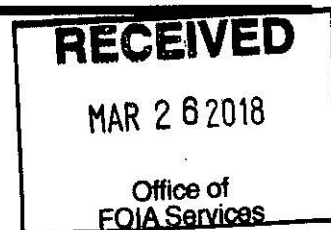


18-03476-E

foiapa

From: Mark Edwards <medwards@biosciadvisors.com>
Sent: Friday, March 23, 2018 8:10 PM
To: foiapa
Subject: FOIA Request



I would like to request access to Exhibit 10.19 to the 12/31/99 10-K, as amended, filed by Bio Plexus, Inc. on 10/25/2000. Confidential treatment was sought as to certain portions when initially filed with the Commission.

In the event that confidential treatment has not expired or has been extended, I further request that you send me the expiration date(s) from the relevant CT order(s) so I will know when I should resubmit my request.

I authorize up to \$61 in search and retrieval fees. Please send the exhibit(s) by PDF if possible.

Sincerely,

Mark

Mark G Edwards
Managing Director
Bioscience Advisors
2855 Mitchell Dr., Suite 103
Walnut Creek, CA 94598
medwards@biosciadvisors.com
925 954-1397



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

April 3, 2018

Mr. Mark G. Edwards
Bioscience Advisors
2855 Mitchell Dr., Suite 103
Walnut Creek, CA 94598

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 18-03476-E

Dear Mr. Edwards:

This letter is in response to your request, dated March 23, 2018 and received in this office on March 26, 2018, for Exhibit 10.19 to the 12/31/99 10-K, as amended, filed by Bio Plexus, Inc. on 10/25/2000.

The search for responsive records has resulted in the retrieval of the enclosed records that may be responsive to your request. They are being provided to you with this letter.

If you have any questions, please contact me at jacksonw@sec.gov or (202) 551-8312. You may also contact me at foiapa@sec.gov or (202) 551-7900. You also have the right to seek assistance from Jeffery Ovall as a FOIA Public Liaison or contact the Office of Government Information Services (OGIS) for dispute resolution services. OGIS can be reached at 1-877-684-6448 or Archives.gov or via e-mail at ogis@nara.gov.

Sincerely,

A handwritten signature in cursive script that reads "Warren E. Jackson".

Warren E. Jackson
FOIA Research Specialist

Enclosures

10.19

RECEIVED
OFFICE OF THE SECRETARY
2009 OCT 25 PM 4:44

AMENDMENT AGREEMENT

THIS AGREEMENT is effective as of the 15th day of April 1998, by and between Johnson & Johnson Medical, Division of Ethicon, Inc., a New Jersey corporation having an office at 2500 Arbrook Blvd., Arlington, Texas 76004-3130 (hereinafter "JJM") and BIO-PLEXUS, INC., a corporation of the State of Connecticut having an office at 129 Reservoir Road, Vernon, Connecticut 06066 (hereinafter "BIO-PLEXUS").

W I T N E S S E T H:

WHEREAS, JOHNSON & JOHNSON MEDICAL, INC., a New Jersey corporation (hereinafter "JJMI") and BIO-PLEXUS, INC. previously entered into a Development and License Agreement dated January 28, 1997 ("the Prior Development and License Agreement") and a Supply Agreement dated January 28, 1997 ("the Prior Supply Agreement");

WHEREAS, JOHNSON & JOHNSON MEDICAL, INC. was the subject of a merger with ETHICON, INC., a New Jersey corporation and JOHNSON & JOHNSON MEDICAL, INC. was the surviving corporation and changed its name to ETHICON, INC.;

WHEREAS, ETHICON, INC. set up a separate division entitled JOHNSON & JOHNSON MEDICAL DIVISION OF ETHICON, INC., the party to this Agreement, which succeeded to substantially all of the business related to the Prior Supply Agreement and the Prior Development and License Agreement ("the Prior Agreements");

1 WHEREAS, the parties hereto as parties to the Prior
2 Agreements desire to cancel the Prior Supply Agreement and
3 amend the Prior Development & License Agreement as herein
4 described;

