

foiapa

18-04065-E

From: Mark Edwards <medwards@biosciadvisors.com>
Sent: Saturday, April 21, 2018 3:33 AM
To: foiapa
Subject: FOIA Request

RECEIVED

APR 23 2018

Office of
FOIA Services

I would like to request access to Exhibits 10.1 thru 10.5 and 10.25 to the Form S-1, as amended, filed by Digirad Corp. on 6/4/2004. 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

May 08, 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. 18-04065-E

Dear Mr. Edwards:

This letter is in response to your request, dated April 21, 2018 and received in this office on April 23, 2018, for information regarding Exhibits 10.1 thru 10.5 and 10.25 to the Form S-1, as amended, filed by Digirad Corp. on June 04, 2004.

The search for responsive records has resulted in the retrieval of 111 pages that may be responsive to your request. They are being provided to you with this letter in their entirety at no cost.

If you have any questions, please contact me at Luetkenhausj@SEC.GOV or (202) 551-8352. You may also contact me at foiapa@sec.gov or (202) 551-7900. You also have the right to seek assistance from Aaron Taylor 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 black ink that reads "Jason Luetkenhaus".

Jason Luetkenhaus
Lead FOIA Research Specialist

Enclosures

10.1
CONFIDENTIAL TREATMENT REQUESTED

redactions
checked
against
exh. - filed 6/4/04
on 6/4/04

LICENSE AGREEMENT

For

DETECTOR

Between

DIGIRAD CORPORATION

and

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

through the

**Ernest Orlando Lawrence
BERKELEY NATIONAL LABORATORY**

CONFIDENTIAL TREATMENT REQUESTED

TABLE OF CONTENTS

1.	Background	1
2.	Definitions	1
3.	License Grant	3
4.	License Issue Fee	4
5.	Royalties and Payments	4
6.	Performance Requirements	5
7.	Progress and Royalty Reports	6
8.	Books and Records	7
9.	Life of the Agreement	8
10.	Termination by Berkeley Lab	8
11.	Termination by Digirad	8
12.	Disposition of Licensed Products	8
13.	Use of Names and Trademarks and Nondisclosure of Agreement	9
14.	Limited Warranty	9
15.	Patent Prosecution and Maintenance	10
16.	Patent Infringement	11
17.	Waiver	12
18.	Assignment	12
19.	Indemnification	13
20.	Late Payments	14
21.	Notices	14
22.	U.S. Manufacture	14
23.	Patent Marking	15
24.	Government Approval or Registration	15

CONFIDENTIAL TREATMENT REQUESTED

25.	Export Control Laws	15
26.	Force Majeure	15
27.	Miscellaneous	15

LICENSE AGREEMENT FOR DETECTOR

This license agreement (the "Agreement") is entered into by The Regents of the University of California ("The Regents"), Department of Energy contract-operators of the Ernest Orlando Lawrence Berkeley National Laboratory, 1 Cyclotron Road, Berkeley, CA 94720, (jointly, "Berkeley Lab"), and Digirad Corporation, ("Digirad") a Delaware corporation, having as its principle place of business, 9350 Trade Place San Diego, California 92126-6330.

1. BACKGROUND

- 1.1 A certain invention, Low Resistivity Photon Transparent Window Attached to Photo-Sensitive Silicon Detector, LBNL designations: IB-1204, IB-1204P and IB-1204PCT (the "Invention"), was made under U.S. Department of Energy contract DE-AC03-76SF00098 at the University of California, Ernest Orlando Lawrence Berkeley National Laboratory by Steven Edward Holland. ✓
- 1.2 As DOE sponsored development of the Invention, this Agreement and the resulting license are subject to overriding obligations to the federal government pursuant to the provisions of the applicable law or regulations.
- 1.3 Berkeley Lab wants the Invention developed and used to the fullest extent so that the general public enjoys the benefits of the government-sponsored research.
- 1.4 Digirad wants to obtain certain rights from Berkeley Lab for the commercial development, manufacture, use, and sale of the Invention.
- 1.5 Digirad entered into an Option Agreement with Berkeley Lab to license the above referenced invention on June 3, 1998.
- 1.6 Digirad is a "small business firm" as defined at Section 2 of Public Law 85-536 (15 U.S.C. 632).

