primarily due to the lack of liquidity. We believe declines in ARS fair values due to the lack of liquidity to be temporary as we have the ability and intent to hold these investments until they are sold or are called by the issuer at par. As such, we do not consider the impairment to be permanent and have recorded an unrealized loss of \$4.4 million, gross or \$2.8 million, net of tax in other comprehensive income in the shareholders' equity section of the Consolidated Balance Sheets at June 30, 2008.

If recent uncertainties continue or markets deteriorate further and we are unable to or decide not to hold our ARS to maturity, we may incur additional or permanent impairment charges, which could negatively affect our financial condition, cash flow and reported earnings and we may need to at least partially utilize our line of credit facility to meet our liquidity needs.

### Line of Credit

We currently hold a line of credit facility of \$20.0 million at our investment bank. This line of credit facility has an interest rate based on the 30-day London Inter-Bank Offered Rate ("LIBOR") plus 0.75%. The line of credit is collateralized by our non-equity investments. The market value of non-equity investments must exceed 125.0% of the borrowed facility amount. At June 30, 2008, we had a standby letter of credit outstanding related to one of its medical insurance carriers for \$105,000. As of June 30, 2008 and December 31, 2007, there were no outstanding balances on the standby letter of credit or line of credit.

On August 7, 2008, we entered into the Agreement with Silicon Valley Bank, as the Lender, which will replace the existing line of credit facility. The Agreement provides us with a two-year secured revolving credit facility of \$30.0 million, which is subject to a borrowing base and secured by our accounts receivable. Borrowings under the Agreement will bear interest at the LIBOR rate, currently at 2.47%, plus 1.25%. We are required to make interest payments monthly. We are further required to pay a commitment fee



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equal to 0.08% of the \$30.0 million maximum borrowing limit on an annual basis, and to pay quarterly in arrears an unused facility fee in an amount equal to 0.375% per year of the unused amount of the facility. In addition, the credit facility provides sub-facilities for letters of credit and foreign exchange contracts to be issued on our behalf.

The credit facility requires that we make and maintain certain financial covenants, representations, warranties and other agreements that are customary in credit agreements of this type. The Agreement requires us to maintain a minimum current ratio (current assets divided by the sum of current liabilities less deferred revenue plus the amount of outstanding advances and letters of credit) of 1.3 through the third quarter of 2008, which rises to a ratio of 1.5 during quarterly periods thereafter. Additionally, any quarterly EBITDA (earnings before interest, taxes, depreciation, amortization, and stock based compensation, as defined in the Agreement) loss may not exceed \$2.5 million in any one quarter, and quarterly EBITDA may not be negative for any two consecutive quarters for the duration of the Agreement. Further, our EBITDA may not be negative for the nine months ended September 30, 2008 and the year ended December 31, 2008. For quarterly periods beginning after January 1, 2009, we must maintain a positive rolling four quarter EBITDA. In addition, our capital expenditures may not exceed \$12.0 million in any fiscal year.

Amounts borrowed and repaid are available for re-borrowing during the term of the facility. Outstanding amounts are due in full on the maturity date of August 6, 2010. Upon the occurrence of certain events of default specified in the Agreement, amounts due under the Agreement may be declared immediately due and payable.

### ***2023 Convertible Senior Notes***

During November 2003, we completed a private offering of \$100 million aggregate principal amount of 1.375% convertible senior notes due November 15, 2023 (the "2023 convertible senior notes") to qualified institutional buyers. The discount on the 2023 convertible senior notes amounted to \$3 million.

Convertible senior notes are unsecured obligations convertible into our common stock and rank equally in right of payment with all existing and future obligations that are unsecured and unsubordinated. Interest on the 2023 convertible senior notes accrues at 1.375% per year and is payable semi-annually on May 15 and November 15. The 2023 convertible senior notes are convertible, at the option of the holder, at any time on or prior to maturity under certain circumstances, unless previously redeemed or repurchased, into shares of our common stock at a conversion price of \$23.57 per share, which is equal to a conversion rate of 42.4247 shares per \$1,000 principal amount of notes. The 2023 convertible senior notes are convertible if (i) the closing price of our common stock on the trading day prior to the conversion date reaches 120% or more of the conversion price of the notes on such trading date; (ii) the trading price of the notes falling below 98% of the conversion value or (iii) certain other events occur. Upon conversion, we will have the right to deliver, in lieu of common stock, cash or a combination of cash and common stock. We may redeem all or a portion of the 2023 convertible senior notes at our option on or after November 15, 2006 but before November 15, 2008 provided that the closing price of our common stock exceeds 130% of the conversion price for at least 20 trading days within a period of 30 consecutive trading days ending on the trading day before the date of the notice of the provisional redemption. On or after November 15, 2008, we may redeem the 2023 convertible senior notes at any time. On November 15, 2008, November 15, 2013, and November 15, 2018, holders of the 2023 convertible senior notes will have the right to require us to purchase, in cash, all or any part of the notes held by such holder at a purchase price equal to 100% of the principal amount of the notes being purchased, together with accrued and unpaid interest and additional interest, if any, up to but excluding the purchase date. The accretion of the discount on the 2023 convertible senior notes is calculated using the effective interest method.

As of June 30, 2008 we had outstanding 2023 convertible senior notes with a face value of \$37.5 million and a book value of \$36.6 million, net of unamortized discount of \$0.9 million. As of December 31, 2007, we had outstanding 2023 convertible senior notes with a face value of \$100 million and a book value of \$97.5 million, net of unamortized discount of \$2.5 million. The estimated fair value of the 2023 convertible senior notes was \$33.6 million and \$99.8 million at June 30, 2008 and December 31, 2007, respectively.

During the first quarter of 2008, we repurchased \$52.5 million aggregate principal amount of the 2023 convertible senior notes, with an associated discount of \$1.3 million. We repurchased the notes in the open market for \$51.1 million and, as a result, recorded a gain of \$68,000.

During the second quarter of 2008, we repurchased \$10.0 million aggregate principal amount of the 2023 convertible senior notes, with an associated discount of \$240,000. We repurchased the notes in the open market for \$9.8 million and, as a result, recorded a net loss of \$31,000.

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### 2013 Convertible Senior Notes

On February 6, 2008, we offered and sold in a public offering pursuant to the shelf registration statement \$55.0 million aggregate principal amount of our 2013 convertible senior notes. Interest on the 2013 convertible senior notes is payable semi-annually, in arrears, on each August 15 and February 15, beginning on August 15, 2008, to the holders of record at the close of business on the preceding August 1 and February 1, respectively. The 2013 convertible senior notes mature on February 15, 2013. Holders of the 2013 convertible senior notes may convert their notes into a number of shares of our common stock determined as set forth in the indenture governing the notes at their option on any day to and including the business day prior to the maturity date. The 2013 convertible senior notes are initially convertible into 76,7448 shares of our common stock per \$1,000 principal amount of the notes (which is equivalent to a conversion price of approximately \$ 13.03 per share), subject to adjustment upon the occurrence of certain events. Upon the occurrence of a fundamental change, holders of the 2013 convertible senior notes may require us to repurchase some or all of our notes for cash at a price equal to 100% of the principal amount of the notes being repurchased, plus accrued and unpaid interest, if any. In addition, if certain fundamental changes occur, we may be required in certain circumstances to increase the conversion rate for any 2013 convertible senior notes converted in connection with such fundamental changes by a specified number of shares of our common stock. The 2013 convertible senior notes are our general unsecured obligations and rank equal in right of payment to all of our existing and future senior indebtedness, including our 2023 convertible senior notes, and senior in right of payment to our future subordinated debt. Our obligations under the 2013 convertible senior notes are not guaranteed by, and are effectively subordinated in right of payment to all existing and future obligations of, our subsidiaries and are effectively subordinated in right of payment to our future secured indebtedness to the extent of the assets securing such debt.

In connection with the issuance of the 2013 convertible senior notes, we entered into a capped call transaction with a hedge counterparty. The capped call transaction is expected to reduce the potential dilution upon conversion of the 2013 convertible senior notes in the event that the market value per share of our common stock, as measured under the terms of the capped call transaction, at the time of exercise is greater than the strike price of the capped call transaction of approximately \$13.03, which corresponds to the initial conversion price of the 2013 convertible senior notes and is subject to certain adjustments similar to those contained in the notes. If, however, the market value per share of our common stock exceeds the cap price of the capped call transaction of \$23.085, as measured under the terms of the capped call transaction, the dilution mitigation under the capped call transaction will be limited, which means that there would be dilution to the extent that the then market value per share of our common stock exceeds the cap price of the capped call transaction.

As of June 30, 2008, we had outstanding 2013 convertible senior notes with a face value and fair value of \$55.0 million and \$52.4 million, respectively. The cost of the capped call transaction was approximately \$10.2 million and was recorded as a charge to shareholders' equity.

### Contractual Obligations

The following summarizes our contractual obligations at June 30, 2008 and the effect of such on our liquidity and cash flows in future periods (in thousands).

	2008*	2009	2010	2011	2012	Thereafter
Future minimum lease payments	\$ 3,228	\$ 3,541	\$ 3,161	\$ 1,707	\$ —	\$ —
Purchase obligations(A)	42,477	—	—	—	—	—
Interest on convertible senior notes	1,285	2,028	2,028	2,028	2,028	6,429
2023 convertible senior notes(B)	37,503	—	—	—	—	—
2013 convertible senior notes	—	—	—	—	—	55,000
Total	\$ 84,493	\$ 5,569	\$ 5,189	\$ 3,735	\$ 2,028	\$ 61,429

\* Remaining six months.

(A) Purchase obligations include agreements or purchase orders to purchase goods or services that are enforceable and legally binding and specify all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions and the approximate timing of the transaction. Purchase obligations exclude agreements that are cancelable without penalty.

(B) The 2023 convertible senior notes are shown at their face value, gross of unamortized discount amounting to \$0.9 million at June 30, 2008. We may redeem the 2023 convertible senior notes at any time. On November 15, 2008, November 15, 2013, and November 15, 2018, holders of the 2023 convertible senior notes will have the right to require us to purchase, in cash, all or any part of the notes held by such holders at a purchase price equal to 100% of the principal amount of the notes being purchased, together with accrued and unpaid interest and additional interest, if any, up to but excluding the purchase date.

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In addition to the above, as discussed in Note 11 — *Income Taxes* of the Notes to the Consolidated Financial Statements, we have approximately \$2.8 million associated with unrecognized tax benefits and related interest and penalties. These liabilities are primarily included as a component of “other long-term liabilities” in our Consolidated Balance Sheets as we do not anticipate that settlement of the liabilities will require payment of cash within the next twelve months. We are not able to reasonably estimate when we would make any cash payments required to settle these liabilities, but do not believe that the ultimate settlement of our obligations will materially affect our liquidity.

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

We do not engage in any activity involving special purpose entities or off-balance sheet financing.

### ***Liquidity Outlook***

We believe that our current cash, cash equivalents and investments, net, amounting to \$115.0 million at June 30, 2008, of which \$58.3 million consisted of ARS, the cash generated from operations and our line of credit facility will satisfy our short and long-term expected working capital needs, capital expenditures, stock repurchases, other liquidity requirements associated with our existing business operations, and the repurchase of all or part of our 2023 convertible senior notes as required by the holders on November 15, 2008 even if we are required to hold our ARS until maturity. Capital expenditures are expected to range from \$1.5 million to \$2.0 million per quarter as we make additional R&D and IT capital investments.

## **FORWARD-LOOKING STATEMENTS**

This Quarterly Report contains forward-looking statements. Some of the forward-looking statements contained in this Quarterly Report include:

- expectations and goals for revenues, gross margin, R&D expenses, selling, general, administrative expenses and profits;
- estimates and impact of stock-based compensation expense;
- the impact of our restructuring events on future operating results;
- currency exchange rate fluctuations, changes in tariff and trade policies and other risks associated with foreign operations;
- our projected liquidity; and
- matters affecting the computer manufacturing industry including changes in industry standards, changes in customer requirements and new product introductions, as well as other risks described in “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2007 and as updated in this Quarterly Report.

All statements that relate to future events or to our future performance are forward-looking statements. In some cases, forward-looking statements can be identified by terms such as “may,” “will,” “should,” “expect,” “plans,” “seeks,” “anticipate,” “believe,” “estimate,” “predict,” “potential,” “continue,” “seek to continue,” “intends,” or other comparable terminology. These forward-looking statements are made pursuant to safe-harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results or our industries’ actual results, levels of activity, performance, or achievements to be materially different from any future results, levels of activity, performance, or achievements expressed or implied by these forward-looking statements.

Forward-looking statements in this Quarterly Report on Form 10-Q include discussions of our goals, including those discussions set forth in Item 2. “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” We cannot provide assurance that these goals will be achieved.

Although forward-looking statements help provide additional information about us, investors should keep in mind that forward-looking statements are only predictions, at a point in time, and are inherently less reliable than historical information. In evaluating these statements, you should specifically consider the risks outlined above and those listed under “Risk Factors” in Item 1a. These risk factors may cause our actual results to differ materially from any forward-looking statement.

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We do not guarantee future results, levels of activity, performance or achievements and we do not assume responsibility for the accuracy and completeness of these statements. The forward-looking statements contained in this Quarterly Report are made and based on information as of the date of this report. We assume no obligation to update any of these statements based on information after the date of this report.

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to market risk from changes in interest rates, foreign currency exchange rates, and equity trading prices, which could affect our financial position and results of operations.

*Interest Rate Risk.* We invest excess cash in debt instruments of or supported by the U.S. Government and its agencies, and those of high-quality corporate issuers. We attempt to protect and preserve our invested funds by limiting default, market, and reinvestment risk. Investments in both fixed rate and floating rate interest earning instruments carry a degree of interest rate risk. Fixed rate securities may have their fair value adversely affected due to a rise in interest rates while floating rate securities may produce less income than expected if interest rates decline. Due to the short duration of most of the investment portfolio, an immediate 10% change in interest rates would not have a material effect on the fair value of our investment portfolio. Additionally, the interest rate changes affect the fair market value but do not necessarily have a direct impact on our earnings or cash flows. Therefore, we would not expect our operating results or cash flows to be affected, to any significant degree, by the effect of a sudden change in market interest rates on the securities portfolio. The estimated fair value of our debt investments at June 30, 2008 and December 31, 2007 was \$86.0 million and \$95.1 million, respectively. The effect of an immediate 10% change in interest rates would not have a material effect on our operating results or cash flows.

*Foreign Currency Risk.* We pay the expenses of our international operations in local currencies, namely, the British Pound Sterling, Canadian Dollar, Chinese Yuan, Euro, Japanese Yen, Malaysian Ringgit and Israeli New Shekel. The international operations are subject to risks typical of an international business, including, but not limited to: differing economic conditions, changes in political climate, differing tax structures, foreign exchange rate volatility and other regulations and restrictions. Accordingly, future results could be materially and adversely affected by changes in these or other factors. We are also exposed to foreign exchange rate fluctuations as the balance sheets and income statements of our foreign subsidiaries are translated into U.S. Dollars during the consolidation process. Because exchange rates vary, these results, when translated, may vary from expectations and adversely affect overall expected profitability.

Based on our policy, we have established a foreign currency exposure management program which uses derivative foreign exchange contracts to address nonfunctional currency exposures that are expected to be settled in one year or less. During the first quarter of 2008, in order to reduce the potentially adverse effects of foreign currency exchange rate fluctuations, we began to enter into forward exchange contracts. These hedging transactions primarily limit our exposure to changes in the U.S. Dollar/Canadian Dollar exchange rate.

Holding other variables constant, a 10% adverse fluctuation of the U.S. Dollar relative to the Canadian Dollar would result in a \$332,000 loss as of June 30, 2008. Holding other variables constant, a 10% favorable fluctuation of the U.S. Dollar relative to the Canadian Dollar would result in a \$444,000 gain as of June 30, 2008. We do not expect a 10% fluctuation to have any impact on our operating results as the underlying hedged transactions will move in an equal and opposite direction.

*Convertible Notes.* The fair value of the convertible senior notes are sensitive to interest rate changes. Interest rate changes would result in an increase or decrease in the fair value of the convertible notes due to differences between market interest rates and rates in effect at the inception of the obligation. Unless we elect to repurchase our senior convertible notes in the open market, changes in the fair value of the senior convertible notes have no impact on our cash flows or Consolidated Financial Statements. The estimated fair value of the 2023 convertible senior notes was \$33.6 million and \$99.8 million at June 30, 2008 and December 31, 2007, respectively, and the estimated fair value of the 2013 convertible senior notes was \$52.4 million at June 30, 2008.

### **Item 4. Controls and Procedures**

Based on their evaluation as of the end of the period covered by this Quarterly Report, the Company's Chief Executive Officer and Chief Financial Officer have concluded that the Company's "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) are effective.

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In connection with the evaluation described above, we identified no change in our internal control over financial reporting that occurred during the three months ended June 30, 2008, that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Management excluded from its assessment of the effectiveness of the Company's disclosure controls and procedures and internal control over financial reporting, the disclosure controls and procedures and internal controls of the MCPD business which was acquired effective September 12, 2007. Management was unable to assess the effectiveness of the disclosure controls and procedures and internal control over financial reporting of the MCPD business because of the timing of the acquisition. Management expects to update its assessment of the effectiveness of the disclosure controls and procedures and internal control over financial reporting to include the MCPD business as soon as practicable but in any event, no later than in the Form 10-Q for the quarterly period ended September 30, 2008.

**Item 1A. Risk Factors**

There are many factors that affect our business and the results of our operations, many of which are beyond our control. In addition to the other information set forth in this Quarterly Report, you should carefully consider the factors discussed in Part I, Item 1A. Risk Factors and Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2007, which could materially affect our business, financial condition or future results. The risks described in this Quarterly Report and our Annual Report on Form 10-K for the year ended December 31, 2007, are not the only risks facing our Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results.