5 NOW, THEREFORE, in consideration of the premises and
6 mutual covenants herein contained, the parties hereto agree
7 as follows:

8 ARTICLE 1. DEFINITIONS

9 Where used in this Agreement, all terms shall have the
10 meanings attributed to them in the Prior Development &
11 License Agreement and the following additional terms shall
12 be as herein defined;

13 1.1 The term "Net Sales" shall mean the revenue
14 received by JJM or an affiliate of JJM from the sale of
15 Licensed Products to independent third parties less the
16 following amounts: (i) discounts, including cash discounts,
17 or rebates actually allowed or granted, (ii) credits or
18 allowances actually granted upon claims or returns,
19 regardless of the party requesting the return, (iii) freight
20 charges paid for delivery, (iv) taxes or other governmental
21 charges levied on or measured by the invoiced amount whether
22 absorbed by the billing or the billed party, and (v) agent's
23 and/or distributor's commissions. Product recalls initiated
24 by JJM will not reduce Net Sales.

25 1.2 The term "Net Average Selling Price" shall mean
26 the mean price at which Licensed Products are sold
27 calculated by taking the total Net Sales for all Licensed

1 Products divided by the number of units of Licensed Products
2 sold generating such Net Sales, as calculated by JJM using
3 generally accepted accounting principles consistently
4 applied as used in its normal business operations.

5 1.3 "Commercial Launch" shall have the meaning given
6 in Exhibit 2.

7 **ARTICLE 2. CANCELLATION OF SUPPLY AGREEMENT**

8 2.1 The parties hereto agree that as of the effective
9 date of this Agreement the Prior Supply Agreement between
10 the parties is terminated and of no effect. The parties
11 agree that neither party shall have a claim against the
12 other party for any reason whatsoever based on performance,
13 non-performance or otherwise under the Prior Supply
14 Agreement. Further, JJM may manufacture Licensed Product
15 for itself or have Product manufactured by others without
16 payment to BIO-PLEXUS other than royalties required (if any)
17 under this Agreement.

18 **ARTICLE 3. MILESTONE PAYMENTS**

19 3.1 Upon execution of this Agreement JJM shall make a
20 single one time payment to BIO-PLEXUS in the amount of Three
21 Million Five Hundred Thousand Dollars (\$3,500,000.00). This
22 single payment of Three Million Five Hundred Thousand
23 Dollars (\$3,500,000.00) and the payments made pursuant to
24 Paragraph 3.1 of the Prior Development and License Agreement
25 shall be complete consideration for all development work to
26 be performed under this Agreement and under the Prior
27 Development & License Agreement as amended herein.

1 3.2 JJM shall pay BIO-PLEXUS the amount of One Hundred
2 Thousand Dollars (\$100,000.00) upon establishment of a
3 design freeze expected to occur approximately May 15, 1998.
4 The design freeze shall be determined by agreement of the
5 parties, however the design must be completely satisfactory
6 to JJM in its sole discretion per Exhibits 4 and 5 of this
7 Amendment.

8 3.3 JJM shall pay BIO-PLEXUS the amount of One Hundred
9 Thousand Dollars (\$100,000.00) upon completion and delivery
10 to JJM of the complete design history and technical files
11 for all Licensed Products. Expected date of completion is
12 June 1, 1998.

13 3.4 JJM shall pay BIO-PLEXUS the amount of One Hundred
14 Thousand Dollars (\$100,000.00) upon design confirmation.
15 Such design confirmation shall be performance per proposed
16 product specifications as shown in Exhibits 4 and 5, after
17 twelve (12) weeks of accelerated aging at 60°C. Expected
18 date of completion September 15, 1998.

19 3.5 JJM shall pay BIO-PLEXUS the amount of One Hundred
20 Thousand Dollars (\$100,000.00) upon delivery by BIO-PLEXUS
21 to JJM of an assembly machine (expected delivery August 15,
22 1998) to its facility in Southington, Connecticut. The
23 assembly machine shall meet the specifications of JJM and
24 shall be acceptable to JJM in its sole discretion per
25 Exhibit 4. Approximate date of completion expected
26 October 31, 1998.