Therefore the parties agree as follows:

2. DEFINITIONS

- 2.1 "Effective Date" means the date of execution by the last signing party.
- 2.2 "Field of Use" means the development, production and use of photodiodes within products to perform single photon nuclear medicine procedures. Single photon, as used herein, means radioisotopes whose decay chain includes a primary gamma ray with energy greater than 50 KeV but does not include a positron emission. The Field of Use specifically excludes the use for positron emission tomography as well as x-ray imaging of all kinds. ✓
- 2.3 "Highly Inflationary Currency" means the currency of any economy with a cumulative inflation rate of 100% or more over the most recent three calendar years, as measured by

CONFIDENTIAL TREATMENT REQUESTED

consumer price indices published by the International Monetary Fund (International Financial Statistics), Washington, D.C.

- 2.4 "Licensed Patents" means patent rights to any subject matter claimed in or covered by US Patent Application Serial Number 08/961,868 entitled Low-Resistivity Photon-Transparent Window Attached to Photo-Sensitive Silicon Detector, by Stephen Edward Holland, or any corresponding foreign patent application or patent, for which Digirad has met the requirements of Section 15.2 herein; any division, reexamination, continuation, continuation-in-part (excluding new matter contained and claimed in that continuation-in-part), or of which such application is a successor; any patents issuing on any of the foregoing, and all renewals, reissues and extensions thereof, or other equivalents of a renewal, reissues and extension thereof.
- 2.5 "Licensed Product" means any product, service or process that employs or is produced by the practice of any invention claimed in Licensed Patents and whose manufacture, use, practice, sale, or lease would constitute, but for the license Berkeley Lab grants to Digirad under this Agreement, an infringement of any claim in Licensed Patents.
- 2.6 "Selling Price" for the purpose of computing royalties means the price at which Digirad or its sublicensee sells the Licensed Product in an arms-length transaction, less the sum of the following deductions that are customary and actually taken: (i) cash, trade or quantity discounts; (ii) sales, use, tariff, import/export duties or other excise taxes imposed upon particular sales; and (iii) transportation (and insurance charges associated with transportation) and allowances or credits to customers because of rejections or returns. When a Licensed Product is not sold, but is otherwise disposed of, the Selling Price of that Licensed Product for the purposes of computing royalties is the selling price at which products of similar kind and quality, sold in similar quantities, are currently being offered for sale by Digirad. When such products are not currently being offered for sale by Digirad, the Selling Price of a Licensed Product otherwise disposed of, for the purpose of computing royalties, is the average selling price at which products of similar kind and quality, sold in similar quantities, are then currently being offered for sale by other manufacturers. When such products are not currently sold or offered for sale by Digirad or others, then the Selling Price, for the purpose of computing royalties, shall be Digirad's cost of manufacture, determined by generally accepted accounting procedures, plus Digirad's standard mark-up. For sales of Licensed Products to a Joint Venture or Affiliate (as defined in Paragraphs 2.7 and 2.8 below) that are provided by Digirad to the Joint Venture or Affiliate (directly or indirectly for resale by said Joint Venture or Affiliate) at a reduced price from that customarily charged to an unrelated third party, then the royalty paid to Berkeley Lab will be based on the Selling Price of Licensed Products of the Joint Venture or Affiliate to the Joint Venture's or Affiliate's customers and subject to payment under Article 5. For sales of Licensed Products to a Joint Venture or Affiliate (as defined in Paragraphs 2.7 and 2.8 below) that are provided directly or indirectly by Digirad to the Joint Venture or Affiliate as an end user at a reduced price from that customarily charged to an unrelated third party, then the royalty paid to Berkeley Lab will be based on the customary charge to an unrelated third party in an arms length transaction and subject to payment under Article 5.

CONFIDENTIAL TREATMENT REQUESTED

- 2.7 "Affiliate(s)" of a party means any entity which, directly or indirectly, controls such party, is controlled by such party or is under common control with such party, "control" for these purposes being defined as the actual, present capacity to elect a majority of the directors of such Affiliate.
- 2.8 "Joint Venture" means any separate entity established pursuant to an agreement between a third party and Digirad to constitute a vehicle for a joint venture, which separate entity purchases, sells or acquires Licensed Products from Digirad at prices substantially different from those at which Digirad would have charged other purchasers that deal at arms length with Digirad. If such separate entity is established, then Berkeley Lab shall collect from Digirad royalties on the Selling Price of Licensed Products by the entity and shall not collect royalties on the Selling Price of Licensed Products by Digirad.