***Impairment charges associated with our goodwill and other intangible assets could adversely affect our future results of operations and financial position and may cause our stock price to decline.***

Under statement of Financial Accounting Standard No. 142, Goodwill and Other Intangible Assets, goodwill and intangible assets deemed to have indefinite lives are not amortized but instead are subject to annual impairment tests or sooner when events or circumstances warrant such testing. As of June 30, 2008, we had goodwill of approximately \$67.6 million, and intangible assets, net of accumulated amortization, of approximately \$28.1 million. In accordance with the statement, we will test for impairment at least annually, and generally do so in the third quarter of each year. In addition, we will test for impairment between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of the reporting unit below its carrying value. Such tests may result in a determination that these assets have been impaired.

At June 30, 2008, our share price declined to \$9.06 per share from \$12.45 at September 30, 2007, the date of our most recent annual impairment test. This compares to a book value per share of \$9.09 and \$9.87 per share at June 30, 2008 and September 30, 2007, respectively. During the nine months ended June 30, 2008, the Company's stock price has closed below its book value per share at June 30, 2008 for a limited number of trading days. Based on the limited number of trading days involved and the absence of any other discernible relevant factors, we concluded that no event had occurred and no circumstance had changed that would require an additional impairment analysis prior to the next scheduled annual impairment test. Additionally, subsequent to June 30, 2008, our stock price has risen above the per share book value.

If at any time management has determined that an impairment exists, we will be required to reflect the impaired value as a part of operating income, resulting in a reduction in earnings and a corresponding reduction in our net asset value in the period such impairment is identified. Any future impairment charges could have a material adverse effect on our financial condition, earnings and results of operations and may cause our stock price to decline.

***If uncertainties in the credit and capital markets continue the market value of our investments in auction rate securities may decline leading to impairment charges which could negatively affect our financial condition, cash flow and reported earnings.***

At June 30, 2008, our long-term investments were comprised of ARS, which are highly rated debt instruments with a long-term nominal maturity for which the interest rate is set through a "Dutch Auction" process. The majority of our ARS investments represent interests in collateralized debt obligations supported by pools of government-backed student loans with S&P AAA or Moody's Aaa ratings at the time of purchase. These investments have been classified as available-for-sale investments. Available-for-sale securities are recorded at fair value, and unrealized holding gains and losses are recorded, net of tax, as a separate component of accumulated other comprehensive income.

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During the first half of 2008, due to liquidity issues experienced in the global credit and capital markets, our entire portfolio of ARS investments experienced multiple failed auctions as the amount of securities submitted for sale exceeded the amount of purchase orders. We will not be able to liquidate the investments until a successful auction occurs, a buyer is found outside the auction process, the securities are called or refinanced by the issuer, or the securities mature. If recent uncertainties continue or markets deteriorate further and we are unable to or decide not to hold our ARS to maturity, we may incur additional or permanent impairment charges, which could negatively affect our financial condition, cash flow and reported earnings and we may need to at least partially utilize our line of credit facility to meet our liquidity needs.

*There are a number of trends and factors affecting our markets, including economic conditions in the United States, Europe and globally, which are beyond our control. These trends and factors may result in increasing upward pressure on the costs of products and an overall reduction in demand.*

There are trends and factors affecting our markets and our sources of supply that are beyond our control and may negatively affect our cost of sales. Such trends and factors include: adverse changes in the cost of raw commodities and increasing freight, energy, and labor costs in developing regions such as China. Our business strategy has been to provide customers with faster time-to-market and greater value solutions in order to help them compete in an industry that generally faces downward pricing pressure. In addition, our competitors have in the past lowered, and may again in the future lower, prices in order to increase their market share, which would ultimately reduce the price we may realize from our customers. If we are unable to realize prices that allow us to continue to compete on this basis of performance, our profit margin, market share, and overall financial condition and operating results may be materially and adversely affected.

### **Other Risk Factors Related to Our Business**

Other risk factors include, but are not limited to, changes in the mix of products sold, changes in regulatory and tax legislation, changes in effective tax rates, inventory risks due to changes in market demand or our business strategies, potential litigation and claims arising in the normal course of business, credit risk of customers and other risk factors.

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

At the Company's Annual Meeting on May 28, 2008, the holders of the Company's outstanding common stock took the actions described below. As of April 2, 2008, the record date for the Annual Meeting, 22,446,850 shares of our common stock were issued and outstanding and entitled to vote.

The shareholders elected each of C. Scott Gibson, Scott C. Grout, Ken J. Bradley, Richard J. Faubert, Dr. William W. Lattin, Kevin C. Melia, Carl W. Neun, and Lorene K. Steffes to the Company's Board of Directors, by the votes indicated below, to serve for the ensuing year. The following table shows the vote tabulation for the shares represented at the meeting:

<u>Nominee</u>	<u>Votes For</u>	<u>Votes Against</u>	<u>Votes Withheld</u>	<u>Broker Non-votes</u>
C. Scott Gibson	16,630,582	—	4,403,310	—
Scott C. Grout	20,927,599	—	106,293	—
Ken J. Bradley	17,317,540	—	3,716,352	—
Richard J. Faubert	20,933,998	—	99,894	—
Dr. William W. Lattin	17,327,898	—	3,705,994	—
Kevin C. Melia	20,936,962	—	96,930	—
Carl W. Neun	20,922,319	—	111,573	—
Lorene K. Steffes	17,343,830	—	3,690,062	—

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The shareholders also voted on the approval of the ratification of the Audit Committee's appointment of KPMG LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2008 as well as on the approval of the Long-Term Incentive Plan and the amendment to the RadiSys Corporation 1996 Employee Stock Purchase Plan. The following table shows the vote tabulations for the shares represented at the meeting:

<u>Proposal</u>	<u>Votes For</u>	<u>Votes Against</u>	<u>Abstain</u>	<u>Broker Non-votes</u>
Appointment of KPMG LLP as Independent Auditors	20,873,572	26,944	133,376	—
Approval of the Long-Term Incentive Plan	10,752,881	6,954,012	5,474	3,321,525
Approval of the Amendment to 1996 Employee Stock Purchase Plan	17,018,385	688,566	5,416	3,321,525

## Item 6. Exhibits

### (a) Exhibits

<u>Exhibit No</u>	<u>Description</u>
3.1	Second Restated Articles of Incorporation and amendments thereto. Incorporated by reference from Exhibit 4.1 to the Company's Registration Statement on Form S-8, filed on September 1, 2006, SEC File No. 333-137060, as amended by the Articles of Amendment incorporated by reference from Exhibit 3.1 in the Company's Current Report on Form 8-K filed on January 30, 2008.
3.2	Restated Bylaws. Incorporated by reference from Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q, filed on May 8, 2007.
4.1	Indenture, dated February 12, 2008, by and between the Company and The Bank of New York Trust Company, N.A. Incorporated by reference from Exhibit 4.1 in the Company's Current Report on Form 8-K, filed on February 12, 2008.
4.2	First Supplemental Indenture, dated February 12, 2008, by and between the Company and The Bank of New York Trust Company, N.A. Incorporated by reference from Exhibit 4.2 in the Company's Current Report on Form 8-K, filed on February 12, 2008.
4.3	Form of Global Security for the 2.75% Convertible Senior Notes due 2013 (included in Exhibit 4.2).
10.3*	Loan and Security Agreement, dated August 7, 2008, between the Company and Silicon Valley Bank.
10.4*	Severance Agreement between the Company and Scott Grout.
31.1*	Certification of the Chief Executive Officer required by Rule 13a-14(a) or Rule 15d-14(a) of the Exchange Act pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of the Chief Financial Officer required by Rule 13a-14(a) or Rule 15d-14(a) of the Exchange Act pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\* Filed herewith



**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.

RADISYS CORPORATION

Dated: August 8, 2008

By: \_\_\_\_\_  
/s/ SCOTT C. GROUT  
Scott C. Grout  
*President and Chief Executive Officer*

Dated: August 8, 2008

By: \_\_\_\_\_  
/s/ BRIAN BRONSON  
Brian Bronson  
*Chief Financial Officer*

EXHIBIT INDEX

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## LOAN AND SECURITY AGREEMENT

**THIS LOAN AND SECURITY AGREEMENT** (together with any schedule, annex, or exhibit attached hereto, as the same may be amended, restated, or otherwise modified, this “**Agreement**”) is entered into on August 7, 2008 (the “**Effective Date**”) between SILICON VALLEY BANK, a California banking corporation (“**Bank**”), and RADISYS CORPORATION, an Oregon corporation (“**Borrower**”). The parties agree as follows:

**1. ACCOUNTING AND OTHER TERMS**

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in **Section 13**. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

**2. LOAN AND TERMS OF PAYMENT**

**2.1. Promise to Pay.** Borrower hereby unconditionally promises to pay Bank the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

**2.1.1. Revolving Advances.**

(a)**Availability.** Subject to the terms and conditions of this Agreement, Bank shall make Advances not exceeding the Availability Amount. Amounts borrowed under the Revolving Line may be repaid and, prior to the Revolving Line Maturity Date, reborrowed, subject to the applicable terms and conditions precedent herein.

(b)**Termination; Repayment.** The Revolving Line terminates on the Revolving Line Maturity Date, when the principal amount of all Advances, the unpaid interest thereon, and all other Obligations relating to the Revolving Line shall be immediately due and payable.

**2.1.2. Letters of Credit Sublimit.**

(a) As part of the Revolving Line, Bank shall issue or have issued Letters of Credit for Borrower’s account. The face amount of outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit and any Letter of Credit Reserve) may not exceed the lesser of the Availability Amount or the Sublimit Amount. Such aggregate amounts utilized hereunder shall at all times reduce the amount otherwise available for Advances under the Revolving Line. If, on the Revolving Line Maturity Date, there are any outstanding Letters of Credit, then on such date Borrower shall provide to Bank cash collateral in an amount equal to 105% of the face amount of all such Letters of Credit plus all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment), to secure all of the Obligations relating to said Letters of Credit. All Letters of Credit shall be in form and substance acceptable to Bank in its sole discretion and shall be subject to the terms and conditions of Bank’s standard Application and Letter of Credit Agreement (the “**Letter of Credit Application**”). Borrower agrees to execute any further documentation in connection with the Letters of Credit as Bank may reasonably request. Borrower further agrees to be bound by the regulations and interpretations of the issuer of any Letters of Credit guaranteed by Bank and opened for Borrower’s account or by Bank’s interpretations of any Letter of Credit issued by Bank for Borrower’s account, and Borrower understands and agrees that Bank shall not be liable for any error, negligence, or mistake, whether of omission or commission, in following Borrower’s instructions or those contained in the Letters of Credit or any modifications, amendments, or supplements thereto.

(b) The obligation of Borrower to immediately reimburse Bank for drawings made under Letters of Credit shall be absolute, unconditional, and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement, such Letters of Credit, and the Letter of Credit Application.

(c) Borrower may request that Bank issue a Letter of Credit payable in a Foreign Currency. If a demand for payment is made under any such Letter of Credit, Bank shall treat such demand as an Advance to

Borrower of the equivalent of the amount thereof (plus fees and charges in connection therewith such as wire, cable, SWIFT or similar charges) in Dollars at the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

(d) To guard against fluctuations in currency exchange rates, upon the issuance of any Letter of Credit payable in a Foreign Currency, Bank shall create a reserve (the "**Letter of Credit Reserve**") under the Revolving Line in an amount equal to ten percent (10%) of the face amount of such Letter of Credit. The amount of the Letter of Credit Reserve may be adjusted by Bank from time to time to account for fluctuations in the exchange rate. The availability of funds under the Revolving Line shall be reduced by the amount of such Letter of Credit Reserve for as long as such Letter of Credit remains outstanding.

**2.1.3. Foreign Exchange Sublimit.** As part of the Revolving Line, Borrower may enter into foreign exchange contracts with Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency (each, a "**FX Forward Contract**") on a specified date (the "**Settlement Date**"). FX Forward Contracts shall have a Settlement Date of at least one (1) FX Business Day after the contract date and shall be subject to a reserve of ten percent (10%) of each outstanding FX Forward Contract (the "**FX Reserve**"), the FX Reserve to be in a maximum aggregate amount equal to the Sublimit Amount. The aggregate amount of FX Forward Contracts at any one time may not exceed ten (10) times the amount of the FX Reserve. The obligations of Borrower relating to this section may not exceed the Availability Amount.

**2.1.4. Cash Management Services Sublimit.** Borrower may use up to the Sublimit Amount of the Revolving Line for Bank's cash management services which may include merchant services, direct deposit of payroll, business credit card, and check cashing services identified in Bank's various cash management services agreements (collectively, the "**Cash Management Services**"). Any amounts Bank pays on behalf of Borrower or any amounts that are not paid by Borrower for any Cash Management Services will be treated as Advances under the Revolving Line and will accrue interest at the interest rate applicable to Advances. The obligations of Borrower relating to this section may not exceed the Availability Amount.

**2.2. Overadvances.** If, at any time, the Credit Extensions under **Sections 2.1.1, 2.1.2, 2.1.3 and 2.1.4** exceed the lesser of either (a) the Revolving Line or (b) the Borrowing Base, Borrower shall immediately pay Bank in cash such excess. Each Credit Extension shall, at Borrower's option in accordance with the terms of this Agreement, be either in the form of a Prime Rate Credit Extension or a LIBOR Credit Extension; *provided* that in no event shall Borrower maintain at any time LIBOR Credit Extensions having more than five (5) different Interest Periods. Borrower shall pay interest accrued on the Credit Extensions at the rates and in the manner set forth in **Section 2.3(a)**.

### **2.3. Payment of Interest on the Credit Extensions.**

(a)Computation of Interest. Interest on the Credit Extensions and all fees payable hereunder shall be computed on the basis of a 360-day year and the actual number of days elapsed in the period during which such interest accrues. In computing interest on any Credit Extension, the date of the making of such Credit Extension shall be included and the date of payment shall be excluded; *provided, however*, that if any Credit Extension is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension.

(i)Advances. Subject to **Section 2.3(b)**, each Advance shall bear interest on the outstanding principal amount thereof from the date when made, continued or converted until paid in full at a rate *per annum* equal to the Prime Rate or the LIBOR Rate plus the applicable LIBOR Rate Margin, as the case may be. Pursuant to the terms hereof, interest on each Advance shall be paid in arrears on each Interest Payment Date. Interest shall also be paid on the date of any prepayment of any Advance pursuant to this Agreement for the portion of any Advance so prepaid and upon payment (including prepayment) in full thereof. All accrued but unpaid interest on the Advances shall be due and payable on the Revolving Line Maturity Date.

(b)Default Interest. Except as otherwise provided in **Section 2.3(a)**, after an Event of Default, Obligations shall bear interest two percent (2.00%) above the rate effective immediately before the Event of Default

(the “**Default Rate**”). Payment or acceptance of the increased interest provided in this **Section 2.3(b)** is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Bank.

(c)**Prime Rate Credit Extensions.** Each change in the interest rate of the Prime Rate Credit Extensions based on changes in the Prime Rate shall be effective on the effective date of such change and to the extent of such change. Bank shall use its best efforts to give Borrower prompt notice of any such change in the Prime Rate; *provided, however,* that any failure by Bank to provide Borrower with notice hereunder shall not affect Bank’s right to make changes in the interest rate of the Prime Rate Credit Extensions based on changes in the Prime Rate.

(d)**LIBOR Credit Extensions.** The interest rate applicable to each LIBOR Credit Extension shall be determined in accordance with **Section 3.6(a)** hereunder. Subject to **Sections 3.6** and **3.7**, such rate shall apply during the entire Interest Period applicable to such LIBOR Credit Extension, and interest calculated thereon shall be payable on the Interest Payment Date applicable to such LIBOR Credit Extension.

(e)**Debit of Accounts.** Bank may debit any of Borrower’s deposit accounts, including the Designated Deposit Account, for principal and interest payments when due, or any other amounts Borrower owes Bank, when due. Bank shall promptly notify Borrower after it debits Borrower’s accounts. These debits shall not constitute a set-off.

(f) **Limitations on Interest Rates.** Notwithstanding any provision in this Agreement or any of the other Loan Documents, the total liability for payments in the nature of interest shall not exceed the applicable limits imposed by any applicable federal or state interest rate laws. If any payments in the nature of interest, additional interest and other charges made hereunder or under any of the Loan Documents are held to be in excess of the applicable limits imposed by any applicable federal or state law, the amount held to be in excess shall be considered payment of principal under the Credit Extensions and the indebtedness evidenced thereby shall be reduced by such amount in the inverse order of maturity so that the total liability for payments in the nature of interest, additional interest and other charges shall not exceed the applicable limits imposed by any applicable federal or state interest rate laws.

**2.4. Fees.** Borrower shall pay to Bank:

(a)**Commitment Fee.** A fully earned, non-refundable commitment fee of \$24,000 on the Effective Date and each anniversary thereof;

(b)**Letter of Credit Fee.** Bank’s customary fees and expenses for the issuance or renewal of Letters of Credit, including, without limitation, a Letter of Credit Fee of one and one-half percent (1.50%) per annum of the face amount of each Letter of Credit issued, upon the issuance, each anniversary of the issuance, and the renewal of such Letter of Credit;

(c)**Unused Revolving Line Facility Fee.** A fee (the “**Unused Revolving Line Facility Fee**”), payable quarterly, in arrears, on a calendar year basis, in an amount equal to thirty-seven and one-half basis points (0.375%) per annum of the average unused portion of the Revolving Line, as determined by Bank. Borrower shall not be entitled to any credit, rebate or repayment of any Unused Revolving Line Facility Fee previously earned by Bank pursuant to this Section notwithstanding any termination of the Agreement or the suspension or termination of Bank’s obligation to make loans and advances hereunder; and

(d)**Working Fee.** A \$25,000 working fee to Bank, to the extent not already paid, which the Bank will refund (if any) at the Effective Time net of any costs, Bank Expenses or fees incurred.

(e)**Bank Expenses.** All Bank Expenses (including reasonable attorneys’ fees and expenses, plus expenses, for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due.