1 3.6 JJM shall pay BIO-PLEXUS the amount of One Hundred
2 Thousand Dollars (\$100,000.00) upon the completed
3 manufacture by JJM of one hundred thousand (100,000) SNA
4 units that are suitable -for sale, manufactured on the
5 assembly machine delivered to JJM by BIO-PLEXUS meeting the
6 acceptance criteria supplied by JJM as defined in Exhibits 4
7 and 5. Approximate date of completion expected October 31,
8 1998.

9 ARTICLE 4. AMENDMENT TO THE DEVELOPMENT PROGRAM INCLUDED
10 IN THE PRIOR DEVELOPMENT AND LICENSE AGREEMENT

11 4.1 Paragraph 3.2 of the Prior Development and License
12 Agreement is hereby deleted and substituted with the
13 following:

14 -- 3.2 JJM will separately fund expenditures on
15 Initial Capital Equipment related to the development of
16 intravenous catheter SNAs pursuant to this Agreement.
17 ("Initial Capital Equipment" shall mean equipment sufficient
18 to produce at a capacity of Ten Million (10,000,000) units
19 of SNAs per year). Initial Capital Equipment shall include
20 the assembly machine and manufacturing molds, as defined in
21 Exhibits 4 and 5. The assembly equipment is to be delivered
22 to JJM's Southington, Connecticut manufacturing facility or
23 such other facility as JJM may designate. If JJM directs
24 the equipment to be delivered to another facility, then JJM
25 shall pay reasonable shipping, travel and temporary living
26 costs incurred by BIO-PLEXUS as a result of such direction.
27 JJM shall own and take title to all components and
28 subassemblies related to the manufacturing equipment as they are
29 received or completed by BIO-PLEXUS. Accounting

1 procedures for invoicing and passing of title shall be in
2 accordance with Exhibit 1 attached hereto. BIO-PLEXUS shall
3 make all reasonable efforts to transition vendors for such
4 assembly equipment and any raw materials used therein to JJM.

5 4.2 JJM shall have the right to specify specific items
6 such as Allen Bradley Operating Language and selection of
7 key vendors (molders, etc.), but will bear the cost of any
8 additional expenses associated with these items over
9 selections desired by BIO-PLEXUS. Expenditures for Initial
10 Capital Equipment relating to SNAs shall not exceed Two
11 Million One Hundred Thousand Dollars (\$2,100,000), except
12 for additional items specified by JJM as discussed above.
13 This cost includes both the assembly machine and any
14 associated molds and prototypes.

15 ARTICLE 5.- CANCELLATION AND AMENDMENT OF CERTAIN SELECTIONS
16 RELATING TO THE PRIOR DEVELOPMENT AND LICENSE AGREEMENT

17 5.1 Sections 7.6 and 7.7 of the Prior Development and
18 License Agreement are hereby deleted and of no further
19 effect. The following new section 7.7 is added:

20 -- 7.7 JJM may maintain the exclusivity under the
21 present Development and License Agreement as amended by
22 paying at least minimum royalty set forth in Exhibit 2, if
23 the actual royalties do not meet or exceed such minimum
24 royalty amount. Such minimum royalty shall be payable at
25 the end of the calendar year and actual royalties paid for
26 Net Sales occurring during the year shall be fully credited
27 against such minimum royalties. If the minimum royalties

1 exceed the amount of actual royalties paid on Net Sales for
2 the calendar year, then JJM shall pay an additional amount
3 equal to the difference between the minimum royalties due
4 and the actual royalties paid for the given calendar year.
5 If the royalties for a given calendar year exceed the
6 minimum royalties required for that calendar year, then no
7 additional payment shall be made. If for any given calendar
8 year, the royalties due do not equal or exceed the minimum
9 royalties and JJM elects not to make the additional payment
10 to bring the royalty payments made up to the amount of the
11 minimum royalties then the License may, at BIO-PLEXUS'
12 discretion, be cancelled upon sixty (60) days written
13 notice.