3. LICENSE GRANT

- 3.1 Subject to the limitations set forth in this Agreement, Berkeley Lab grants to Digirad a nontransferable (subject to Section 18.1), limited (by the terms of Sections 3.2 and 3.7) worldwide exclusive, royalty-bearing license, under Licensed Patents, only in the Field of Use, to develop, make, have made, use, practice, sell, have sold, and lease the Licensed Products.
- 3.2 Any license under this Agreement is subject to the following: (a) DOE's royalty-free license for federal government practice only, and (b) DOE's option to grant licenses either if reasonable steps to commercialize the Invention are not carried out or in order to meet federal regulations. Digirad shall use best efforts to commercialize Licensed Patents.
- 3.3 Berkeley Lab also grants to Digirad the right to issue royalty-bearing sublicenses only in the Field of Use to make, use, practice and sell Licensed Products, so long as Digirad has current exclusive rights in the Field of Use.
- 3.4 Any sublicense Digirad grants must be consistent with all the rights and obligations due Berkeley Lab and the United States Government under this Agreement, including, without limitation, the obligations under Section 3.2 above.
- 3.5 Digirad shall provide Berkeley Lab with a copy of each sublicense issued under this Agreement; collect payment of all royalties due Berkeley Lab from sublicensees; and summarize and deliver all reports due Berkeley Lab from sublicensees under Article 7 (PROGRESS AND ROYALTY REPORTS).
- 3.6 If this Agreement terminates for any reason, Berkeley Lab, at its sole discretion, shall determine whether Digirad must cancel or assign to Berkeley Lab any or all sublicenses.
- 3.7 Berkeley Lab expressly reserves the right to use the Invention and associated technology for educational and research purposes subject to the limitations of Section 13.2.

CONFIDENTIAL TREATMENT REQUESTED

4. LICENSE ISSUE FEE

- 4.1 Digirad shall pay Berkeley Lab a license issue fee of forty-five thousand dollars (\$45,000.00) of which fifteen thousand dollars (\$15,000.00) has been previously paid under the Option Agreement. The remaining thirty thousand dollars (\$30,000.00) shall be paid in equal installments as follows: fifteen thousand dollars (\$15,000.00) within fifteen (15) days of the Effective Date and fifteen thousand dollars (\$15,000.00) on the first anniversary of this Agreement. ✓
- 4.2 This fee is non-refundable and is not an advance against royalties. ✓

5. ROYALTIES AND PAYMENTS

- 5.1 Digirad shall pay to Berkeley Lab an earned royalty of one and one quarter percent (1.25%) of the Selling Price of each Licensed Product Digirad sells. ✓
- 5.2 Under this Agreement a Licensed Product is considered to be sold when invoiced, or if not invoiced, when delivered to a third party. But when the last patent covering a Licensed Product expires or when the license terminates, any shipment made on or before the day of that expiration or termination that has not been billed out before is considered as sold (and therefore subject to royalty) unless returned to Digirad within ninety (90) days. Berkeley Lab shall credit royalties that Digirad pays on a Licensed Product that the customer does not accept or returns.
- 5.3 For each sublicense, Digirad shall pay Berkeley Lab the same royalties it would pay if Digirad was making, using, or selling Licensed Products under this Agreement. Royalties shall be calculated by applying the percentages due on the sale of Licensed Product (see Section 5.1. above) hereunder against the Selling Price for which the Sublicensee has sold Licensed Product. The royalties paid to Digirad may exceed the royalties paid to Berkeley Lab.
- 5.4 Digirad shall pay to Berkeley Lab by August 31 of each year the difference between the earned royalties for that calendar year Digirad has already paid to Berkeley Lab and the minimum annual royalty set forth in the following schedule. Berkeley Lab shall credit that minimum annual royalty paid against the earned royalty due and owing for the calendar year in which Digirad made the minimum payment

<u>Calendar Year</u>	<u>Minimum Annual Royalty</u>	✓
1999	\$ <u>10,000</u>	
2000	\$ <u>30,000</u>	
2001	\$ <u>40,000</u>	
2002 and each year thereafter	\$ <u>60,000</u>	

- 5.5 Digirad shall send payment for royalties accruing to Berkeley Lab quarterly together with its royalty report under paragraph 7.4. Digirad shall be entitled to credit interference and opposition expenses against the earned royalty income due Berkeley Lab so long as such

CONFIDENTIAL TREATMENT REQUESTED

expenses do not arise from any opposition or interference raised by Digirad, its Affiliates, or Joint Ventures or Joint Venture members.