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### 3. CONDITIONS OF LOANS

**3.1. Conditions Precedent to Initial Credit Extension.** Bank's obligation to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, such documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate, including, without limitation:

(a) Borrower shall have delivered duly executed original signatures to the Loan Documents to which it is a party (including delivery of any and all Collateral required to be delivered under the Loan Documents in order to perfect and preserve Bank's priority in such Collateral, such as stock certificates and promissory notes in favor of Borrower, each executed in blank);

(b) Borrower shall have delivered duly executed original signatures to the Control Agreement[s] by all parties thereto;

(c) Borrower shall have delivered its Operating Documents and current certificates of valid existence (or foreign qualification, as applicable) of Borrower certified by the Secretary of State of the States of Oregon, California, Colorado, Connecticut, Florida, Illinois, Iowa, Massachusetts, Michigan, New Hampshire, North Carolina, Ohio, Pennsylvania and Texas;

(d) Borrower shall have delivered duly executed original signatures of its Secretary or Assistant Secretary to the completed Borrowing Resolutions for Borrower;

(e) Bank shall have received certified copies, dated as of a recent date, of financing statement searches, as Bank shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;

(f) Borrower shall have delivered the Perfection Certificate executed by Borrower;

(g) Borrower shall have delivered a legal opinion of Borrower's counsel dated as of the Effective Date together with the duly executed original signatures thereto;

(h) Borrower shall have delivered the insurance policies and/or endorsements required pursuant to Section 6.5 hereof; and

(i) Borrower shall have delivered evidence that (i) the Liens securing Indebtedness owed by Borrower to UBS and any other secured party evidenced in the lien searches to the extent such Lien is not a Permitted Lien will be terminated and (ii) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have or will, concurrently with the initial Credit Extension, be terminated; and

(j) Borrower shall have paid the fees and Bank Expenses then due as specified in **Section 2.4** hereof.

**3.2. Conditions Precedent to all Credit Extensions.** Bank's obligations to make each Credit Extension, including the initial Credit Extension, is subject to the following:

(a) for Advances under the Revolving Line, timely receipt of a Notice of Borrowing;

(b) for any other Credit Extension, timely receipt of any completed and executed Payment/Credit Extension Form;

(c) the representations and warranties in **Section 5** shall be true in all material respects on the date of the Notice of Borrowing and the Payment/Credit Extension Form, as applicable, and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations

and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in **Section 5** remain true in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(d) in Bank's reasonable discretion, there has not been a Material Adverse Change.

### **3.3. Covenant to Deliver.**

Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition to any Credit Extension. Borrower expressly agrees that the extension of a Credit Extension prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and any such extension in the absence of a required item shall be in Bank's sole discretion.

### **3.4. Procedures for Borrowing.**

(a) Subject to the prior satisfaction of all other applicable conditions to the making of a Credit Extension set forth in this Agreement, each Credit Extension shall be made upon Borrower's irrevocable written notice delivered to Bank in the form of a Notice of Borrowing, each executed by a Responsible Officer of Borrower or his or her designee or without instructions if the Credit Extensions are necessary to meet Obligations which have become due. Bank may rely on any telephone notice given by a person whom Bank believes is a Responsible Officer or designee. Borrower will indemnify Bank for any loss Bank suffers due to such reliance. Such Notice of Borrowing must be received by Bank prior to 11:00 a.m. Pacific time, (i) at least three (3) Business Days prior to the requested Funding Date, in the case of LIBOR Credit Extensions, and (ii) at least one (1) Business Day prior to the requested Funding Date, in the case of Prime Rate Credit Extensions, specifying:

(i) the amount of the Credit Extension, which, if a LIBOR Credit Extension is requested, shall be in an aggregate minimum principal amount of \$1,000,000 or in any integral multiple of \$500,000 in excess thereof;

(ii) the requested Funding Date;

(iii) whether the Credit Extension is to be comprised of LIBOR Credit Extensions or Prime Rate Credit Extensions; and

(iv) the duration of the Interest Period applicable to any such LIBOR Credit Extensions included in such notice; *provided* that if the Notice of Borrowing shall fail to specify the duration of the Interest Period for any Credit Extension comprised of LIBOR Credit Extensions, such Interest Period shall be one (1) month.

(b) The proceeds of all such Credit Extensions will then be made available to Borrower on the Funding Date by Bank by transfer to the Designated Deposit Account and, subsequently, by wire transfer to such other account as Borrower may instruct in the Notice of Borrowing. No Credit Extensions shall be deemed made to Borrower, and no interest shall accrue on any such Credit Extension, until the related funds have been deposited in the Designated Deposit Account.

### **3.5. Conversion and Continuation Elections.**

(a) So long as (1) no Event of Default or Default exists; (2) Borrower shall not have sent any notice of termination of this Agreement; and (3) Borrower shall have complied with such customary procedures as Bank has established from time to time for Borrower's requests for LIBOR Credit Extensions, Borrower may, upon irrevocable written notice to Bank:

(i) elect to convert on any Business Day, Prime Rate Credit Extensions in an amount equal to \$1,000,000 or any integral multiple of \$500,000 in excess thereof into LIBOR Credit Extensions;

(ii) elect to continue on any Interest Payment Date any LIBOR Credit Extensions maturing on such Interest Payment Date (or any part thereof in an amount equal to \$1,000,000 or any integral multiple of \$500,000 in excess thereof); *provided*, that if the aggregate amount of LIBOR Credit Extensions shall have been reduced, by payment, prepayment, or conversion of part thereof, to be less than \$1,000,000, such LIBOR Credit Extensions shall automatically convert into Prime Rate Credit Extensions, and on and after such date the right of Borrower to continue such Credit Extensions as, and convert such Credit Extensions into, LIBOR Credit Extensions shall terminate; or

(iii) elect to convert on any Interest Payment Date any LIBOR Credit Extensions maturing on such Interest Payment Date (or any part thereof in an amount equal to \$1,000,000 or any integral multiple of \$500,000 in excess thereof) into Prime Rate Credit Extensions.

(b) Borrower shall deliver a Notice of Conversion/Continuation in accordance with **Section 10** to be received by Bank prior to 11:00 a.m. Pacific time at least (i) three (3) Business Days in advance of the Conversion Date or Continuation Date, if any Credit Extensions are to be converted into or continued as LIBOR Credit Extensions; and (ii) one (1) Business Day in advance of the Conversion Date, if any Credit Extensions are to be converted into Prime Rate Credit Extensions, in each case specifying the:

(i) proposed Conversion Date or Continuation Date;

(ii) aggregate amount of the Credit Extensions to be converted or continued which, if any Credit Extensions are to be converted into or continued as LIBOR Credit Extensions, shall be in an aggregate minimum principal amount of \$1,000,000 or in any integral multiple of \$500,000 in excess thereof;

(iii) nature of the proposed conversion or continuation; and

(iv) duration of the requested Interest Period.

(c) If upon the expiration of any Interest Period applicable to any LIBOR Credit Extensions, Borrower shall have timely failed to select a new Interest Period to be applicable to such LIBOR Credit Extensions, Borrower shall be deemed to have elected to convert such LIBOR Credit Extensions into Prime Rate Credit Extensions.

(d) Any LIBOR Credit Extensions shall, at Bank's option, convert into Prime Rate Credit Extensions in the event that (i) an Event of Default or Default shall exist, or (ii) the aggregate principal amount of the Prime Rate Credit Extensions which have been previously converted to LIBOR Credit Extensions, or the aggregate principal amount of existing LIBOR Credit Extensions continued, as the case may be, at the beginning of an Interest Period shall at any time during such Interest Period exceed the Revolving Line. Borrower agrees to pay Bank, upon demand by Bank (or Bank may, at its option, charge the Designated Deposit Account or any other account Borrower maintains with Bank) any amounts required to compensate Bank for any loss (including loss of anticipated profits), cost, or expense incurred by Bank, as a result of the conversion of LIBOR Credit Extensions to Prime Rate Credit Extensions pursuant to any of the foregoing.

(e) Notwithstanding anything to the contrary contained herein, Bank shall not be required to purchase United States Dollar deposits in the London interbank market or other applicable LIBOR market to fund any LIBOR Credit Extensions, but the provisions hereof shall be deemed to apply as if Bank had purchased such deposits to fund the LIBOR Credit Extensions.



### 3.6. Special Provisions Governing LIBOR Credit Extensions.

Notwithstanding any other provision of this Agreement to the contrary, the following provisions shall govern with respect to LIBOR Credit Extensions as to the matters covered:

(a)Determination of Applicable Interest Rate. As soon as practicable on each Interest Rate Determination Date, Bank shall determine (which determination shall, absent manifest error in calculation, be final, conclusive and binding upon all parties) the interest rate that shall apply to the LIBOR Credit Extensions for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Borrower.

(b)Inability to Determine Applicable Interest Rate. In the event that Bank shall have determined (which determination shall be final and conclusive and binding upon all parties hereto), on any Interest Rate Determination Date with respect to any LIBOR Credit Extension, that by reason of circumstances affecting the London interbank market adequate and fair means do not exist for ascertaining the interest rate applicable to such Credit Extension on the basis provided for in the definition of LIBOR, Bank shall on such date give notice (by facsimile or by telephone confirmed in writing) to Borrower of such determination, whereupon (i) no Credit Extensions may be made as, or converted to, LIBOR Credit Extensions until such time as Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any Notice of Borrowing or Notice of Conversion/Continuation given by Borrower with respect to Credit Extensions in respect of which such determination was made shall be deemed to be rescinded by Borrower.

(c)Compensation for Breakage or Non-Commencement of Interest Periods. Borrower shall compensate Bank, upon written request by Bank (which request shall set forth the manner and method of computing such compensation), for all reasonable losses, expenses and liabilities, if any (including any interest paid by Bank to lenders of funds borrowed by it to make or carry its LIBOR Credit Extensions and any loss, expense or liability incurred by Bank in connection with the liquidation or re-employment of such funds) such that Bank may incur: (i) if for any reason (other than a default by Bank or due to any failure of Bank to fund LIBOR Credit Extensions due to impracticability or illegality under **Sections 3.7(d)** and **3.7(e)**) a borrowing or a conversion to or continuation of any LIBOR Credit Extension does not occur on a date specified in a Notice of Borrowing or a Notice of Conversion/Continuation, as the case may be, or (ii) if any principal payment or any conversion of any of its LIBOR Credit Extensions occurs on a date prior to the last day of an Interest Period applicable to that Credit Extension.

(d)Assumptions Concerning Funding of LIBOR Credit Extensions. Calculation of all amounts payable to Bank under this **Section 3.6** and under **Section 3.4** shall be made as though Bank had actually funded each of its relevant LIBOR Credit Extensions through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to the definition of LIBOR Rate in an amount equal to the amount of such LIBOR Credit Extension and having a maturity comparable to the relevant Interest Period; *provided, however*, that Bank may fund each of its LIBOR Credit Extensions in any manner it sees fit and the foregoing assumptions shall be utilized only for the purposes of calculating amounts payable under this **Section 3.6** and under **Section 3.4**.

(e)LIBOR Credit Extensions After Default. After the occurrence and during the continuance of an Event of Default, (i) Borrower may not elect to have an Credit Extension be made or continued as, or converted to, a LIBOR Credit Extension after the expiration of any Interest Period then in effect for such Credit Extension and (ii) subject to the provisions of **Section 3.6(c)**, any Notice of Conversion/Continuation given by Borrower with respect to a requested conversion/continuation that has not yet occurred shall be deemed to be rescinded by Borrower and be deemed a request to convert or continue Credit Extensions referred to therein as Prime Rate Credit Extensions.

### 3.7. Additional Requirements/Provisions Regarding LIBOR Credit Extensions.

(a) If for any reason (including voluntary or mandatory prepayment or acceleration), Bank receives all or part of the principal amount of a LIBOR Credit Extension prior to the last day of the Interest Period for such Credit Extension, Borrower shall immediately notify Borrower's account officer at Bank and, on demand by Bank, pay Bank the amount (if any) by which (i) the additional interest which would have been payable on the amount so received had it not been received until the last day of such Interest Period exceeds (ii) the interest which would have been recoverable by Bank by placing the amount so received on deposit in the certificate of deposit markets, the offshore currency markets, or United States Treasury investment products, as the case may be, for a period starting

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on the date on which it was so received and ending on the last day of such Interest Period at the interest rate determined by Bank in its reasonable discretion. Bank's determination as to such amount shall be conclusive absent manifest error.

(b) Borrower shall pay Bank, upon demand by Bank, from time to time such amounts as Bank may determine to be necessary to compensate it for any costs incurred by Bank that Bank determines are attributable to its making or maintaining of any amount receivable by Bank hereunder in respect of any Credit Extensions relating thereto (such increases in costs and reductions in amounts receivable being herein called "**Additional Costs**"), in each case resulting from any Regulatory Change which:

- (i) changes the basis of taxation of any amounts payable to Bank under this Agreement in respect of any Credit Extensions (other than changes which affect taxes measured by or imposed on the overall net income of Bank by the jurisdiction in which Bank has its principal office);
- (ii) imposes or modifies any reserve, special deposit or similar requirements relating to any extensions of credit or other assets of, or any deposits with, or other liabilities of Bank (including any Credit Extensions or any deposits referred to in the definition of LIBOR); or
- (iii) imposes any other condition affecting this Agreement (or any of such extensions of credit or liabilities).

Bank will notify Borrower of any event occurring after the Effective Date which will entitle Bank to compensation pursuant to this **Section 3.7** as promptly as practicable after it obtains knowledge thereof and determines to request such compensation. Bank will furnish Borrower with a statement setting forth the basis and amount of each request by Bank for compensation under this **Section 3.7**. Determinations and allocations by Bank for purposes of this **Section 3.7** of the effect of any Regulatory Change on its costs of maintaining its obligations to make Credit Extensions, of making or maintaining Credit Extensions, or on amounts receivable by it in respect of Credit Extensions, and of the additional amounts required to compensate Bank in respect of any Additional Costs, shall be conclusive absent manifest error.

(c) If Bank shall determine that the adoption or implementation of any applicable law, rule, regulation, or treaty regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank, or comparable agency charged with the interpretation or administration thereof, or compliance by Bank (or its applicable lending office) with any respect or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank, or comparable agency, has or would have the effect of reducing the rate of return on capital of Bank or any person or entity controlling Bank (a "**Parent**") as a consequence of its obligations hereunder to a level below that which Bank (or its Parent) could have achieved but for such adoption, change, or compliance (taking into consideration policies with respect to capital adequacy) by an amount deemed by Bank to be material, then from time to time, within fifteen (15) days after demand by Bank, Borrower shall pay to Bank such additional amount or amounts as will compensate Bank for such reduction. A statement of Bank claiming compensation under this **Section 3.7(c)** and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive absent manifest error.

(d) If, at any time, Bank, in good faith, determines that (i) the amount of LIBOR Credit Extensions for periods equal to the corresponding Interest Periods are not available to Bank in the offshore currency interbank markets, or (ii) LIBOR does not accurately reflect the cost to Bank of lending the LIBOR Credit Extensions, then Bank shall promptly give notice thereof to Borrower. Upon the giving of such notice, Bank's obligation to make the LIBOR Credit Extensions shall terminate; *provided, however*, Credit Extensions shall not terminate if Bank and Borrower agree in writing to a different interest rate applicable to LIBOR Credit Extensions.

(e) If it shall become unlawful for Bank to continue to fund or maintain any LIBOR Credit Extensions, or to perform its obligations hereunder, upon demand by Bank, Borrower shall prepay the Credit Extensions in full with accrued interest thereon and all other amounts payable by Borrower hereunder (including, without limitation, any amount payable in connection with such prepayment pursuant to **Section 3.7(a)**). Notwithstanding the foregoing, to the extent a determination by Bank as described above relates to a LIBOR Credit Extension then being requested by Borrower pursuant to a Notice of Borrowing or a Notice of

Conversion/Continuation, Borrower shall have the option, subject to the provisions of **Section 3.6(c)**, to (i) rescind such Notice of Borrowing or Notice of Conversion/Continuation by giving notice (by facsimile or by telephone confirmed in writing) to Bank of such rescission on the date on which Bank gives notice of its determination as described above, or (ii) modify such Notice of Borrowing or Notice of Conversion/Continuation to obtain a Prime Rate Credit Extension or to have outstanding Credit Extensions converted into or continued as Prime Rate Credit Extensions by giving notice (by facsimile or by telephone confirmed in writing) to Bank of such modification on the date on which Bank gives notice of its determination as described above.

#### **4. CREATION OF SECURITY INTEREST.**

**4.1. Grant of Security Interest.** Borrower hereby grants Bank, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Bank, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral (subject only to Permitted Liens that may have superior priority to Bank's Lien under this Agreement). If Borrower or any Guarantor shall acquire a commercial tort claim, Borrower shall, and shall cause such Guarantor to, promptly notify Bank in a writing signed by Borrower or such Guarantor of the general details thereof and grant to Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Bank.

If this Agreement is terminated, Bank's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations and at such time as Bank's obligation to make Credit Extensions has terminated, Bank shall, at Borrower's sole cost and expense, release its Liens in the Collateral and all rights therein shall revert to Borrower or Guarantors, as applicable.

**4.2. Authorization to File Financing Statements.** Borrower hereby authorizes, and shall cause each Guarantor to authorize, Bank to file financing statements, without notice to Borrower or any Guarantor, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower, any Guarantor or any other Person, shall be deemed to violate the rights of Bank under the Code.