14 5.2 Section 7.8 of the Prior Development and License
15 Agreement is hereby amended as follows:

16 a) In the first sentence of Section 7.8 the language
17 "the royalties due under this Agreement on the minimum
18 purchase requirements in the associated Supply
19 Agreement provided in 7.6 and 7.8 above" is deleted and
20 the following language is substituted therefor -- the
21 greater of actual royalties due or the minimum
22 royalties for that year as provided in Exhibit 2 of the
23 Amendment Agreement. Failure by JJM to pay the greater
24 of actual royalties due for a specific period or
25 minimum royalties for that same period as specified in
26 Exhibit 2, will constitute a breach of this Agreement
27 by JJM. The sole remedy for failure to pay minimum
28 royalties (when minimum royalties are greater than
29 actual royalties) shall be cancellation of this
30 Agreement as provided in 7.7 above. However, at no

1 time will JJM be relieved to pay all royalties due to
2 date of cancellation.

3 b) The last two sentences of Section 7.8 of the Prior
4 Development and License Agreement, specifically "JJMI
5 will provide, during the first three (3) years after
6 commercial launch (as defined in Exhibit 2 of the
7 associated Supply Agreement) marketing plans for
8 Licensed Products. Marketing plans will indicate
9 scheduled promotional activities related to the
10 Licensed Products." is hereby deleted. JJM will
11 furnish to BIO-PLEXUS a forecast for Licensed Products
12 on an annual basis in December of each year.

13 ARTICLE 6. ROYALTIES

14 6.1 Paragraph 7.2 of the Prior Development & License
15 Agreement is hereby deleted and the following is substituted
16 therefore

17 -- 7.2 JJM shall pay BIO-PLEXUS a royalty on Net Sales
18 in the following amounts:

19 a) Four Percent (4%) of Net Sales up to minimum
20 quantities provided in Exhibit 2;

21 b) Five Percent (5%) of Net Sales for all sales above
22 minimum quantities set forth in Exhibit 2;

23 c) An additional one Percent (1%) of all Net Sales in
24 excess of the minimum quantities provided in Exhibit 2
25 in any quarter in which the net average selling price

1 of Licensed Products exceeds One Dollar and Thirty
2 Cents (\$1.30). The one Dollar and Thirty Cent (\$1.30)
3 threshold will be adjusted annually, if required, for
4 (1) inflation, but, in any event, by an amount not
5 exceeding the applicable change in the relevant
6 Producer Price Index, and (2) for fluctuations in
7 currency, to be determined by the weighted average
8 change of all relevant currencies included in Net Sales
9 versus the U.S. dollar.

10 d) In the event that unit volumes exceed an amount
11 determined by multiplying 2.5 times the contractual
12 minimum amount provided in Exhibit 2, and the Net
13 Average Selling Price for the quarter is One Dollar
14 (\$1.00) or less, then all unit volumes sold in excess
15 of 2.5 times the contractual minimum amounts for that
16 quarter shall bear a total royalty rate of Six Percent
17 (6%).

18 e) Initial Royalty - For the first eighteen (18)
19 months following commercial launch, the royalty shall
20 be the greater of 0.046 dollars per unit or as
21 calculated above on a per unit basis.

22 f) Minimum Royalties - For each calendar year after
23 Commercial Launch, JJM shall pay the minimum
24 royalties indicated on Exhibit 2 attached hereto. -

25 g) The parties agree that Exhibits C and D of the
26 prior Development and License Agreement are
27 canceled and of no effect.