- 5.6 Digirad shall make checks payable to "The Regents of the University of California (Berkeley Lab/L-99-1261.)" Digirad shall pay Berkeley Lab only in United States dollars. If a Licensed Product is sold for moneys other than United States dollars (not including Highly Inflationary Currency), Digirad shall first determine the earned royalties in the foreign currency of the country in which the Licensed Product was sold and then convert them into equivalent United States dollars at the closing exchange rate published by *The Wall Street Journal* on the last business day of the reporting period. If a Licensed Product is sold for a Highly Inflationary Currency, Digirad shall convert the sales subject to royalties into equivalent United States funds using the closing exchange rates in effect on the date of invoicing (or if no invoicing, of delivery) as published by *The Wall Street Journal*. Digirad shall quote the exchange rate in the Continental method (local currency per U.S. dollar).
- 5.7 Digirad may not reduce royalties payable by any value-added taxes, fees, or other charges imposed on the remittance of royalty income imposed by the government of any State of the United States or the government of any country. Digirad is also responsible for all bank transfer charges.
- 5.8 If Digirad cannot promptly remit any royalties for sales in any country where a Licensed Product is sold because of legal restrictions, Digirad may deposit in United States funds royalties due Berkeley Lab to Berkeley Lab's account in a bank or other depository in that country. If Digirad is not permitted to deposit those payments in U.S. funds under the laws of that country, Digirad may deposit those payments in the local currency to Berkeley Lab's account in a bank or other depository in that country.
- 5.9 If a court of competent jurisdiction and last resort holds invalid any patent or any of the patent claims within Licensed Patent in a final decision from which no appeal has or can be taken, Digirad's obligation to pay royalties based on that patent or claim will cease as of the date of that final decision. Digirad, however, shall pay any royalties that accrued before that decision or that are based on another patent or claim not involved in that decision.
- 5.10 Digirad has no duty to pay Berkeley Lab royalties under this Agreement on a Licensed Product Digirad sells to the United States Government including any United States Government agency. Digirad shall reduce the amount charged for a Licensed Product sold to the United States Government by an amount equal to the royalty otherwise due Berkeley Lab. Such royalty otherwise due Berkeley Lab will count towards the minimum annual royalty payments per Section 5.4.

6. PERFORMANCE REQUIREMENTS

- 6.1 Digirad shall proceed with the development, manufacture and sale of Licensed Products and shall use diligent commercial efforts to endeavor to market them within a reasonable time after the Effective Date in quantities sufficient to meet the market demand.

CONFIDENTIAL TREATMENT REQUESTED

- 6.2 Digirad shall use diligent commercial efforts to obtain all necessary governmental approvals for the manufacture, use and sale of Licensed Products.
- 6.3 Digirad is entitled to exercise prudent and reasonable business judgment in meeting its performance requirements under this Agreement.
- 6.4 If Digirad is unable to perform any of the following, then Berkeley Lab may either terminate this Agreement or reduce this limited exclusive license to a nonexclusive license:
 - 6.4.1 complete marketing preparation and product introduction of the Licensed Products to the marketplace by June 30, 1999; or
 - 6.4.2 at any time during the exclusive period of this Agreement, reasonably fill the market demand for Licensed Products following commencement of marketing.

It is the understanding of the parties hereto that any termination of the Agreement or reduction of this license to a nonexclusive license as a result of Digirad's failure to meet the specifications of Section 6.4, shall be subject to the sixty (60) day cure period set forth in Section 10.1 below.

- 6.5 If Berkeley Lab grants a non-exclusive license to any other party upon royalty rates more favorable than those of this Agreement after reducing this license to a nonexclusive license, then Digirad is entitled to the benefit of the more favorable rates. Digirad must agree in writing to accept all terms of that third party license in whole and not in part in order to enjoy the benefit of the more favorable rates which shall commence upon delivery to Berkeley Lab of that written agreement.
- 6.6 Digirad and Berkeley Lab by mutual written consent may amend or extend the requirements of Sections 6.4.1-6.4.2 at the written request of Digirad in response to legitimate business reasons.