#### **5. REPRESENTATIONS AND WARRANTIES**

Borrower represents and warrants as follows:

**5.1. Due Organization and Authorization.** Borrower and each of its Subsidiaries is duly existing and in good standing in its state of formation and qualified and licensed to do business in, and in good standing in, any state in which the conduct of their business or its ownership of property requires that they be qualified, except where the failure to do so could not reasonably be expected to cause a Material Adverse Change. In connection with this Agreement, Borrower has delivered, or has caused each Guarantor to deliver, to Bank completed certificates substantially in the form reasonably satisfactory to Bank each signed by Borrower entitled "Perfection Certificate". Borrower represents and warrants to Bank that (a) Borrower's and each Guarantor's exact legal name is that indicated on the Perfection Certificates and on the signature pages thereof; (b) Borrower and each Guarantor are an organization of the type and are organized in the jurisdictions set forth in the Perfection Certificates; (c) the Perfection Certificates accurately set forth Borrower's and each Guarantor's organizational identification numbers or accurately state that neither Borrower nor such Guarantor has one; (d) the Perfection Certificates accurately set forth Borrower's and such Guarantor's places of business, or, if more than one, its respective chief executive office as well as Borrower's and such Guarantor's mailing addresses (if different than its respective chief executive office); (e) Borrower and such Guarantor (and each of its respective predecessors) have not, in the past five (5) years, changed its respective state of formation, organizational structure or type, or any organizational number assigned by its respective jurisdiction; and (f) all other information set forth on the Perfection Certificates pertaining to Borrower and each of its Subsidiaries is accurate and complete. If neither Borrower nor any Guarantor is a Registered Organization but later becomes one, Borrower shall, and shall cause each Guarantor to promptly notify Bank of such occurrence and provide Bank with Borrower's and such Guarantor's organizational identification numbers.

The execution, delivery and performance of the Loan Documents have been duly authorized, and do not conflict with Borrower's or any Guarantor's organizational documents, not constitute an event of default under any material agreement by which Borrower or such Guarantor is bound. Neither Borrower nor any Guarantor is in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's or such Guarantor's business.

Each Loan Document has been duly executed and delivered by Borrower and each Guarantor that is a party thereto and is the legally valid and binding obligation of Borrower and such Guarantor, enforceable against Borrower and such Guarantor in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability (whether enforcement is sought in equity or at law).

**5.2. Collateral.** Borrower and each Guarantor have good title to its Collateral, free of Liens except Permitted Liens. Borrower has no deposit accounts other than the deposit accounts with Bank, the deposit accounts, if any, described in the Perfection Certificate delivered to Bank in connection herewith, or of which Borrower has given Bank notice and taken such actions as are necessary to give Bank a perfected security interest therein. The Accounts are bona fide, existing obligations, and the service or property has been performed or delivered to the account debtor or its agent for immediate shipment to and unconditional acceptance by the account debtor. The Collateral is maintained at the locations set forth in the Perfection Certificate. The Collateral is not in the possession of any third party bailee (such as at a warehouse) except as provided in the Perfection Certificate. In the event that Borrower or any Guarantor, after the date hereof, intends to store or otherwise deliver the Collateral to a bailee, then Borrower and such Guarantor shall receive the prior written consent of Bank (such consent not to be unreasonably withheld), and such bailee must acknowledge in writing that the bailee is holding such Collateral for the benefit of Bank. All Inventory is in all material respects of good and marketable quality, free from material defects. Borrower and Guarantors are the sole owner of its respective Intellectual Property, except for licenses granted to its customers in the ordinary course of business. To Borrower's knowledge, each Patent is valid and enforceable, and no material part of the Intellectual Property has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property violates the rights of any third party except for any such claim that would not be expected to result in a Material Adverse Change.

Borrower is not a party to, nor is bound by, any license or other agreement with respect to which Borrower is the licensee that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or any other property. Borrower shall take such steps as Bank requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for all such licenses or contract rights to be deemed "Collateral" and for Bank to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such license or agreement (such consent or authorization may include a licensor's agreement to a contingent assignment of the license to Bank if Bank determines that is necessary in its good faith judgment), whether now existing or entered into in the future.

### **5.3. Accounts Receivable.**

(a) **Representations Relating to Accounts.** Each Account with respect to which Advances are requested by Borrower represents, on the date each Advance is requested and made, an undisputed bona fide existing unconditional obligation of the account debtor created by the sale, delivery, and acceptance of goods or the rendition of services, or the non-exclusive licensing of Intellectual Property, in the ordinary course of Borrower's business. Borrower has no notice of any actual or imminent Insolvency Proceeding of any account debtor whose accounts are an Eligible Account.

(b) **Representations Relating to Documents and Legal Compliance.** All statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing the Accounts are and shall be true and correct and all such invoices, instruments and other documents and all of the Borrower's Books are and shall be genuine and in all respects what they purport to be. All sales and other transactions underlying or giving rise to each Account comply in all material respects with all applicable laws and governmental rules and regulations. Borrower has no knowledge of any actual or imminent Insolvency Proceeding of any Account Debtor whose accounts are an Eligible Domestic Account or Eligible Foreign Account in any Borrowing Base Certificate. To the best of Borrower's knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Accounts are genuine, and all such documents, instruments and agreements are and shall be legally enforceable in accordance with their terms.

**5.4. Litigation.** There are no actions or proceedings pending or, to the knowledge of Borrower's or any of its Subsidiaries' Responsible Officers, threatened in writing by or against Borrower or any of its Subsidiaries in which an adverse decision could reasonably be expected to cause a Material Adverse Change.

**5.5. No Material Deviation in Financial Statements.** All financial statements for Borrower delivered to Bank fairly present in all material respects Borrower's consolidated and consolidating financial condition and Borrower's consolidated and consolidating results of operations. There has not been any material deterioration in Borrower's consolidated and consolidating financial condition since the date of the most recent financial statements submitted to Bank.

**5.6. Solvency.** The fair salable value of Borrower's and each of its Subsidiaries' assets (including goodwill minus disposition costs) exceeds the fair value of its liabilities; Neither Borrower nor any of its Subsidiaries is left with unreasonably small capital after the transactions in this Agreement; and Borrower and each of its Subsidiaries are able to pay their debts (including trade debts) as they mature.

**5.7. Regulatory Compliance.** Neither Borrower nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act. Neither Borrower nor any of its Subsidiaries is engaged as one of its important activities in extending credit for margin stock (under Regulations T and U of the Federal Reserve Board of Governors). To its knowledge, Borrower and each of its Subsidiaries have complied in all material respects with the Federal Fair Labor Standards Act. Neither Borrower nor any of its Subsidiaries has violated any laws, ordinances or rules, the violation of which could reasonably be expected to cause a Material Adverse Change. None of Borrower's or any of its Subsidiaries' properties or assets has been used by Borrower or its Subsidiary or, to the best of Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries has obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all government authorities that are necessary to continue its business as currently conducted, except where the failure to do so could not reasonably be expected to cause a Material Adverse Change.

**5.8. Subsidiaries; Investments.** Neither Borrower nor any of its Subsidiaries owns any stock, partnership interest or other equity securities except for Permitted Investments.

**5.9. Tax Returns and Payments; Pension Contributions.** Borrower and each of its Subsidiaries have timely filed all required tax returns and reports, and Borrower and each of its Subsidiaries have generally timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower or such Subsidiary. Borrower and each of its Subsidiaries may defer payment of any contested taxes, provided that Borrower or such Subsidiary (a) in good faith contests its obligation to pay the taxes by appropriate proceedings promptly and diligently instituted and conducted, (b) notifies Bank in writing of the commencement of, and any material development in, the proceedings, (c) posts bonds or takes any other steps required to prevent the governmental authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "Permitted Lien". Neither Borrower nor any of its Subsidiaries is aware of any claims or adjustments proposed for any of Borrower's or such Subsidiary's prior tax years which could result in additional taxes becoming due and payable by Borrower or such Subsidiary. Borrower and each of its Subsidiaries have paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither Borrower nor any of its Subsidiaries have withdrawn from participation in, and has permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower or any of its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

**5.10. Use of Proceeds.** Borrower shall use the proceeds of the Credit Extensions solely to fund its general business requirements and not for personal, family, household or agricultural purposes.

**5.11. Full Disclosure.** No written representation, warranty or other statement of Borrower or any of its Subsidiaries in any certificate or written statement given to Bank pursuant to this Agreement (taken together with all

such written certificates and written statements to Bank) contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading. Bank recognizes that the projections, forecasts, and business plans provided by Borrower or any of its Subsidiaries in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected and forecasted results.

## 6. AFFIRMATIVE COVENANTS

Borrower shall, and shall cause each of its Subsidiaries to, do all of the following for so long as Bank has an obligation to lend or there are outstanding Obligations:

**6.1. Government Compliance.** Borrower shall, and shall cause each of its Subsidiaries to, maintain its and all its Subsidiaries' legal existence and good standing in their jurisdictions of formation and maintain qualification in each jurisdiction in which the nature of its business requires them to be so qualified, except where the failure to so qualify would not reasonably be expected to have a material adverse effect on Borrower's and its Subsidiaries' business or operations, taken as a whole; *provided*, that (a) the legal existence of any Subsidiary that is not a Guarantor may be terminated or permitted to lapse, and any qualification of such Subsidiary to do business may be terminated or permitted to lapse, if, in the good faith judgment of Borrower, such termination or lapse is in the best interests of Borrower and its Subsidiaries, taken as a whole, and (b) Borrower may not permit its qualification to do business in the jurisdiction of its chief executive office to terminate or lapse; and *provided, further*, that this Section 6.2 shall not be construed to prohibit any other transaction that is otherwise permitted in **Section 7** of this Agreement.

Borrower shall comply, and shall have each of its Subsidiaries comply, with all laws, ordinances and regulations to which it is subject, noncompliance with which would reasonably be expected to cause a Material Adverse Change on Borrower's business as a whole.

### 6.2. Financial Statements, Reports, Certificates.

(a) Deliver to Bank:

(i) as soon as available, but no later than forty (40) days after the last day of each fiscal quarter, a company prepared consolidated and consolidating balance sheet and income statement prepared under GAAP (subject to the absence of footnotes and year-end adjustments) covering Borrower's and each of its Subsidiary's operations during the period certified by a Responsible Officer and in a form acceptable to Bank;

(ii) as soon as available, but no later than (A) ninety (90) days after the last day of Borrower's fiscal year, unaudited consolidated and consolidating financial statements prepared under GAAP, consistently applied, and (B) one hundred-twenty (120) days after the last day of Borrower's fiscal year, audited consolidated and consolidating financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Bank in its reasonable discretion;

(iii) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Subordinated Debt or the holders of the 2013 Indenture or 2023 Indenture;

(iv) within five (5) days of filing, all reports on Form 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission or a link thereto on Borrower's or another website on the Internet;

(v) a prompt report of any legal actions pending or threatened against Borrower or any of its Subsidiaries that could result in damages or costs to Borrower or any of its Subsidiaries of \$250,000 or more to the extent not covered by insurance, or in which an adverse decision could reasonably be expected to cause a Material Adverse Change (collectively, "**Material Litigation**");

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- (vi) prompt notice of an event that materially and adversely affects the value of the Intellectual Property;
  - (vii) as soon as available, but no later than sixty (60) days after the last day of Borrower's fiscal year, annual board approved financial projections;
- and
- (viii) budgets, sales projections, operating plans and other financial information reasonably requested by Bank.

Borrower's 10K, 10Q, and 8K reports required to be delivered pursuant to Section 6.2(a)(i) shall be deemed to have been delivered on the date on which Borrower posts such report or provides a link thereto on Borrower's or another website on the Internet; *provided*, that Borrower shall provide paper copies to Bank of the Compliance Certificates required by **Section 6.2(a)(ii)**.

(b)(i) Within thirty (30) days after the last day of each quarter (unless there are no outstanding Advances), provided that the Credit Extensions have exceeded the Threshold Amount, and (ii) if Advances exceed the Threshold Amount within five (5) days prior to each Funding Date, deliver to Bank a duly completed Borrowing Base Certificate signed by a Responsible Officer, with aged listings of accounts receivable and accounts payable (by invoice date) and a Deferred Revenue report;

(c) Within five (5) days of filing any Form 10-K or 10-Q, a duly completed Compliance Certificate signed by a Responsible Officer of Borrower setting forth calculations showing compliance with the financial covenants set forth in this Agreement.

(d) Allow Bank to audit the Collateral at Borrower's expense within sixty (60) days of the Effective Date, and thereafter, provided that the Credit Extensions have exceeded the Threshold Amount, additional audits may be conducted no more than once per year. Notwithstanding any of the foregoing, if a Default or an Event of Default has occurred and is continuing or if there is a deterioration in the Collateral and/or financial performance of Borrower or any of its Subsidiaries, Bank may require additional audits at its option.

**6.3. Inventory.** Keep all Inventory in good and marketable condition, and free from material defects. Returns and allowances between Borrower and its Subsidiaries, on the one hand, and their respective account debtors, on the other, shall follow Borrower's or such Subsidiaries' customary practices as they exist at execution of this Agreement.

**6.4. Taxes; Pensions.** Make, and cause each Subsidiary to make, timely payment of all foreign, federal, state, and local taxes or assessments (other than taxes and assessments which Borrower is contesting pursuant to the terms of Section 5.9 hereof) and shall deliver to Bank, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms

**6.5. Insurance.** Maintain, with financially sound and reputable insurers, general business and casualty insurance in such amounts and against such liabilities and hazards as is customary for companies in Borrower's and its Subsidiaries' line of business. All property policies will have a lender's loss payable endorsement showing Bank as an additional loss payee and all liability policies will show the Bank as an additional insured and provide that the insurer must give Bank at least twenty (20) days' notice before canceling its policy. If an Event of Default has occurred and is continuing, proceeds payable under any policy covering the Collateral will, at Bank's option, be payable to Bank on account of the Obligations.

#### **6.6. Operating Accounts.**

(a) Maintain Borrower's and each Guarantor's primary depository and operating accounts and securities accounts with Bank and Bank's affiliates. Primary depository and operating accounts and securities accounts to be defined as all operating accounts and a minimum 50% of the unrestricted investments. Final banking business to be fully transferred no later than March 31, 2009.

(b) Provide Bank five (5) days' prior written notice before establishing any Collateral Account at or with any bank or financial institution other than Bank or its Affiliates. In addition, for each Collateral Account that Borrower or any Guarantor at any time maintains, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Bank's Lien in such Collateral Account in accordance with the terms hereunder. The provisions of the previous sentence shall not apply to deposit accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Borrower's or any Guarantor's employees and identified to Bank by Borrower or such Guarantor as such.

**6.7. Financial Covenants.**

Borrower shall maintain as of the last day of each fiscal quarter, unless otherwise noted, on a consolidated basis with respect to Borrower and its Subsidiaries:

(a)Current Ratio. A ratio of Current Assets to Current Liabilities plus the aggregate amount of all Credit Extensions of at least 1.3 to 1.0 on June 30, 2008 and September 30, 2008, and of at least 1.5 to 1.0 on December 31, 2008 and each fiscal quarter thereafter.

(b)Minimum EBITDA. EBITDA greater than the amount set forth below opposite each period; provided however in no event shall EBITDA losses for any one quarter exceed \$2,500,000; provided further that in no event shall EBITDA be less than \$0 for any two consecutive quarters.

<u>Fiscal Period</u>	<u>Minimum EBITDA</u>
January 1, 2008 to June 30, 2008	\$ 0
January 1, 2008 to September 30, 2008	\$ 0
January 1, 2008 to December 31, 2008	\$ 0
Such period, measured on a rolling four quarter basis, ending March 31, 2009 and each quarter thereafter	\$ 0

(c)Maximum Capital Expenditures. Capital Expenditures not in excess of \$12,000,000 in any fiscal year. Any Capital Expenditures financed by purchase money security interest financing or financial leases to the extent permitted by **Section 7.4** shall not count towards such \$12,000,000 cap.

**6.8. Protection and Registration of Intellectual Property Rights.** Borrower shall, and shall cause each of its Subsidiaries to: (a) protect, defend and maintain the validity and enforceability of its Intellectual Property; (b) promptly advise Bank in writing of material infringements of its Intellectual Property; and (c) not allow any Intellectual Property material to Borrower's or any Guarantor's business to be abandoned, forfeited or dedicated to the public without Bank's written consent.

**6.9. Litigation Cooperation.** From the date hereof and continuing through the termination of this Agreement, make available to Bank, without expense to Bank, Borrower and each of its Subsidiaries and its respective officers, employees and agents and Borrower's books and records, to the extent that Bank may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Bank with respect to any Collateral or relating to Borrower or any such Subsidiary.

**6.10. Designated Senior Indebtedness.** Borrower shall designate all principal of, interest (including all interest accruing after the commencement of any bankruptcy or similar proceeding, whether or not a claim for post-petition interest is allowable as a claim in any such proceeding), and all fees, costs, expenses and other amounts accrued or due under this Agreement as "Designated Senior Indebtedness", or such similar term, in any future Subordinated Debt incurred by Borrower after the date hereof, if such Subordinated Debt contains such term or similar term and if the effect of such designation is to grant to Bank the same or similar rights as granted to Bank as a holder of "Designated Senior Indebtedness" under any indenture.



**6.11. New Subsidiaries.** In the event that any Person becomes a Domestic Subsidiary of Borrower or any other existing Domestic Subsidiary and has total assets with a book value in excess of \$2.5 million, Borrower shall, and shall cause the new Subsidiary and the existing Subsidiary to (a) concurrently with such Person becoming a Domestic Subsidiary, cause such Domestic Subsidiary to guarantee all of the Obligations and to grant to Bank a first priority Lien (subject to Permitted Liens) in the Collateral by delivering to Bank a Guarantee in form and substance satisfactory to Bank, and (b) take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements, and certificates necessary to effectuate such Domestic Subsidiary becoming a Guarantor and to grant such Lien in the Collateral referenced above. In the event that any Person becomes a Foreign Subsidiary of the Borrower or any existing Subsidiary and if the new Subsidiary is a Foreign Subsidiary in respect of which the pledge of all of the equity interest of such Subsidiary as Collateral would, in the good faith judgment of the Borrower, result in material adverse tax consequences to the Borrower or such existing Subsidiary, then Borrower or such existing Subsidiary shall pledge only sixty five percent (65%) of the ownership interests of such Foreign Subsidiary and such Foreign Subsidiary shall not be required to be Guarantor or grantor hereunder.

**6.12. Further Assurances.** Borrower shall, and shall cause any Guarantor to, execute any further instruments and take further action as Bank reasonably requests to perfect or continue Bank's Lien in the Collateral or to effect the purposes of this Agreement.