1 ARTICLE 7. KEY INDIVIDUALS

2 7.1 BIO-PLEXUS shall use its best efforts to retain
3 the services of the individuals listed in Exhibit 3
4 throughout the period relating to the completion of the
5 Development Program. In the event of headcount reductions
6 at BIO-PLEXUS or that any employee listed on Exhibit 3 shall
7 give notice to BIO-PLEXUS of his intention to terminate his
8 employment, BIO-PLEXUS shall provide JJM notice of such
9 change in status. If the termination of employment is at
10 BIO-PLEXUS' initiation then JJM shall be informed at least
11 fourteen (14) days prior to the communication of such
12 termination to the named individual. JJM may, in its sole
13 discretion, offer employment opportunities to any of the
14 individuals listed on Exhibit 3 on terms to be determined by
15 JJM at any point after which BIO-PLEXUS communicates their
16 intention to terminate such named individual to the
17 individual or the individual indicates his intention to
18 terminate his employment with BIO-PLEXUS.

19 7.2 Performance Bonuses - JJM shall provide a fund of
20 up to One Hundred Twenty-Five Thousand Dollars (\$125,000.00)
21 for use as performance bonuses and/or overtime payments for
22 the BIO-PLEXUS employees listed in Exhibit 3. Use of the
23 performance bonus fund for overtime must be approved by JJM.
24 Such performance bonuses will be paid by JJM at the
25 conclusion of the Development Program and delivery of
26 product and manufacturing equipment in conformity with the
27 product and process acceptance criteria outlined in Exhibits
28 4 and 5. JJM and BIO-PLEXUS will cooperate to determine the
29 bonus funding per individual. The pool provided by JJM of
30 One Hundred Twenty-Five Thousand Dollars (\$125,000.00)

1 available for performance bonuses will be reduced by Fifty
2 Thousand Dollars (\$50,000.00) for each month past October
3 31, 1998 the Development Program continues, as evidenced by
4 failure of BIO-PLEXUS to deliver product and manufacturing
5 equipment in conformity with product and process acceptance
6 criteria outlined in Exhibits 4 and 5.

7 7.3 The parties have agreed to list the open
8 developmental items and their expected completion dates and
9 have attached them hereto as Exhibits 4 and 5.

10 **ARTICLE 8. AMENDMENT OF FURTHER PROVISIONS**

11 8.1 Paragraph 10.3 in the Prior Development & License
12 Agreement shall be deleted and the following substituted
13 therefore:

14 -- 10.3 JJM shall have right to terminate this
15 Agreement (including the Prior Development and License
16 Agreement) at any time upon One Hundred and Eighty (180)
17 days written notice to BIO-PLEXUS. --

18 8.2 JJM agrees to hold BIO-PLEXUS, its employees and
19 officers harmless and indemnify them from any claims of
20 Products liability based on JJM's sale of the Licensed
21 Products. BIO-PLEXUS and JJM hereby agree to cooperate in
22 the defense of any such claim, lawsuit or action. BIO-
23 PLEXUS further agrees to make available to JJM its
24 employees, document and expertise in the mutual defense of
25 such action. BIO-PLEXUS hereby agrees to immediately notify
26 JJM of any claim, lawsuit or action which is within the
27 scope of JJM's undertaking in this paragraph. Failure to

1 provide such notification shall terminate JJM's obligation
2 as to such lawsuit, claim or action. JJM shall control the
3 management of any such claim, lawsuit or action, including,
4 without limitation, the selection of counsel, trial
5 strategy, and determination of the appropriateness and
6 reasonableness of any settlement.

7 ARTICLE 9. ARBITRATION

8 9.1 Paragraph 12.11 is deleted and the following is
9 substituted therefore and shall also govern this Agreement.

10 -- 12.11 - Dispute Resolution

11 a) Any dispute, claim or controversy arising
12 from or related in any way to this agreement or
13 the interpretation, application, breach,
14 termination or validity thereof, including any
15 claim of inducement of this agreement by fraud or
16 otherwise, will be submitted for resolution to
17 arbitration pursuant to the commercial arbitration
18 rules then pertaining of the Center for Public
19 Resources ("CPR"), except where those rules
20 conflict with these provisions, in which case
21 these provisions control. The arbitration will be
22 held in Hartford, Connecticut.