7. PROGRESS AND ROYALTY REPORTS

- 7.1 Beginning June 1, 1999 and semi-annually thereafter, Digirad shall submit to Berkeley Lab a progress report covering Digirad's activities related to the development and testing of all Licensed Products and the obtaining of the governmental approvals necessary for marketing. Digirad shall make these progress reports for each Licensed Product until the first commercial sale of that Licensed Product occurs anywhere in the world.
- 7.2 The progress reports Digirad submits under Section 7.1 must include, but not be limited to, the following topics:
 - 7.2.1 summary of work completed related to the requirements of Section 6.4;
 - 7.2.2 key scientific discoveries;

CONFIDENTIAL TREATMENT REQUESTED

- 7.2.3 summary of work in progress;
 - 7.2.4 current schedule of anticipated milestones;
 - 7.2.5 market plans for introduction of Licensed Products; and
 - 7.2.6 number of full-time equivalent (FTEs) employees or agents working on the development of Licensed Products.
- 7.3 Digirad shall also report to Berkeley Lab in its immediately subsequent royalty report on the date of first commercial sale of each Licensed Product in the U.S. and in each other country.
- 7.4 After the first commercial sale of a Licensed Product anywhere in the world, Digirad shall make quarterly royalty reports to Berkeley Lab on or before February 28, May 31, August 31 and November 30 of each year. Each royalty report must cover the most recently completed calendar quarter and must show:
- 7.4.1 the Selling Price of each type of Licensed Product sold by Digirad;
 - 7.4.2 the number of each type of Licensed Product sold;
 - 7.4.3 the royalties, in U.S. dollars, payable under this Agreement on those sales;
 - 7.4.4 the exchange rates used in calculating the royalty due;
 - 7.4.5 the royalties on government sales that otherwise would have been due under Section 5.10; and
 - 7.4.6 for each sublicense, if any:
 - 7.4.6.1 the sublicensee;
 - 7.4.6.2 the number, description, and aggregate Selling Prices of Licensed Products that the sublicensee sold or otherwise disposed of;
 - 7.4.6.3 the exchange rates used in calculating the royalties due Berkeley Lab from the sublicensee's sales.
- 7.5 If no sales of Licensed Products have been made during any reporting period, Digirad shall make a statement to this effect.

8. BOOKS AND RECORDS

- 8.1 Digirad shall keep books and records accurately showing all Licensed Products manufactured, used, or sold under the terms of this Agreement. Digirad shall preserve those books and records for at least five (5) years from the date of the royalty payment to which they pertain and shall open them to inspection by representatives or agents of

CONFIDENTIAL TREATMENT REQUESTED

Berkeley Lab at reasonable times. Digirad shall provide an audited statement to Berkeley Lab annually at such time as Digirad completes its corporate audited financial statements

- 8.2 Berkeley Lab shall bear the fees and expenses of Berkeley Lab's representatives performing the examination of the books and records. But if the representatives discover an error resulting in a deficiency in royalties of more than five percent (5%) of the total royalties due for any year, then Digirad shall bear the fees and expenses of these representatives and the difference between the earned royalties and the reported royalties (which shall be subject to the provisions of Article 20 (LATE PAYMENTS)).

9. LIFE OF THE AGREEMENT

- 9.1 Unless otherwise terminated by operation of law or by acts of the parties in accordance with the terms of this Agreement, this Agreement is in force from the Effective Date and expires concurrently with the last-to-expire Licensed Patent.
- 9.2 Any termination of this Agreement shall not affect the rights and obligations set forth in the following Articles:

Article 8	Books and Records
Article 12	Disposition of Licensed Products on Hand upon Termination
Article 13	Use of Names and Trademarks and Nondisclosure of Agreement
Article 14	Limited Warranty
Article 19	Indemnification
Article 25	Export Control Laws

- 9.3 Termination does not affect in any manner any rights of Berkeley Lab or Digirad arising under this Agreement before the termination.

10. TERMINATION BY BERKELEY LAB

- 10.1 If Digirad violates or fails to perform any material term of this Agreement, then Berkeley Lab may give written notice of such default ("Default Notice") to Digirad. If Digirad fails to cure that default and provide Berkeley Lab with reasonable evidence of the cure within sixty (60) days of the Default Notice, Berkeley Lab may terminate this Agreement and the licenses granted by a second written notice ("Termination Notice") to Digirad. If Berkeley Lab sends a Termination Notice to Digirad, this Agreement automatically terminates on the effective date of the Termination Notice.

11. TERMINATION BY DIGIRAD

- 11.1 Digirad at any time may terminate this Agreement in whole or as to any portion of Licensed Patents by giving written notice to Berkeley Lab. Digirad's termination of this

CONFIDENTIAL TREATMENT REQUESTED

Agreement will be effective ninety (90) days after its notice. If that termination is without cause within three years of the Effective Date, Digirad shall pay Berkeley Lab as liquidated damages seventy-five thousand dollars (\$75,000.00) with the notice of termination before that notice is effective.