**6.13. Post Closing.** (a) Within 60 days of the date hereof, Borrower shall have delivered to Bank landlord's consents executed by the applicable landlord thereunder in favor of Bank (5445 N.E. Dawson Creek Drive, Hillsboro, Oregon 97124 and 5435 N.E. Dawson Creek Drive, Hillsboro, Oregon 97124) each in form and substance reasonably satisfactory to the Bank;

(b) within 30 days of the date hereof, Borrower shall have delivered to Bank: (i) any and all Collateral required to be delivered under the Loan Documents in order to perfect and preserve Bank's priority in such Collateral, such as stock certificates and promissory notes in favor of Borrower, each executed in blank; (ii) fully executed original signatures to the Control Agreements; (iii) the insurance policies and/or endorsements required pursuant to Section 6.5 hereof; and (iv) evidence that (1) the Liens securing Indebtedness owed by Borrower to UBS and any other secured party evidenced in the lien searches to the extent such Lien is not a Permitted Lien will be terminated and (2) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have or will, concurrently with the initial Credit Extension, be terminated; and

(c) within 30 days of the date hereof, Bank shall have received (i) current certificates of valid existence (or foreign qualification, as applicable) of Borrower certified by the Secretary of State of the States of Oregon, California, Colorado, Connecticut, Florida, Illinois, Iowa, Massachusetts, Michigan, New Hampshire, North Carolina, Ohio, Pennsylvania and Texas; and (ii) certified copies, dated as of a recent date, of financing statement searches, as Bank shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been terminated or released.

## **7. NEGATIVE COVENANTS**

Borrower shall not, and shall not permit any of its Subsidiaries to, do any of the following without Bank's prior written consent, for so long as Bank has an obligation to lend or there are any outstanding Obligations:

**7.1. Dispositions.** Convey, sell, lease, transfer or otherwise dispose of (collectively "**Transfer**"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for:

(a) Transfers in the ordinary course of business for fair market value;

(b) Transfers to (i) Borrower or any Guarantor from Borrower or any of its Subsidiaries or (ii) any Subsidiary of Borrower (which is not a Guarantor) to any other Subsidiary of Borrower (which is not a Guarantor);

(c) Transfers of property to the extent such property is exchanged for credit against, or proceeds are promptly applied to, the purchase price of other property used or useful in the business of Borrower or its Subsidiaries;

(d) Transfers constituting non-exclusive licenses and similar arrangements for the use of the property of Borrower or its Subsidiaries in the ordinary course of business and other non-perpetual licenses that may be exclusive in some respects other than territory (and/or that may be exclusive as to territory only in discreet geographical areas outside of the United States), but that could not result in a legal transfer of Borrower's title in the licensed property;

(e) Transfers otherwise permitted by the Loan Documents;

(f) sales or discounting of delinquent accounts in the ordinary course of business;

(g) Transfers associated with the making or disposition of a Permitted Investment;

(h) Transfers in connection with a permitted acquisition of a portion of the assets or rights acquired; and

(i) Transfers not otherwise permitted in this **Section 7.1**, provided, that the aggregate book value of all such Transfers by Borrower and its Subsidiaries, together, shall not exceed in any fiscal year, \$500,000.

#### **7.2. Changes in Business; Change in Control; Jurisdiction of Formation.**

Engage in any material line of business other than those lines of business conducted by Borrower and its Subsidiaries on the date hereof and any businesses reasonably related, complementary or incidental thereto or reasonable extensions thereof; permit or suffer any Change in Control. Borrower will not, without prior written notice, change its jurisdiction of formation.

**7.3. Mergers or Acquisitions.** Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person; *provided, however*, Bank's consent to the foregoing shall not be required so long as Borrower (a) is the sole survivor upon the consummation of any transaction described hereunder, (b) no Event of Default has occurred or is likely to occur as a result of such transaction and (c)(i) the fair market value of the consideration involved in such transactions does not exceed \$5,000,000 in the aggregate in any fiscal year or (ii) the consideration involved in such transaction consists entirely of capital stock of Borrower so long as Borrower provides Bank satisfactory evidence that Borrower shall be in pro forma compliance with the financial covenants herein for the next four quarters after such transaction. A Subsidiary may merge or consolidate into a Guarantor or into Borrower or a Subsidiary which is not a Guarantor may merge into another Subsidiary which is not a Guarantor.

**7.4. Indebtedness.** Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

**7.5. Encumbrance.** Create, incur, or allow any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, permit any Collateral not to be subject to the first priority security interest granted herein, or enter into any agreement, document, instrument or other arrangement (except with or in favor of Bank) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower or any Subsidiary from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or any Subsidiary's Intellectual Property without Bank's prior written consent, except as is otherwise permitted in **Section 7.1** hereof and the definition of "Permitted Lien" herein.

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**7.6. Maintenance of Collateral Accounts.** Maintain any Collateral Account except pursuant to the terms of **Section 6.6** hereof.

**7.7. Investments; Distributions.** Directly or indirectly acquire or own any Person, or make any Investment in any Person, other than Permitted Investments, Permitted Distributions or as permitted pursuant to **Section 7.3** hereof, or pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock.

**7.8. Transactions with Affiliates.** Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower or any Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person.

**7.9. Other Debt.** Make or permit any payment on or amendments of any Subordinated Debt, the 2013 Indenture or the 2023 Indenture, except (a) regularly scheduled interest payments pursuant to the terms of the 2013 Indenture and 2023 Indenture, as applicable; (b) payments made with Borrower's capital stock or other Subordinated Debt; (c) repurchase of the Securities (as defined in the 2023 Indenture) in accordance with Section 3.8 of the 2023 Indenture (as in effect on the date hereof) pursuant to the holders thereof electing such repurchase on November 15, 2008 in an amount not to exceed the Optional Purchase Price (as defined therein) or in open market or privately negotiated repurchases at or below the Optional Purchase Price or (d) amendments to Subordinated Debt so long as such Subordinated Debt remains subordinated in right of payment to this Agreement and any Liens securing such Subordinated Debt remain subordinate in priority to Bank's Lien hereunder.

**7.10. Compliance.** Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940 or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's or any Subsidiary's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower or any Subsidiary, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

## **8. EVENTS OF DEFAULT**

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

**8.1. Payment Default.** Borrower fails to (a) make any payment of principal or interest on any Credit Extension on its due date, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable. During the cure period, the failure to cure the payment default is not an Event of Default (but no Credit Extension will be made during the cure period);

### **8.2. Covenant Default.**

(a) Borrower or any Guarantor fails or neglects to perform any obligation in **Sections 6.2, 6.5, 6.6, 6.7, and 6.12** or violates any covenant in **Section 7**; or

(b) Borrower or any Guarantor fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement, any Loan Documents, and as to any default (other than those specified in this **Section 8**) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within

a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Grace periods provided under this section shall not apply, among other things, to financial covenants or any other covenants set forth in subsection (a) above;

**8.3. Material Adverse Change.** A Material Adverse Change occurs;

**8.4. Attachment.** (a) Any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver and the attachment, seizure or levy is not removed in ten (10) days; (b) the service of process upon Borrower seeking to attach, by trustee or similar process, any funds of Borrower on deposit with Bank, or any entity under control of Bank (including a subsidiary); (c) Borrower is enjoined, restrained, or prevented by court order from conducting a material part of its business; (d) a judgment or other claim in excess of \$500,000 becomes a Lien on any of Borrower's assets; or (e) a notice of lien, levy, or assessment is filed against any of Borrower's assets by any government agency and not paid within ten (10) days after Borrower receives notice. These are not Events of Default, if cured, if stayed or if a bond is posted in each case within thirty (30) days after such event pending contest or resolution by Borrower (but no Credit Extensions shall be made during the cure period);

**8.5. Insolvency.** Borrower is unable to pay its debts (including trade debts) as they become due or otherwise becomes insolvent; (b) Borrower begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower and not dismissed or stayed within thirty (30) days (but no Credit Extensions shall be made while of any of the conditions described in clause (a) exist and/or until any Insolvency Proceeding is dismissed);

**8.6. Other Agreements.** If Borrower fails to (a) make any payment that is due and payable with respect to any Material Indebtedness and such failure continues after the applicable grace or notice period, if any, specified in the agreement or instrument relating thereto, or (b) perform or observe any other condition or covenant, or any other event shall occur or condition exist under any agreement or instrument relating to any Material Indebtedness, and such failure continues after the applicable grace or notice period, if any, specified in the agreement or instrument relating thereto and the effect of such failure, event or condition is to cause the holder or holders of such Material Indebtedness to accelerate the maturity of such Material Indebtedness or cause the mandatory repurchase of any Material Indebtedness;

**8.7. Judgments.** A judgment or judgments for the payment of money in an amount, individually or in the aggregate, of at least \$500,000 to the extent not covered by independent third-party insurance shall be rendered against Borrower and shall remain unsatisfied and unstayed for a period of ten (10) days after the entry thereof (provided that no Credit Extensions will be made prior to the satisfaction or stay of such judgment);

**8.8. Misrepresentations.** Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Bank or to induce Bank to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

**8.9. Other Debt.** A default or breach occurs under (a) any agreement between Borrower and any creditor of Borrower that signed a subordination, intercreditor, or other similar agreement with Bank, or any creditor that has signed such an agreement with Bank breaches any terms of such agreement or (b) the 2013 Indenture or the 2023 Indenture; or

**8.10. Guaranty.** (a) Any guaranty of any Obligations terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any guaranty of the Obligations; (c) any circumstance described in **Sections 8.3, 8.4, 8.5, 8.6, 8.7, 8.8** or **8.9** occurs with respect to any Guarantor, (d) the liquidation, winding up, or termination of existence of any Guarantor; or (e) (i) a material impairment in the perfection or priority of Bank's Lien in the collateral provided by Guarantor or in the value of such collateral or (ii) a material adverse change in the general affairs, management, results of operation, condition (financial or otherwise) or the prospect of repayment of the Obligations occurs with respect to any Guarantor.

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## 9. **BANK'S RIGHTS AND REMEDIES**

**9.1. Rights and Remedies.** While an Event of Default occurs and continues Bank may, without notice or demand, do any or all of the following:

- (a) declare all Obligations immediately due and payable (but if an Event of Default described in **Section 8.5** occurs all Obligations are immediately due and payable without any action by Bank);
- (b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Bank;
- (c) demand that Borrower (i) deposits cash with Bank in an amount equal to the aggregate amount of any Letters of Credit remaining undrawn, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrower shall forthwith deposit and pay such amounts, and (ii) pay in advance all Letter of Credit fees scheduled to be paid or payable over the remaining term of any Letters of Credit;
- (d) terminate any FX Contracts;
- (e) settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Bank considers advisable, notify any Person owing Borrower or any Guarantor money of Bank's security interest in such funds, and verify the amount of such account;
- (f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall, and shall cause each Guarantor to, assemble the Collateral if Bank requests and make it available as Bank designates. Bank may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants, and shall cause each Guarantor to grant to, Bank a license to enter and occupy any of its premises, without charge, to exercise any of Bank's rights or remedies;
- (g) apply to the Obligations any (i) balances and deposits of Borrower or any Guarantor it holds, or (ii) any amount held by Bank owing to or for the credit or the account of Borrower or any Guarantor;
- (h) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Bank is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's and any Guarantors' labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section, Borrower's and any Guarantors' rights under all licenses and all franchise agreements inure to Bank's benefit;
- (i) place a "hold" on any account maintained with Bank and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;
- (j) demand and receive possession of Borrower's Books; and
- (k) exercise all rights and remedies available to Bank under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

**9.2. Power of Attorney.** Borrower hereby irrevocably appoints, and shall cause each Guarantor to appoint, Bank as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's or such Guarantor's name on any checks or other forms of payment or security; (b) sign Borrower's or such Guarantor's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account

Debtors, for amounts and on terms Bank determines reasonable; (d) make, settle, and adjust all claims under Borrower's or such Guarantor's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Bank or a third party as the Code permits. Borrower hereby appoints, and shall cause each Guarantor to appoint, Bank as its lawful attorney-in-fact to sign Borrower's or such Guarantor's name on any documents necessary to perfect or continue the perfection of any security interest regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and Bank is under no further obligation to make Credit Extensions hereunder. Bank's foregoing appointment as Borrower's or such Guarantor's attorney in fact, and all of Bank's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and Bank's obligation to provide Credit Extensions terminates.

**9.3. Accounts Verification; Collection.** Whether or not an Event of Default has occurred and is continuing, Bank may notify any Person owing Borrower or any Guarantor money of Bank's security interest in such funds and verify the amount of such account. After the occurrence of an Event of Default, any amounts received by Borrower or any Guarantor shall be held in trust by Borrower or such Guarantor for Bank, and, if requested by Bank, Borrower shall, and shall cause each Guarantor to, immediately deliver such receipts to Bank in the form received from the Account Debtor, with proper endorsements for deposit.

**9.4. Protective Payments.** If Borrower or any Guarantor fails to obtain the insurance called for by **Section 6.6** or fails to pay any premium thereon or fails to pay any other amount which Borrower or such Guarantor is obligated to pay under this Agreement or any other Loan Document, Bank may obtain such insurance or make such payment, and all amounts so paid by Bank are Bank Expenses and immediately due and payable, bearing interest at the then highest applicable rate, and secured by the Collateral. Bank will make reasonable efforts to provide Borrower or such Guarantor with notice of Bank obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Bank are deemed an agreement to make similar payments in the future or Bank's waiver of any Event of Default.

**9.5. Application of Payments and Proceeds.** Unless an Event of Default has occurred and is continuing, Bank shall apply any funds in its possession, whether from Borrower or any Guarantor account balances, payments, or proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, first, to Bank Expenses, including without limitation, the reasonable costs, expenses, liabilities, obligations and attorneys' fees incurred by Bank in the exercise of its rights under this Agreement; second, to the interest due upon any of the Obligations; and third, to the principal of the Obligations and any applicable fees and other charges, in such order as Bank shall determine in its sole discretion. Any surplus shall be paid to Borrower or other Persons legally entitled thereto; Borrower and Guarantors shall remain liable to Bank for any deficiency. If an Event of Default has occurred and is continuing, Bank may apply any funds in its possession, whether from Borrower or any Guarantor account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations in such order as Bank shall determine in its sole discretion. Any surplus shall be paid to Borrower or other Persons legally entitled thereto; Borrower and Guarantors shall remain liable to Bank for any deficiency. If Bank, in its good faith business judgment, directly or indirectly enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

**9.6. Bank's Liability for Collateral.** So long as Bank complies with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Bank, Bank shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower and Guarantors bear all risk of loss, damage or destruction of the Collateral.

**9.7. No Waiver; Remedies Cumulative.** Bank's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Bank thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by Bank and then is only effective for the specific instance and purpose for which it is given. Bank's rights and remedies under this Agreement and the other Loan Documents are

cumulative. Bank has all rights and remedies provided under the Code, by law, or in equity. Bank's exercise of one right or remedy is not an election, and Bank's waiver of any Event of Default is not a continuing waiver. Bank's delay in exercising any remedy is not a waiver, election, or acquiescence.

**9.8. Demand Waiver.** Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Bank on which Borrower is liable.

## **10. NOTICES**

All notices, consents, requests, approvals, demands, or other communication (collectively, "**Communication**") by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Bank or Borrower may change its address or facsimile number by giving the other party written notice thereof in accordance with the terms of this **Section 10**.

If to Borrower:                 RadiSys Corporation  
5445 NE Dawson Creek Drive  
Hillsboro, OR 97124  
Attn: Barb Doolin  
Fax: (503) 615-1121  
Email: barb.doolin@radisys.com

If to Bank:                         Silicon Valley Bank  
8705 SW Nimbus  
Suite 240  
Beaverton, Oregon 97008  
Attn: Ron Sherman  
Fax: (503) 526-0818  
Email: rsherman@svb.com

## **11. CHOICE OF LAW, VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE**

California law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Bank each submit to the exclusive jurisdiction of the State and Federal courts in Santa Clara County, California; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Bank from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Bank. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in **Section 10** of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND BANK EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY, if the above waiver of the right to a trial by jury is not enforceable, the parties hereto agree that any and all disputes or controversies of any nature between them arising at any time shall be decided by a reference to a private judge, mutually selected by the parties (or, if they cannot agree, by the Presiding Judge of the Santa Clara County, California Superior Court) appointed in accordance with California Code of Civil Procedure Section 638 (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts), sitting without a jury, in Santa Clara County, California; and the parties hereby submit to the jurisdiction of such court. The reference proceedings shall be conducted pursuant to and in accordance with the provisions of California Code of Civil Procedure §§ 638 through 645.1, inclusive. The private judge shall have the power, among others, to grant provisional relief, including without limitation, entering temporary restraining orders, issuing preliminary and permanent injunctions and appointing receivers. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. If during the course of any dispute, a party desires to seek provisional relief, but a judge has not been appointed at that point pursuant to the judicial reference procedures, then such party may apply to the Santa Clara County, California Superior Court for such relief. The proceeding before the private judge shall be conducted in the same manner as it would be before a court under the rules of evidence applicable to judicial proceedings. The parties shall be entitled to discovery which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and order applicable to judicial proceedings in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to the California Code of Civil Procedure § 644(a). Nothing in this paragraph shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

## **12. GENERAL PROVISIONS**

**12.1. Successors and Assigns.** This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Bank's prior written consent (which may be granted or withheld in Bank's discretion). Bank has the right, without the consent of or notice to Borrower or any Guarantor, to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents.

**12.2. Indemnification.** Borrower agrees, and shall cause each Guarantor to, indemnify, defend and hold Bank and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Bank harmless against: (a) all obligations, demands, claims, and liabilities (collectively, "Claims") asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (b) all losses or Bank Expenses incurred, or paid by Bank from, following, or arising from transactions between Bank and Borrower and/or any Guarantor (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by Bank's or such indemnified person's gross negligence, fraud or willful misconduct.