23 b) The panel shall consist of three arbitrators
24 chosen from the CPR Panels of Distinguished
25 Neutrals each of whom is a lawyer specializing in
26 business litigation with at least 15 years
27 experience with a law firm of over 25 lawyers or

1 was a judge of a court of general jurisdiction.
2 In the event the aggregate damages sought by the
3 claimant are stated to be less than \$5 million,
4 and the aggregate damages sought by the
5 counterclaimant are stated to be less than \$5
6 million, and neither side seeks equitable relief,
7 then a single arbitrator shall be chosen, having
8 the same qualifications and experience specified
9 above.

10 c) The parties agree to cooperate (1) to obtain
11 selection of the arbitrator(s) within 30 days of
12 initiation of the arbitration, (2) to meet with
13 the arbitrator(s) within 30 days of selection and
14 (3) to agree at that meeting or before upon
15 procedures for discovery and as to the conduct of
16 the hearing which will result in the hearing being
17 concluded within no more than 9 months after
18 selection of the arbitrator(s) and in the award
19 being rendered within 60 days of the conclusion of
20 the hearings, or of any post-hearing briefing,
21 which briefing will be completed by both sides
22 with 20 days after the conclusion of the hearings.
23 In the event no such agreement is reached, the CPR
24 will select arbitrator (s), allowing appropriate
25 strikes for reasons of conflict or other cause and
26 three peremptory challenges for each side. The
27 arbitrator(s) shall set a date for the hearing,
28 commit to the rendering of the award within 60
29 days of the conclusion of the evidence at the
30 hearing, or of any post-hearing briefing (which
31 briefing will be completed by both sides in no

1 more than 20 days after the conclusion of the
2 hearings), and provide for discovery according to
3 these time limits, giving recognition to the
4 understanding of the parties hereto that they
5 contemplate reasonable discovery, including
6 document demands and depositions, but that such
7 discovery be limited so that the time limits
8 specified herein may be met without undue
9 difficulty. In no event will the arbitrator(s)
10 allow either side to obtain more than a total of 40
11 hours of deposition testimony from all
12 witnesses, including both fact and expert
13 witnesses. In the event multiple hearing days are
14 required, they will be scheduled consecutively to
15 the greatest extent possible.

16 d) The arbitrator(s) shall render their award
17 following the substantive law of Connecticut. The
18 arbitrator(s) shall render an opinion setting
19 forth findings of fact and conclusions of law with
20 the reasons therefor stated. A transcript of the
21 evidence adduced at the hearing shall be made and
22 shall, upon request, be made available to either
23 party.

24 e) To the extent possible, the arbitration
25 hearings and award will be maintained in
26 confidence.

27 f) The United States District Court for the
28 District of Connecticut may enter judgment upon
29 any award. In the event the panel's award exceeds

1 \$5 million in monetary damages or includes or
2 consists of equitable relief, then the court shall
3 vacate, modify or correct any award where the
4 arbitrators' findings of fact are clearly
5 erroneous, and/or where the arbitrators'
6 conclusions of law are erroneous; in other words,
7 it will undertake the same review as if it were a
8 federal appellate court reviewing a district
9 court's findings of fact and conclusions of law
10 rendered after a bench trial. An award for less
11 than \$5 million in damages and not including
12 equitable relief may be vacated, modified or
13 corrected only upon the grounds specified in the
14 Federal Arbitration Act. The parties consent to
15 the jurisdiction of the above-specified Court for
16 the enforcement of these provisions, the entry of
17 judgment on any award, and. the vacatur,
18 modification on and correction of any award as above
19 specified. In the event such Court lacks
20 jurisdiction, then any court having jurisdiction
21 of this matter may enter judgment upon any award
22 and provide the same relief, and undertake the
23 same review, as specified herein.

24 g) Each party has the right before or during the
25 arbitration to seek and obtain from the
26 appropriate court provisional remedies such as
27 attachment, preliminary injunction, replevin, etc.
28 to avoid irreparable harm, maintain the status
29 quo, or preserve the subject matter of the
30 arbitration.