**12.3. Limitation of Actions.** Any claim or cause of action by Borrower or any Guarantor against Bank, its directors, officers, employees, agents, accountants, attorneys, or any other Person affiliated with or representing Bank based upon, arising from, or relating to this Loan Agreement or any other Loan Document, or any other transaction contemplated hereby or thereby or relating hereto or thereto, or any other matter, cause or thing whatsoever, occurred, done, omitted or suffered to be done by Bank, its directors, officers, employees, agents, accountants or attorneys, shall be barred unless asserted by Borrower or such Guarantor by the commencement of an action or proceeding in a court of competent jurisdiction by (a) the filing of a complaint within one year from the earlier of (i) the date any of Borrower's or such Guarantor's officers or directors had knowledge of the first act, the occurrence or omission upon which such claim or cause of action, or any part thereof, is based, or (ii) the date this Agreement is terminated, and (b) the service of a summons and complaint on an officer of Bank, or on any other person authorized to accept service on behalf of Bank, within thirty (30) days thereafter. Borrower agrees, and shall cause each Guarantor to agree, that such one-year period is a reasonable and sufficient time for Borrower and such



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Guarantor to investigate and act upon any such claim or cause of action. The one-year period provided herein shall not be waived, tolled, or extended except by the written consent of Bank in its sole discretion or in the event of fraud or material misrepresentation by Bank. This provision shall survive any termination of this Loan Agreement or any other Loan Document.

**12.4. Time of Essence.** Time is of the essence for the performance of all Obligations in this Agreement.

**12.5. Severability of Provisions.** Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

**12.6. Amendments in Writing; Integration.** All amendments to this Agreement must be in writing signed by both Bank and Borrower. This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

**12.7. Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, are an original, and all taken together, constitute one Agreement.

**12.8. Survival.** All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) have been satisfied. The obligation of Borrower in **Section 12.2** to indemnify Bank shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

**12.9. Confidentiality.** In handling any confidential information, Bank shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (a) to Bank's Subsidiaries or Affiliates; (b) to prospective transferees or purchasers of any interest in the Credit Extensions (provided, however, Bank shall use commercially reasonable efforts to obtain such prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Bank's regulators or as otherwise required in connection with Bank's examination or audit; and (e) as Bank considers appropriate in exercising remedies under this Agreement. Confidential information does not include information that either: (i) is in the public domain or in Bank's possession when disclosed to Bank, or becomes part of the public domain after disclosure to Bank; or (ii) is disclosed to Bank by a third party, if Bank does not know that the third party is prohibited from disclosing the information.

**12.10. Attorneys' Fees, Costs and Expenses.** In any action or proceeding between Borrower and any Guarantor, on the one hand, and Bank on the other, arising out of or relating to the Loan Documents, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled.

### **13. DEFINITIONS**

**13.1. Definitions.** As used in this Agreement, the following terms have the following meanings:

"**2013 Indenture**" means the Indenture dated as of February 12, 2008 as supplemented by the First Supplemental Indenture dated as of February 12, 2008 by Borrower and The Bank of New York Trust Company, N.A., as trustee.

"**2023 Indenture**" means the Indenture dated as of November 19, 2003 by Borrower and JPMorgan Chase Bank, as trustee.

"**Account**" is any "account" as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

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“**Account Debtor**” is any “account debtor” as defined in the Code with such additions to such term as may hereafter be made.

“**Advance**” or “**Advances**” means an advance (or advances) under the Revolving Line.

“**Affiliate**” of any Person is a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person’s senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person’s managers and members.

“**Agreement**” is defined in the preamble hereof.

“**Availability Amount**” is the lesser of (i) the Revolving Line or (ii)(1) if the outstanding Credit Extensions is less than \$7,500,000, then \$7,500,000, or (2) if the outstanding Credit Extensions is greater than \$7,500,000, then the Borrowing Base minus (a) the amount of all outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit) plus an amount equal to the Letter of Credit Reserves, minus (b) the FX Reserve, and minus in each case (c) the outstanding principal balance of any Advances (including any amounts used for Cash Management Services); provided however that the first \$5,000,000 of the aggregate Credit Extensions under Sections 2.1.3 and 2.1.4 shall not be subtracted from the amount in clause (i) or (ii) above.

“**Bank**” is defined in the preamble hereof.

“**Bank Expenses**” are all audit fees and expenses, costs, and expenses (including reasonable attorneys’ fees and expenses) for preparing, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower or any Guarantor.

“**Borrower**” is defined in the preamble hereof.

“**Borrower’s Books**” are all Borrower’s and Guarantors’ books and records including ledgers, federal and state tax returns, records regarding Borrower’s and such Guarantor’s assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

“**Borrowing Base**” is 80% of Eligible Accounts, except to the extent the Account of Nokia Siemens is an Eligible Account then 70% of such Account, and except Eligible Foreign Accounts for which such percentage is 50%, as determined by Bank from Borrower’s most recent Borrowing Base Certificate; provided, however, that Bank may decrease the foregoing percentages in its good faith business judgment based on events, conditions, contingencies, or risks which, as determined by Bank, may adversely affect Collateral.

“**Borrowing Base Certificate**” is that certain certificate in the form attached hereto as **Exhibit E**.

“**Borrowing Resolutions**” are, with respect to any Person, those resolutions adopted by such Person’s Board of Directors and delivered by such Person to Bank approving the Loan Documents to which such Person is a party and the transactions contemplated thereby, together with a certificate executed by its secretary on behalf of such Person certifying that (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that attached as Exhibit A to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) of the Person(s) authorized to execute the Loan Documents on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Bank may conclusively rely on such certificate unless and until such Person shall have delivered to Bank a further certificate canceling or amending such prior certificate.

“**Business**” is providing advanced embedded solutions for the communications networking and commercial systems markets.

“**Business Day**” is any day other than a Saturday, Sunday or other day on which banking institutions in the State of California are authorized or required by law or other governmental action to close, except that if any determination of a “Business Day” shall relate to a LIBOR Credit Extension, the term “Business Day” shall also mean a day on which dealings are carried on in the London interbank market, and if any determination of a

“Business Day” shall relate to an FX Forward Contract, the term “Business Day” shall mean a day on which dealings are carried on in the country of settlement of the foreign (i.e., non-Dollar) currency.

“**Capital Expenditures**” means with respect to any Person, the aggregate of all expenditures (whether paid in cash or other consideration or accrued as a liability and including that portion of Capital Lease Obligations which is capitalized on the consolidated balance sheet of such Person) by such Person and its Subsidiaries during such period for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) that, in conformity with GAAP, are included in “additions to property, plant or equipment” or comparable items reflected in the consolidated statement of cash flows of such Person and its Subsidiaries.

“**Capital Lease**” means with respect to any Person, any lease of any property (whether real, personal or mixed) by such Person as lessee that, in accordance with GAAP, would be required to be classified and accounted for as a capital lease on a balance sheet of such Person.

“**Capital Lease Obligation**” means with respect to any Capital Lease of any Person, the amount of the obligation of the lessee thereunder that, in accordance with GAAP, would appear on a balance sheet of such lessee in respect of such Capital Lease.

“**Cash Equivalents**” means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc., (c) Bank’s certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition.

“**Cash Management Services**” is defined in **Section 2.1.4**.

“**Change in Control**” means any event, transaction, or occurrence as a result of which (a) any “person” (as such term is defined in Sections 3(a)(9) and 13(d)(3) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), other than a trustee or other fiduciary holding securities under an employee benefit plan of Borrower, is or becomes a beneficial owner (within the meaning Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Borrower, representing twenty-five percent (25%) or more of the combined voting power of Borrower’s then outstanding securities; or (b) during any period of twelve consecutive calendar months, individuals who at the beginning of such period constituted the Board of Directors of Borrower (together with any new directors whose election by the Board of Directors of Borrower was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason other than death or disability to constitute a majority of the directors then in office.

“**Code**” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Bank’s Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term “**Code**” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes on the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“**Collateral**” is any and all properties, rights and assets (now, or in the future) of the Borrower and Guarantors granted by the Borrower and each Guarantor to Lenders or arising under the Code and described on **Exhibit A**.

“**Collateral Account**” is any Deposit Account, Securities Account, or Commodity Account.

“**Commodity Account**” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made.

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“**Communication**” is defined in **Section 10**.

“**Compliance Certificate**” is that certain certificate in the form attached hereto as **Exhibit F**.

“**Contingent Obligation**” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

“**Continuation Date**” means any date on which Borrower elects to continue a LIBOR Credit Extension into another Interest Period.

“**Control Agreement**” is any control agreement entered into among the depository institution at which Borrower or any Guarantor maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower or any Guarantor maintains a Securities Account or a Commodity account, Borrower, such Guarantor and Bank pursuant to which Bank obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

“**Conversion Date**” means any date on which Borrower elects to convert a Prime Rate Credit Extension to a LIBOR Credit Extension or a LIBOR Credit Extension to a Prime Rate Credit Extension.

“**Copyright**” means any of the following now owned or hereafter acquired or created (as a work for hire for the benefit of Borrower or any Guarantor) by Borrower or any Guarantor or in which Borrower or any Guarantor now holds or hereafter acquires or receives any right or interest, in whole or in part: (a) any copyright, whether registered or unregistered, held pursuant to the laws of the United States or of any other country or foreign jurisdiction, (b) registration, application or recording in the United States Copyright Office or in any similar office or agency of the United States or any other country or foreign jurisdiction, (c) any continuation, renewal or extension thereof, and (d) any registration to be issued in any pending application, and shall include any right or interest in and to work protectable by any of the foregoing which are presently or in the future owned, created or authorized (as a work for hire for the benefit of Borrower or any Guarantor) or acquired by Borrower or any Guarantor, in whole or in part.

“**Credit Extension**” is any Advance, Letter of Credit, FX Forward Contract, amount utilized for Cash Management Services or any other extension of credit by Bank for Borrower’s benefit.

“**Current Assets**” are amounts that under GAAP should be included on that date as current assets on Borrower’s consolidated balance sheet.

“**Current Liabilities**” means amounts that under GAAP should be included on that date as current liabilities on Borrower’s consolidated balance sheet less Deferred Revenues plus outstanding Advances and Letters of Credit.

“**Default**” means any event which with notice or passage of time or both, would constitute an Event of Default.

“**Default Rate**” is defined in **Section 2.3(b)**.

“**Deferred Revenue**” is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

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“**Deposit Account**” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made.

“**Designated Deposit Account**” means the deposit account maintained with Bank in the name of Borrower.

“**Disclosure Schedule**” means the disclosure schedule attached hereto as **Schedule A**.

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

“**Domestic Subsidiary**” means a Subsidiary organized under the laws of the United States or any state or territory thereof or the District of Columbia.

“**EBITDA**” shall mean, for any period, (a) Net Income plus (b) to the extent deducted in the calculation of Net Income, (i) Interest Expense, (ii) income tax expense, and (iii) depreciation and amortization plus (c) non-cash stock based compensation to the extent reflected as a charge in the statement of Net Income for such period.

“**Effective Date**” is the date Bank executes this Agreement and as indicated on the signature page hereof.

“**Eligible Accounts**” are Accounts which arise in the ordinary course of Borrower’s business that meet all Borrower’s representations and warranties in **Section 5**. Bank reserves the right at any time and from time to time after the Effective Date, to adjust any of the criteria set forth below and to establish new criteria in its good faith business judgment. Unless Bank agrees otherwise in writing, Eligible Accounts will not include:

- (a) Accounts that the Account Debtor has not paid within ninety (90) days of invoice date;
- (b) Accounts owing from an Account Debtor, twenty-five percent (25%) or more of whose Accounts have not been paid within ninety (90) days of invoice date;
- (c) credit balances over ninety (90) days from invoice date;
- (d) Accounts owing from an Account Debtor, including Affiliates, whose total obligations to Borrower exceed twenty-five (25%) of all Accounts, except for Nokia Siemens for which such percentage is 40%, for the amounts that exceed that percentage, unless Bank approves in writing;
- (e) Accounts owing from an Account Debtor which does not have its principal place of business in the United States except for Eligible Foreign Accounts;
- (f) Accounts owing from an Account Debtor which is a federal, state or local government entity or any department, agency, or instrumentality thereof except for Accounts of the United States if Borrower has assigned its payment rights to Bank and the assignment has been acknowledged under the Federal Assignment of Claims Act of 1940, as amended;
- (g) Accounts owing from an Account Debtor to the extent that Borrower is indebted or obligated in any manner to the Account Debtor (as creditor, lessor, supplier or otherwise - sometimes called “contra” accounts, accounts payable, customer deposits or credit accounts), with the exception of customary credits, adjustments and/or discounts given to an Account Debtor by Borrower in the ordinary course of its business;
- (h) Accounts for demonstration or promotional equipment, or in which goods are consigned, or sold on a “sale guaranteed”, “sale or return”, “sale on approval”, “bill and hold”, or other terms if Account Debtor’s payment may be conditional;
- (i) Accounts for which the Account Debtor is Borrower’s Affiliate, officer, employee, or agent;
- (j) Accounts in which the Account Debtor disputes liability or makes any claim (but only up to the disputed or claimed amount), or if the Account Debtor is subject to an Insolvency Proceeding, or becomes insolvent, or goes out of business; and

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(k) Accounts for which Bank in its reasonable good faith business judgment determines collection to be doubtful.

“**Eligible Foreign Accounts**” are Accounts for which the Account Debtor does not have its principal place of business in the United States but are otherwise Eligible Accounts.

“**Equipment**” is all “equipment” as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

“**ERISA**” is the Employment Retirement Income Security Act of 1974, and its regulations.

“**Event of Default**” is defined in **Section 8**.

“**Foreign Currency**” means lawful money of a country other than the United States.

“**Foreign Subsidiary**” means any Subsidiary which is not a Domestic Subsidiary.

“**Funding Date**” is any date on which a Credit Extension is made to or on account of Borrower which shall be a Business Day.

“**FX Business Day**” is any day when (a) Bank’s Foreign Exchange Department is conducting its normal business and (b) the Foreign Currency being purchased or sold by Borrower is available to Bank from the entity from which Bank shall buy or sell such Foreign Currency.

“**FX Forward Contract**” is defined in **Section 2.1.3**.

“**FX Reserve**” is defined in **Section 2.1.3**.

“**GAAP**” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“**General Intangibles**” is all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, trademarks, service marks and, to the extent permitted under applicable law, any applications therefor, whether registered or not, any trade secret rights, including any rights to unpatented inventions, payment intangibles, royalties, contract rights, goodwill, franchise agreements, purchase orders, customer lists, route lists, telephone numbers, domain names, claims, income and other tax refunds, security and other deposits, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“**Guarantor**” is any present or future guarantor of the Obligations; provided however, no Foreign Subsidiary shall be a Guarantor.

“**Indebtedness**” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) Capital Lease Obligations, and (d) Contingent Obligations.

“**Insolvency Proceeding**” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“**Intellectual Property**” means any intellectual property, in any medium, of any kind or nature whatsoever, now or hereafter owned or acquired or received by Borrower or any Guarantor or in which Borrower or any

Guarantor now holds or hereafter acquires or receives any right or interest, and shall include, in any event, any Copyright, Trademark, Patent, trade secret, customer list, Internet domain name (including any right related to the registration thereof), proprietary or confidential information, mask work, source, object or other programming code, invention (whether or not patented or patentable), technical information, procedure, design, knowledge, know-how, software, data base, data, skill, expertise, recipe, experience, process, model, drawing, material or record, all claims for damages by way of past, present and future infringement of any of the rights included above and all licenses or other rights to use any property or rights of a type described above.

“**Interest Expense**” means for any fiscal period, interest expense (whether cash or non-cash) determined in accordance with GAAP for the relevant period ending on such date, including, in any event, interest expense with respect to any Credit Extension and other Indebtedness of Borrower and its Subsidiaries, including, without limitation or duplication, all commissions, discounts, or related amortization and other fees and charges with respect to letters of credit and bankers’ acceptance financing and the net costs associated with interest rate swap, cap, and similar arrangements, and the interest portion of any deferred payment obligation (including leases of all types).

“**Interest Payment Date**” means, with respect to any LIBOR Credit Extension or any Prime Rate Credit Extensions, the first (1st) day of each month (or, if the first day of the month does not fall on a Business Day, then on the first Business Day following such date).

“**Interest Period**” means, as to any LIBOR Credit Extension, the period commencing on the date of such LIBOR Credit Extension, or on the conversion/continuation date on which the LIBOR Credit Extension is converted into or continued as a LIBOR Credit Extension, and ending on the date that is 30, 60 or 90 days thereafter, in each case as Borrower may elect in the applicable Notice of Borrowing or Notice of Conversion/Continuation; *provided, however*, that (a) no Interest Period with respect to any LIBOR Credit Extension shall end later than the Revolving Line Maturity Date, (b) the last day of an Interest Period shall be determined in accordance with the practices of the LIBOR interbank market as from time to time in effect, (c) if any Interest Period would otherwise end on a day that is not a Business Day, that Interest Period shall be extended to the following Business Day unless, in the case of a LIBOR Credit Extension, the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day, (d) any Interest Period pertaining to a LIBOR Credit Extension that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period, and (e) interest shall accrue from and include the first Business Day of an Interest Period but exclude the last Business Day of such Interest Period.

“**Interest Rate Determination Date**” means each date for calculating the LIBOR for purposes of determining the interest rate in respect of an Interest Period. The Interest Rate Determination Date shall be the second Business Day prior to the first day of the related Interest Period for a LIBOR Credit Extension.

“**Inventory**” is all “inventory” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower’s or any Guarantor’s custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

“**Investment**” is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

“**Letter of Credit**” means a standby letter of credit issued by Bank or another institution based upon an application, guarantee, indemnity or similar agreement on the part of Bank as set forth in **Section 2.1.2**.

“**Letter of Credit Application**” is defined in **Section 2.1.2(a)**.

“**Letter of Credit Reserve**” has the meaning set forth in **Section 2.1.2(d)**.

“**LIBOR**” means, for any Interest Rate Determination Date with respect to an Interest Period for any Credit Extension to be made, continued as or converted into a LIBOR Credit Extension, the rate of interest per annum determined by Bank to be the per annum rate of interest at which deposits in United States Dollars are offered to Bank in the London interbank market (rounded upward, if necessary, to the nearest 1/100th of one percent (0.01%)) in which Bank customarily participates at 11:00 a.m. (local time in such interbank market) two (2) Business Days prior to the first day of such Interest Period for a period approximately equal to such Interest Period and in an amount approximately equal to the amount of such Credit Extension.