1 h) EACH PARTY HERETO WAIVES ITS RIGHT TO TRIAL
2 OF ANY ISSUE BY JURY.

3 i) EACH PARTY HERETO WAIVES ANY CLAIM TO
4 PUNITIVE OR EXEMPLARY DAMAGES FROM THE OTHER.

5 j) EACH PARTY HERETO WAIVES ANY CLAIM OF
6 CONSEQUENTIAL DAMAGES FROM THE OTHER UNLESS
7 (1) THE FORESEEABILITY OF SUCH DAMAGES AT THE TIME
8 OF THE CONTRACT AND (2) THE AMOUNT OF SUCH DAMAGES
9 ARE PROVEN BY CLEAR AND CONVINCING EVIDENCE. --

10 ARTICLE 10. MEDIATION

11 The following shall be added to the Prior Development
12 and License Agreement and shall also govern this Agreement.

13 -- 12.14 - Mediation

14 a) Any dispute, controversy or claim arising out
15 of or related to this agreement, or the
16 interpretation, application, breach, termination
17 or validity thereof, including any claim of
18 inducement by fraud or otherwise, which claim
19 would, but for this provision, be submitted to
20 arbitration shall, before submission to
21 arbitration, first be mediated through non-binding
22 mediation in accordance with the Model Procedures
23 for the Mediation of Business Disputes promulgated
24 by the Center for Public Resources ("CPR") then in
25 effect, except where those rules conflict with
26 these provisions, in which case these provisions

1 control. The mediation shall be conducted in
2 Hartford, Connecticut and shall be attended by a
3 senior executive with authority to resolve the
4 dispute from each of the operating companies that
5 are parties.

6 b) The mediator shall be an attorney
7 specializing in business litigation who has at
8 least 15 years of experience as a lawyer with a law
9 firm of over 25 lawyers or was a judge of a
10 court of general jurisdiction and who shall be
11 appointed from the list of neutrals maintained by
12 CPR.

13 c) The parties shall promptly confer in an
14 effort to select a mediator by mutual agreement.
15 In the absence of such an agreement, the mediator
16 shall be selected from a list generated by CPR
17 with each party having the right to exercise
18 challenges for cause and two peremptory challenges
19 within 72 hours of receiving the CPR list.

20 d) The mediator shall confer with the parties to
21 design procedures to conclude the mediation within
22 no more than 45 days after initiation. Under no
23 circumstances shall the commencement of
24 arbitration under paragraph 12.11.(a) above be
25 delayed more than forty-five (45) days by the
26 mediation process specified herein.

1 e) Each party agrees to toll all applicable
2 statutes of limitation during the mediation
3 process and not to use the period or pendency of
4 the mediation to disadvantage the other party
5 procedurally or otherwise. No statements made by
6 either side during the mediation may be used by
7 the other during any subsequent arbitration.

8 f) Each party has the right to pursue
9 provisional relief from any court, such as
10 attachment, preliminary injunction, replevin,
11 etc., to avoid irreparable harm, maintain the
12 status quo, or preserve the subject matter of the
13 arbitration, even though mediation has not been
14 commenced or completed. -

15 **ARTICLE 11. REMAINING PROVISIONS**

16 11.1 All the remaining provisions of the Development &
17 License Agreement not in conflict with the provisions of the
18 present Amendment shall remain in full force and effect.

19 11.2 For the purposes of interpreting this Agreement
20 and the Prior Development and License Agreement, JJM and
21 JJMI shall be interchangeable and shall each mean Johnson &
22 Johnson Medical Division of Ethicon, Inc., a New Jersey
23 corporation.

1 IN WITNESS WHEREOF, the parties hereto have executed
2 this Agreement by their duly authorized officers or
3 representatives.

BIO-PLEXUS, INC.

JOHNSON & JOHNSON MEDICAL
DIVISION OF ETHICON, INC.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

4