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“**LIBOR Credit Extension**” means a Credit Extension that bears interest based at the LIBOR Rate.

“**LIBOR Rate**” means, for each Interest Period in respect of LIBOR Credit Extensions comprising part of the same Credit Extensions, an interest rate *per annum* (rounded upward to the nearest 1/16th of one percent (0.0625%)) equal to LIBOR for such Interest Period *divided by* one (1) *minus* the Reserve Requirement for such Interest Period.

“**LIBOR Rate Margin**” is equal to one and one-quarter percent (1.25%).

“**Lien**” is a mortgage, lien, deed of trust, charge, pledge, security interest or other encumbrance.

“**Loan Documents**” are, collectively, this Agreement, the Disclosure Schedule, the Perfection Certificate(s), any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement between Borrower any Guarantor and/or for the benefit of Bank in connection with this Agreement, all as amended, restated, or otherwise modified.

“**Material Adverse Change**” is any of the following: (a) a material adverse change in the business, operations, or condition (financial or otherwise) of Borrower or any of its Subsidiaries; or (b) a material impairment of the prospect of repayment of any portion of the Obligations; (c) a material impairment in the perfection, value or priority of Bank’s security interests in the Collateral; or (d) Bank determines, based upon information available to it and in its reasonable judgment, that there is a reasonable likelihood that Borrower shall fail to comply with one or more of the financial covenants in Section 6 during the next succeeding financial reporting period.

“**Material Indebtedness**” is any Indebtedness the principal amount of which is equal to or greater than \$500,000, and in any event, includes the Indebtedness evidenced by the 2013 or 2023 Indentures.

“**Material Litigation**” has the meaning ascribed to it in **Section 6.2(a)** hereof.

“**Net Income**” means, as calculated on a consolidated basis for Borrower and its Subsidiaries for any period as at any date of determination, the net profit (or loss), after provision for taxes, of Borrower and its Subsidiaries for such period taken as a single accounting period.

“**Notice of Borrowing**” means a notice given by Borrower to Bank in accordance with **Section 3.2(a)**, substantially in the form of **Exhibit C**, with appropriate insertions.

“**Notice of Conversion/Continuation**” means a notice given by Borrower to Bank in accordance with **Section 3.5**, substantially in the form of **Exhibit D**, with appropriate insertions.

“**Obligations**” are Borrower’s and/or Guarantors’ obligation to pay when due any debts, principal, interest, Bank Expenses and other amounts Borrower and/or Guarantors owe Bank now or later, whether under this Agreement, the Loan Documents, or otherwise, including, without limitation, all obligations relating to letters of credit, cash management services, and foreign exchange contracts, if any, and including interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower and/or Guarantor assigned to Bank, and the performance of Borrower’s and/or Guarantors’ duties under the Loan Documents.

“**Operating Documents**” are, for any Person, such Person’s formation documents, as certified with the Secretary of State of such Person’s state of formation on a date that is no earlier than 30 days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

“**Patent**” means any of the following now hereafter owned or acquired or received by Borrower or any Guarantor or in which Borrower or any Guarantor now holds or hereafter acquires or receives any right or interest: (a) letters patent and right corresponding thereto, of the United States or any other country or other foreign jurisdiction, any registration and recording thereof, and any application for letters patent, and rights corresponding thereto, of the United States or any other country or other foreign jurisdiction, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or other foreign jurisdiction; (b) any reissue, continuation, continuation-in-part or extension thereof; (c) any petty patent, divisional, and patent of addition; and (d) any patent to issue in any such application.



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“**Payment/Credit Extension Form**” is that certain form attached hereto as **Exhibit B**.

“**Payment Date**” is defined in **Section 2.1.8(b)**.

“**Perfection Certificate**” is defined in **Section 5.1**.

“**Permitted Distributions**” means:

(a) purchases of capital stock from former employees, consultants and directors pursuant to repurchase agreements or other similar agreements in an aggregate amount not to exceed \$500,000 in any fiscal year provided that at the time of such purchase no Default or Event of Default has occurred and is continuing;

(b) distributions or dividends consisting solely of Borrower’s or any Subsidiary’s capital stock;

(c) purchases for value of any rights distributed in connection with any stockholder rights plan;

(d) purchases of capital stock pledged as collateral for loans to employees;

(e) purchases of capital stock in connection with the exercise of stock options or stock appreciation rights by way of cashless exercise or in connection with the satisfaction of withholding tax obligations;

(f) purchases of fractional shares of capital stock arising out of stock dividends, splits or combinations or business combinations; and

(g) the settlement or performance of such Person’s obligations under any equity derivative transaction, option contract or similar transaction or combination of transactions.

“**Permitted Indebtedness**” is:

(a) Borrower’s Indebtedness to Bank under this Agreement or any other Loan Document;

(b) any Indebtedness existing on the Effective Date and shown on the Perfection Certificate;

(c) Subordinated Debt;

(d) unsecured Indebtedness to trade creditors and with respect to surety bonds and similar obligations incurred in the ordinary course of business;

(e) guaranties of Permitted Indebtedness;

(f) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(g) Indebtedness consisting of interest rate, currency, or commodity swap agreements, interest rate cap or collar agreements or arrangements designated to protect a Person against fluctuations in interest rates, currency exchange rates, or commodity prices;

(h) Indebtedness between Borrower and any Guarantor or between any of Borrower’s Subsidiaries (which are not Guarantors);

(i) capitalized leases and purchase money Indebtedness not to exceed \$500,000 in the aggregate in any fiscal year secured by Permitted Liens;

(j) refinanced Permitted Indebtedness, provided that the amount of such Indebtedness is not increased except by an amount equal to a reasonable premium or other reasonable amount paid in connection with such refinancing and by an amount equal to any existing, but unutilized, commitment thereunder; and

(k) the Indebtedness under the 2013 Indenture and 2023 Indenture existing on the date hereof; and

(l) other Indebtedness, if, on the date of incurring any Indebtedness pursuant to this clause (l), the outstanding aggregate amount of all Indebtedness incurred pursuant to this clause (l) does not exceed \$500,000 at anytime.

**“Permitted Investments”** are:

(a) Investments existing on the Effective Date;

(b)(i)(A) marketable direct obligations issued or unconditionally guaranteed by the United States or its agencies or any State maturing within one (1) year from its acquisition, (B) commercial paper maturing no more than 2 years after its creation and having the highest rating from either Standard & Poor’s Corporation or Moody’s Investors Service, Inc., and (C) Bank’s certificates of deposit maturing no more than 2 years after issue and (ii) Investments approved by the Borrower’s Board of Directors or otherwise pursuant to a Board-approved investment policy;

(c) Investments (i) between Borrower or any Guarantor or (ii) between any Subsidiary (which are not Guarantors);

(d) Investments consisting of Collateral Accounts in the name of Borrower or any Guarantor so long as Bank has a first priority, perfected security interest in such Collateral Accounts;

(e) Investments consisting of extensions of credit to Borrower’s or its Subsidiaries’ customers in the nature of accounts receivable, prepaid royalties or notes receivable arising from the sale or lease of goods, provision of services or licensing activities of Borrower;

(f) Investments received in satisfaction or partial satisfaction of obligations owed by financially troubled obligors;

(g) Investments acquired in exchange for any other Investments in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization;

(h) Investments consisting of interest rate, currency, or commodity swap agreements, interest rate cap or collar agreements or arrangements designated to protect a Person against fluctuations in interest rates, currency exchange rates, or commodity prices;

(i) Investments consisting of loans and advances to employees in an aggregate amount not to exceed \$100,000; and

(j) other Investments, if, on the date of incurring any Investments pursuant to this clause (j), the outstanding aggregate amount of all Investments incurred pursuant to this clause (j) does not exceed \$750,000.

**“Permitted Liens”** are:

(a) Liens arising under this Agreement or other Loan Documents;

(b) Liens for taxes, fees, assessments or other government charges or levies, either not delinquent or being contested in good faith and for which Borrower maintains adequate reserves on its Books, if they have no priority over any of Bank’s Liens;

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(c) Liens (including with respect to capital leases) (i) on property (including accessions, additions, parts, replacements, fixtures, improvements and attachments thereto, and the proceeds thereof) acquired or held by Borrower or its Subsidiaries incurred for financing such property (including accessions, additions, parts, replacements, fixtures, improvements and attachments thereto, and the proceeds thereof), or (ii) existing on property (and accessions, additions, parts, replacements, fixtures, improvements and attachments thereto, and the proceeds thereof) when acquired, if the Lien is confined to such property (including accessions, additions, parts, replacements, fixtures, improvements and attachments thereto, and the proceeds thereof);

(d) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness it secures may not increase;

(e) leases or subleases of real property granted in the ordinary course of business, and leases, subleases, non-exclusive licenses or sublicenses of property (other than real property or intellectual property) granted in the ordinary course of Borrower's business, if the leases, subleases, licenses and sublicenses do not prohibit granting Bank a security interest;

(f) non-exclusive license of intellectual property granted to third parties in the ordinary course of business;

(g) leases or subleases granted in the ordinary course of Borrower's business, including in connection with Borrower's leased premises or leased property;

(h) Liens in favor of custom and revenue authorities arising as a matter of law to secure the payment of custom duties in connection with the importation of goods;

(i) Liens on insurance proceeds securing the payment of financed insurance premiums;

(j) customary Liens granted in favor of a trustee to secure fees and other amounts owing to such trustee under an indenture or other similar agreement;

(l) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under **Sections 8.4 or 8.7**;

(m) Liens in favor of other financial institutions arising in connection with Borrower's deposit or securities accounts held at such institutions;

(n) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceeding if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(o) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and compliance with other social security requirements applicable to Borrower; and

(p) deposits to secure the performance of bids, trade contracts (other than for borrowed money), contracts for the purchase of property, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case, incurred in the ordinary course of business and not representing an obligation for borrowed money.

"**Person**" is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Prime Rate**" is Bank's most recently announced "prime rate," even if it is not Bank's lowest rate.

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“**Prime Rate Credit Extension**” means a Credit Extension that bears interest based at the Prime Rate.

“**Registered Organization**” is any “registered organization” as defined in the Code with such additions to such term as may hereafter be made.

“**Regulatory Change**” means, with respect to Bank, any change on or after the date of this Agreement in United States federal, state, or foreign laws or regulations, including Regulation D, or the adoption or making on or after such date of any interpretations, directives, or requests applying to a class of lenders including Bank, of or under any United States federal or state, or any foreign laws or regulations (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof.

“**Reserve Requirement**” means, for any Interest Period, the average maximum rate at which reserves (including any marginal, supplemental, or emergency reserves) are required to be maintained during such Interest Period under Regulation D against “Eurocurrency liabilities” (as such term is used in Regulation D) by member banks of the Federal Reserve System. Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by Bank by reason of any Regulatory Change against (a) any category of liabilities which includes deposits by reference to which the LIBOR Rate is to be determined as provided in the definition of LIBOR or (b) any category of extensions of credit or other assets which include Credit Extensions.

“**Responsible Officer**” is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower or any Subsidiary.

“**Revolving Line**” is an Advance or Advances in an aggregate amount of up to \$30,000,000 outstanding at any time.

“**Revolving Line Maturity Date**” is August 6, 2010.

“**Securities Account**” is any “securities account” as defined in the Code with such additions to such term as may hereafter be made.

“**Settlement Date**” is defined in **Section 2.1.3**.

“**Sublimit Amount**” means, as of any date of determination, (a) \$25,000,000 minus (b) the sum of all Credit Extensions made under **Sections 2.1.2, 2.1.3 and 2.1.4**; provided however that the first \$5,000,000 of the aggregate Credit Extensions under **Sections 2.1.3 and 2.1.4** shall not be counted toward such Sublimit amount.

“**Subordinated Debt**” is (a) Indebtedness incurred by Borrower subordinated to Borrower’s Indebtedness owed to Bank and which is reflected in a written agreement in a manner and form reasonably acceptable to Bank and approved by Bank in writing, and (b) to the extent the terms of subordination do not change adversely to Bank, refinancings, refundings, renewals, amendments or extensions of any of the foregoing.

“**Subsidiary**” means, with respect to any Person, any Person of which more than 50% of the voting stock or other equity interests is owned or controlled, directly or indirectly, by such Person or one or more Affiliates of such Person.

“**Threshold Amount**” means the outstanding principal amount of all Credit Extensions up to and including \$7,500,000; provided however that the first \$5,000,000 of the aggregate Credit Extensions under **Sections 2.1.3 and 2.1.4** shall not be counted toward such \$7,500,000 amount.

“**Trademark**” means any of the following now or hereafter owned or acquired or received by Borrower or any Guarantor or in which Borrower or any Guarantor now holds or hereafter acquires or receives any right or interest: (a) any trademark, trade name, corporate name, business name, trade style, service mark, logo, other source or business identifier, print or label on which any of the foregoing have appeared or appear, design or other general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and any applications in connection therewith, including registration, recording and application in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or other foreign jurisdiction and (b) any reissue, extension or renewal of any of the foregoing.

“**Transfer**” is defined in **Section 7.1**.

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[Signature page follows]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

**BORROWER:**

**RADISYS CORPORATION**

By \_\_\_\_\_ /s/ Brian Bronson  
Name: Brian Bronson  
Title: Chief Financial Officer

**BANK:**

**SILICON VALLEY BANK**

By \_\_\_\_\_ /s/ Ron Sherman  
Name: Ron Sherman  
Title: Senior Relationship Manager

**Effective Date: August 7, 2008**

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**EXHIBIT A**

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles (except as provided below), commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Notwithstanding the foregoing, the Collateral does not include any of the following, whether now owned or hereafter acquired (a) more than 65% of the presently existing and hereafter arising issued and outstanding shares of capital stock owned by Borrower of any Foreign Subsidiary which shares entitle the holder thereof to vote for directors or any other matter, or (b) any copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, patent applications and like protections, including improvements, divisions, continuations, renewals, reissues, extensions, and continuations-in-part of the same, trademarks, service marks and, to the extent permitted under applicable law, any applications therefor, whether registered or not, and the goodwill of the business of Borrower connected with and symbolized thereby, know-how, operating manuals, trade secret rights, rights to unpatented inventions, and any claims for damage by way of any past, present, or future infringement of any of the foregoing; provided, however, the Collateral shall include all Accounts, license and royalty fees and other revenues, proceeds, or income arising out of or relating to any of the foregoing.

**EXHIBIT B**

**FORM OF LOAN PAYMENT/CREDIT EXTENSION REQUEST**

**DEADLINE FOR SAME DAY PROCESSING IS NOON P.S.T.\***

Fax To: \_\_\_\_\_

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

**LOAN PAYMENT:**

RadiSys Corporation

From Account # \_\_\_\_\_  
(Deposit Account #)

To Account # \_\_\_\_\_  
(Loan Account #)

Principal \$ \_\_\_\_\_

and/or Interest \$ \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_  
Print Name/Title:

Phone Number: \_\_\_\_\_

**CREDIT EXTENSION:**

Complete *Outgoing Wire Request* section below if all or a portion of the funds from this advance are for an outgoing wire.

From Account # \_\_\_\_\_  
(Loan Account #)

To Account # \_\_\_\_\_  
(Deposit Account #)

Amount of Credit Extension \$ \_\_\_\_\_

All Borrower's representations and warranties in the Loan and Security Agreement are true, correct and complete in all material respects on the date of the request for a Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date:

**Authorized Signature:** \_\_\_\_\_  
Print Name/Title:

Phone Number: \_\_\_\_\_

**OUTGOING WIRE REQUEST:**

**Complete only if all or a portion of funds from the Credit Extension above is to be wired.**

Deadline for same day processing is noon, P.S.T.

Beneficiary Name: \_\_\_\_\_  
Beneficiary Bank: \_\_\_\_\_  
City and State: \_\_\_\_\_

Amount of Wire: \$ \_\_\_\_\_  
Account Number: \_\_\_\_\_

Beneficiary Bank Transit (ABA) #: \_\_\_\_\_

Beneficiary Bank Code (Swift, Sort, Chip, etc.): \_\_\_\_\_  
**(For International Wire Only)**

Intermediary Bank: \_\_\_\_\_  
For Further Credit to: \_\_\_\_\_

Transit (ABA) #: \_\_\_\_\_

\* Unless otherwise provided for an Advance bearing interest at LIBOR.



Special Instruction:

*By signing below, I (we) acknowledge and agree that my (our) funds transfer request shall be processed in accordance with and subject to the terms and conditions set forth in the agreements(s) covering funds transfer service(s), which agreements(s) were previously received and executed by me (us).*

Authorized Signature: _____	2 <sup>nd</sup> Signature (if required): _____
Print Name/Title: _____	Print Name/Title: _____
Telephone #: _____	Telephone #: _____

**EXHIBIT C**

**FORM OF NOTICE OF BORROWING  
RADISYS CORPORATION**

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

To: **SILICON VALLEY BANK**

3003 Tasman Drive

Santa Clara, CA 95054

Attention: Corporate Services Department

RE: Loan and Security Agreement dated as of \_\_\_\_\_, 2008 (as amended, modified, supplemented or restated from time to time, the "*Loan Agreement*"), by and between RadiSys Corporation ("*Borrower*"), and Silicon Valley Bank (the "*Bank*")

Ladies and Gentlemen:

The undersigned refers to the Loan Agreement, the terms defined therein and used herein as so defined, and hereby gives you notice irrevocably, pursuant to **Section 3.4(a)** of the Loan Agreement, of the borrowing of a Credit Extension.

1. The funding date, which shall be a Business Day, of the requested borrowing is \_\_\_\_\_.
2. The aggregate amount of the requested borrowing is \$\_\_\_\_\_.
3. The requested Credit Extension shall consist of \$\_\_\_\_\_ of Prime Rate Credit Extensions and \$\_\_\_\_\_ of LIBOR Credit Extensions.
4. The duration of the Interest Period for the LIBOR Credit Extensions included in the requested Credit Extension shall be \_\_\_\_\_ days.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed Credit Extension before and after giving effect thereto, and to the application of the proceeds therefrom, as applicable:

(a) all representations and warranties of Borrower contained in the Loan Agreement are true, accurate and complete in all material respects as of the date hereof; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date;

(b) no Default or Event of Default has occurred and is continuing, or would result from such proposed Credit Extension; and

(c) the requested Credit Extension will not cause the aggregate principal amount of the outstanding Advances to exceed, as of the designated Funding Date, (i) the lesser of (A) the Revolving Line or (B) the Availability Amount.

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**BORROWER**

**RADISYS CORPORATION**

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

*For internal Bank use only*

<u>LIBOR Pricing Date</u>	<u>LIBOR</u>	<u>LIBOR Variance</u>	<u>Maturity Date</u>
		____%	

**EXHIBIT D**

**FORM OF NOTICE OF CONVERSION/CONTINUATION**

**RADISYS CORPORATION**

Date:

To: **SILICON VALLEY BANK**

3003 Tasman Drive

Santa Clara, CA 95054

Attention:

RE: Loan and Security Agreement dated as of \_\_\_\_\_, 2008 (as amended, modified, supplemented or restated from time to time, the "Loan Agreement"), by and between RadiSys Corporation ("Borrower"), and Silicon Valley Bank (the "Bank")

Ladies and Gentlemen:

The undersigned refers to the Loan Agreement, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to **Section 3.5** of the Loan Agreement, of the [conversion] [continuation] of the Credit Extensions specified herein, that:

1. The date of the [conversion] [continuation] is \_\_\_\_\_, 20\_\_.
2. The aggregate amount of the proposed Credit Extensions to be [converted] is \$\_\_\_\_\_ or [continued] is \$\_\_\_\_\_.
3. The Credit Extensions are to be [converted into] [continued as] [LIBOR] [Prime Rate] Credit Extensions.
4. The duration of the Interest Period for the LIBOR Credit Extensions included in the [conversion] [continuation] shall be \_\_\_\_\_ days.

The undersigned, on behalf of Borrower, hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed [conversion] [continuation], before and after giving effect thereto and to the application of the proceeds therefrom:

(a) all representations and warranties of Borrower stated in the Loan Agreement are true, accurate and complete in all material respects as of the date hereof; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(b) no Default or Event of Default has occurred and is continuing, or would result from such proposed [conversion] [continuation].

[Signature page follows]

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**BORROWER**

**RADISYS CORPORATION**

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

*For internal Bank use only*

<u>LIBOR Pricing Date</u>	<u>LIBOR</u>	<u>LIBOR Variance</u>	<u>Maturity Date</u>
		____%	

**EXHIBIT E**

**FORM OF BORROWING BASE CERTIFICATE**

Borrower: RadiSys Corporation  
Lender: Silicon Valley Bank  
Commitment Amount: \$30,000,000

**ACCOUNTS RECEIVABLE**

1. Accounts Receivable Book Value as of \_\_\_\_\_ \$ \_\_\_\_\_  
2. Additions (please explain on reverse) \$ \_\_\_\_\_  
3. TOTAL ACCOUNTS RECEIVABLE \$ \_\_\_\_\_

**ACCOUNTS RECEIVABLE DEDUCTIONS (without duplication)**

4. Amounts over 90 days due \$ \_\_\_\_\_  
5. Balance of 25% over 90 day accounts \$ \_\_\_\_\_  
6. Credit balances over 90 days \$ \_\_\_\_\_  
7. Concentration Limits \$ \_\_\_\_\_  
8. Foreign Accounts \$ \_\_\_\_\_  
9. Governmental Accounts \$ \_\_\_\_\_  
10. Contra Accounts \$ \_\_\_\_\_  
11. Promotion or Demo Accounts \$ \_\_\_\_\_  
12. Intercompany/Employee Accounts \$ \_\_\_\_\_  
13. Disputed Accounts \$ \_\_\_\_\_  
14. Other (please explain on reverse) \$ \_\_\_\_\_  
15. TOTAL ACCOUNTS RECEIVABLE DEDUCTIONS \$ \_\_\_\_\_  
16. Eligible Accounts (#3 minus #15) \$ \_\_\_\_\_  
17. ELIGIBLE AMOUNT OF ACCOUNTS (80% of #16), except to the extent the Account of Nokia Siemens is eligible then 70% of such Account, and except Eligible Foreign Accounts for which such percentage is 50% \$ \_\_\_\_\_

**BALANCES**

18. Maximum Loan Amount \$ 30,000,000  
19. Total Funds Available [Lesser of (a) #18 or (b) #17] \$ \_\_\_\_\_  
20. Present balance owing on Line of Credit \$ \_\_\_\_\_  
21. Outstanding under Sublimits \$ \_\_\_\_\_  
22. RESERVE POSITION (#19 minus #20 and #21) \$ \_\_\_\_\_

*The undersigned represents and warrants that this is true, complete and correct, and that the information in this Borrowing Base Certificate complies with the representations and warranties in the Amended and Restated Loan and Security Agreement between the undersigned and Silicon Valley Bank.*

**COMMENTS:**

By: \_\_\_\_\_  
Authorized Signer

Date:

BANK USE ONLY	
Received by:	_____ AUTHORIZED SIGNER
Date:	_____
Verified:	_____ AUTHORIZED SIGNER
Date:	_____
Compliance Status:	Yes No

**EXHIBIT F****FORM OF COMPLIANCE CERTIFICATE**

TO: SILICON VALLEY BANK  
FROM:

Date:

The undersigned authorized officer of RadiSys Corporation ("Borrower") certifies that under the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "Agreement"), (1) Borrower is in complete compliance for the period ending \_\_\_\_\_ with all required covenants except as noted below, (2) there are no Events of Default, (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of **Section 5.9** of the Agreement, and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank. Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with generally GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

<u>Reporting Covenant</u>	<u>Required</u>	<u>Complies</u>
Quarterly financial statements	Quarterly within 40 days	Yes No
Annual financial statement	FYE unaudited within 90 days and audited within 120 days	Yes No
10-Q, 10-K and 8-K + CC	Within 5 days after filing with SEC	Yes No
Borrowing Base Certificate A/R & A/P Agings + Deferred Revenue report	Quarterly within 30 days (unless Credit Extensions are less than Threshold Amounts)	Yes No
Material Litigation	Prompt	Yes* No
Annual board approved financial projections	Annually within 60 days of fiscal year end	Yes No

\* If yes, attached is a summary of the Material Litigation not previously disclosed by Borrower or any of its Subsidiaries.

<u>Financial Covenant</u>	<u>Required</u>	<u>Actual</u>	<u>Complies</u>
Maintain on an applicable quarterly basis:			
<b>Current Ratio</b>	1.3:1.00 on June 30, 2008; 1.3:1.00 on September 30, 2008; and 1.5:1.00 on December 31, 2008 and each fiscal quarter thereafter	_____:1.00	Yes No
<b>Minimum EBITDA</b>	\$0 from January 1, 2008 to June 30, 2008; \$0 from January 1, 2008 to September 30, 2008; \$0 from January 1, 2008 to December 31, 2008; and \$0 from such period, measured on a rolling four quarter basis, ending March 31, 2009 and each quarter thereafter		Yes* No
<b>Minimum Capital Expenditures</b>	No greater than \$12,000,000 in any fiscal year	\$_____	Yes No

\* In no event shall EBITDA losses for any one quarter exceed \$2,500,000 nor shall EBITDA be less than \$0 for any two consecutive quarters

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The following financial covenant analysis and information set forth in **Schedule 1** attached hereto are true and accurate as of the date of this Certificate.

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

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**RADISYS CORPORATION**

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

**BANK USE ONLY**

Received by: \_\_\_\_\_  
Date: \_\_\_\_\_  
Verified: \_\_\_\_\_  
Date: \_\_\_\_\_  
Compliance Status: Yes No



**Schedule 1 to Compliance Certificate**

**Financial Covenants of Borrower**

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

**I. Current Ratio (Section 6.7(a))**

Required: 1.3:1.00 on June 30, 2008; 1.3:1.00 on September 30, 2008; and 1.5:1.00 on December 31, 2008 and each fiscal quarter thereafter

Actual:

A. Current Assets	\$
B. Current Liabilities less Deferred Revenue	\$
C. Aggregate amount of outstanding Advances and Letters of Credit	\$
D. Current Ratio (line A divided by the sum of line B plus line C)	

Is line D equal to or greater than the applicable required ratio set forth above?

\_\_\_\_\_ No, not in compliance                      \_\_\_\_\_ Yes, in compliance

**II. Minimum EBITDA (Section 6.7(b))**

Required: The minimum EBITDA set forth below opposite each period; provided however in no event shall EBITDA losses for any one quarter exceed \$2,500,000; provided further that in no event shall EBITDA be less than \$0 for any two consecutive quarters.

<u>Fiscal Period</u>	<u>Minimum EBITDA</u>
January 1, 2008 to June 30, 2008	\$ 0
January 1, 2008 to September 30, 2008	\$ 0
January 1, 2008 to December 31, 2008	\$ 0
Such period, measured on a rolling four quarter basis, ending March 31, 2009 and each quarter thereafter	\$ 0

Actual:

A. Net Income	\$
B. To the extent included in the determination of Net Income	
1. Net Interest Expense	\$
2. The provision for income taxes	\$
3. Depreciation expense	\$
4. Amortization expense	\$
5. Income tax expense	\$
6. The sum of lines 1 through 5	\$
C. Non-cash stock based compensation to the extent reflected as a charge in the statement of Net Income for such period	\$
D. EBITDA (line A plus line B.6 plus line C)	\$

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Is line D equal to or greater than the required minimum EBITDA set forth opposite the fiscal period above?

No, not in compliance

\_\_\_\_ Yes, in compliance

Are EBITDA losses for any quarter less than \$2,500,000?

No, not in compliance

\_\_\_\_ Yes, in compliance

Is EBITDA less than \$0 for any two consecutive quarters?

Yes, not in compliance

\_\_\_\_ No, in compliance

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**SCHEDULE A**  
**DISCLOSURE SCHEDULE**

3

## EXECUTIVE SEVERANCE AGREEMENT

August 6, 2008

Scott C. Grout  
9137 NW McKenna Drive  
Portland, OR 97229

**Executive**

RadiSys Corporation, an Oregon corporation  
5445 NE Dawson Creek Parkway  
Hillsboro, OR 97124

**the Company**

**1. Employment Relationship.** Executive is currently employed by the Company as President and Chief Executive Officer. Executive and the Company acknowledge that either party may terminate this employment relationship at any time and for any or no reason, provided that each party complies with the terms of this Agreement.

**2. Release of Claims.** In consideration for and as a condition precedent to receiving the severance benefits outlined in this Agreement, Executive agrees to execute a Release of Claims in the form attached as **Exhibit A** ("Release of Claims") and deliver it to the Company. Executive promises to execute and deliver the Release of Claims to the Company within 21 days (or, if required by applicable law, 45 days) from the last day of Executive's active employment. Executive shall forfeit the severance benefits outlined in this Agreement in the event that he fails to execute and deliver the Release of Claims to the Company in accordance with the timing and other provisions of the preceding sentence or revokes such Release of Claims prior to the "Effective Date" (as such term is defined in the Release of Claims) of the Release of Claims.

**3. Additional Compensation Upon Involuntary Termination.**

**3.1 Involuntary Termination.** In the event of a Termination of Executive's Employment (as defined in Section 5.1) other than for Cause (as defined in Section 5.2), death or Disability (as defined in Section 5.3), and contingent upon Executive's execution of the Release of Claims without revocation and compliance with Section 8, Executive shall be entitled to the following benefits:

(a) As severance pay and in lieu of any other compensation for periods subsequent to the date of termination, the Company shall pay Executive, in a lump sum, an amount equal to twelve (12) months of Executive's annual base pay at the rate in effect immediately prior to the date of termination. Severance pay that is payable under this Agreement shall be paid to Executive within 5 days following the "Effective Date" (as such term is defined in the Release of Claims) of the Release of Claims, and no later than two and one-half months following the last day of the calendar year of the Termination of Executive's Employment. Notwithstanding the foregoing, if at the time of payment any portion of such severance pay cannot be characterized as a "short term deferral" for purposes of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), or as otherwise exempt from the provisions of Code Section 409A, then such portion of the severance pay shall be delayed until the date that is the earlier to occur of (i) Executive's death or (ii) the date that is six months and one day following the date of the Termination of Executive's Employment.

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(b) As an additional severance benefit, the Company will provide Executive with up to twelve (12) months of continued coverage pursuant to COBRA under the Company's group health plan at the level of benefits (whether single or family coverage) previously elected by Executive immediately before the Termination of Executive's Employment and to the extent that Executive elects to continue coverage during such 12-month period.

(c) The Company shall pay Executive his stock-based incentive compensation plan payout under the RadiSys Corporation Long Term Incentive Plan pursuant to the terms of and within the periods specified in the Long Term Incentive Plan and shall pay Executive his stock-based incentive compensation plan payout under each other stock-based incentive compensation plan maintained by the Company pursuant to the terms of and within the periods specified in each such other stock-based incentive compensation plan that may then be applicable. The Company shall also pay Executive his cash-based incentive compensation plan payout earned but not yet received under each cash-based incentive compensation plan maintained by the Company, if any, for any performance period completed prior to the Termination of Executive's Employment, and, in addition, the Company shall pay Executive his cash-based incentive compensation plan payout for any then current performance period under each such cash-based incentive compensation plan, pro-rated through the date of the Termination of Executive's Employment. The amounts described in the preceding sentence, if any, shall be paid on the date Executive would otherwise have received each such payment if his employment had not been terminated and, in any event, no later than two and one-half months following the last day of the calendar year for which the cash-based incentive compensation plan payout was earned.

(d) As an additional severance benefit, the Company will promptly (and in any event within five business days after a request by Executive therefore) either pay or reimburse Executive for the costs and expenses of any executive outplacement firm selected by Executive; provided, however, that the Company's liability hereunder shall be limited to the first \$25,000 of such expenses incurred by Executive and provided further, that any payment under this Section 3.1(d) must be received by Executive prior to the end of the second calendar year following the calendar year in which the Termination of Executive's Employment occurs. Executive shall provide the Company with reasonable documentation of the occurrence of such outplacement costs and expenses.

#### **4. Withholding; Subsequent Employment.**

**4.1 Withholding.** All payments provided for in this Agreement are subject to applicable withholding obligations imposed by federal, state and local laws and regulations.

**4.2 Offset.** The amount of any payment provided for in this Agreement shall not be reduced, offset or subject to recovery by the Company by reason of any compensation earned by Executive as the result of employment by another employer after termination.

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## 5. Definitions.

5.1 **Termination of Executive's Employment.** Termination of Executive's Employment means that the Company has terminated Executive's employment with the Company (including any subsidiary of the Company) other than for Cause (as defined in Section 5.2), death or Disability (as defined in Section 5.3). A Termination of Executive's Employment is intended to mean a termination of employment which constitutes a "separation from service" under Code Section 409A.

5.2 **Cause.** Termination of Executive's Employment for "Cause" shall mean termination upon (a) the willful and continued failure by Executive to perform substantially Executive's reasonably assigned duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness) after a demand for substantial performance is delivered to Executive by the Company's Board of Directors (the "Board") which specifically identifies the manner in which the Board believes that Executive has not substantially performed Executive's duties or (b) the willful engaging by Executive in illegal conduct which is materially and demonstrably injurious to the Company. No act, or failure to act, on Executive's part shall be considered "willful" unless done, or omitted to be done, by Executive without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company. Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board shall be conclusively presumed to be done, or omitted to be done, by Executive in the best interests of the Company.

5.3 **Disability.** "Disability" means Executive's absence from Executive's full-time duties with the Company for 180 consecutive days as a result of Executive's incapacity due to physical or mental illness, unless within 30 days after notice of termination by the Company following such absence Executive shall have returned to the full-time performance of Executive's duties. This Agreement does not apply if the Executive is terminated due to Disability.

6. **Successors; Binding Agreement.** This Agreement shall be binding on and inure to the benefit of the Company and its successors and assigns. This Agreement shall inure to the benefit of and be enforceable by Executive and Executive's legal representatives, executors, administrators and heirs.

7. **Entire Agreement.** The Company and Executive agree that the foregoing terms and conditions constitute the entire agreement between the parties relating to the termination of Executive's employment with the Company under the conditions described in Section 3, that this Agreement supersedes and replaces any prior agreements relating to the matters covered by this Agreement, specifically the third and fourth sentences of the ninth paragraph of the offer letter from the Company to Executive dated September 16, 2002, as amended effective September 18, 2002 and that there exist no other agreements between the parties, oral or written, express or implied, relating to any matters covered by this Agreement; provided, however, this Agreement does not supersede or replace the Amended and Restated Executive Change of Control Agreement by and between Executive and the Company dated February 27, 2007.

8. **Resignation of Corporate Offices.** Executive will resign Executive's office, if any, as a director, officer or trustee of the Company, its subsidiaries or affiliates and of any other corporation or trust of which Executive serves as such at the request of the Company, effective as of the date of termination of employment. Executive agrees to provide the Company such written resignation(s) upon request and that no severance pay or other benefits will be paid until after such resignation(s) are provided.



## CERTIFICATIONS

I, Scott C. Grout, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of RadiSys 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2008

/s/ SCOTT C. GROUT

Scott C. Grout  
Chief Executive Officer and President



## CERTIFICATIONS

I, Brian Bronson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of RadiSys 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2008

/s/ BRIAN BRONSON

Brian Bronson  
Chief Financial Officer

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of RadiSys Corporation (the "Company") on Form 10-Q for the fiscal quarter ended June 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Scott C. Grout, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ SCOTT C. GROUT

Scott C. Grout  
Chief Executive Officer  
August 8, 2008

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of RadiSys Corporation (the "Company") on Form 10-Q for the fiscal quarter ended June 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Brian Bronson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ BRIAN BRONSON

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Brian Bronson  
Chief Financial Officer  
August 8, 2008

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