12. DISPOSITION OF LICENSED PRODUCTS ON HAND UPON TERMINATION

- 12.1 Within forty-five (45) days of termination of this Agreement for any reason, Digirad shall provide Berkeley Lab with a written inventory of all Licensed Products in process of manufacture or in stock. Digirad shall make diligent efforts to dispose of those Licensed Products within one hundred twenty (120) days of termination. The sale of any Licensed Product within one hundred twenty (120) days is subject to the terms of this Agreement. Digirad shall cease sales of Licensed Product one hundred and twenty (120) days after termination.

13. USE OF NAMES AND TRADEMARKS AND NONDISCLOSURE OF AGREEMENT

- 13.1 In accordance with California Education Code Section 92000, Digirad shall not use in advertising, publicity or other promotional activities any name, trade name, trademark, or other designation of the University of California, nor shall Digirad so use "Berkeley Lab" (including any contraction, abbreviation, or simulation of any of the foregoing) without Berkeley Lab's prior written consent. As the sole exception to the above prohibition, Digirad shall give appropriate credit to the inventor(s) and Berkeley Lab at scientific symposia, and in technical publications in scientific journals where the licensed technology is referenced. Berkeley Lab shall not use in advertising, publicity or other promotional activities any name, trade name, or other designation of Digirad without its prior written consent except as set forth in Section 13.2 below.
- 13.2 Neither party may disclose the terms or existence of this Agreement to a third party without express written permission of the other party, except when required under either the California Public Records Act or other applicable law or court order or by Berkeley Lab's contracts with the DOE or any other Federal or State entity. Notwithstanding the foregoing, Berkeley Lab may disclose the existence of this Agreement and the extent of the grant in Article 3, but shall not otherwise disclose the terms of this Agreement, except to the DOE.
- 13.3 The Proprietary Information Exchange Agreement between Digirad and the Regents of the University of California as Managers of the Lawrence Berkeley National Laboratory, as attached hereto as Exhibit A, shall remain in effect through the term outlined in the Proprietary Information Exchange Agreement.

14. LIMITED WARRANTY

- 14.1 Berkeley Lab warrants to Digirad that it has the lawful right to grant this license.

CONFIDENTIAL TREATMENT REQUESTED

- 14.2 Except as set forth above, this license and the associated Invention(s) are provided WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. BERKELEY LAB MAKES NO REPRESENTATION OR WARRANTY THAT LICENSED PRODUCTS WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT.
- 14.3 IN NO EVENT WILL BERKELEY LAB OR DIGIRAD BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCURRED BY THE OTHER PARTY HERETO RESULTING FROM EXERCISE OF THIS LICENSE OR THE USE OF THE INVENTION(S) OR LICENSED PRODUCTS UNDER THIS AGREEMENT. THIS PROVISION, 14.3, DOES NOT APPLY TO INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES AWARDED IN A JUDGEMENT FOR A THIRD PARTY AGAINST A PARTY OR THE PARTIES HERETO.
- 14.4 Except as set forth above, nothing in this Agreement may be construed as:
- 14.4.1 a warranty or representation by Berkeley Lab as to the validity or scope of any of Berkeley Lab's rights in Licensed Patents;
 - 14.4.2 a warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or will be free from infringement of patents of third parties;
 - 14.4.3 an obligation to bring or prosecute actions or suits against third parties for patent infringement, except as specifically provided for in Article 16 (Patent Infringement);
 - 14.4.4 a grant by implication, estoppel or otherwise of any license or rights under any patents of Berkeley Lab other than Licensed Patents, regardless of whether such patents are dominant or subordinate to Licensed Patents; or
 - 14.4.5 an obligation to furnish any know-how not provided in Licensed Patents.

15. PATENT PROSECUTION AND MAINTENANCE

- 15.1 Berkeley Lab shall diligently maintain the United States patents for Licensed Patents (including any future patent rights provided for in Section 2.4) using counsel of its choice that is reasonably acceptable to Digirad. Berkeley Lab shall bear the cost of pre paring, filing, prosecuting and maintaining any United States patent covered by this Agreement.
- 15.2 Berkeley Lab has filed foreign patent applications corresponding to the PCT Application referred to in Section 2.4 (namely US 97/20173) as follows:
- (a) European Patent Office (EPO), designating
 - (i) Austria

CONFIDENTIAL TREATMENT REQUESTED

- (ii) Belgium
- (iii) Switzerland
- (iv) Germany
- (v) Denmark
- (vi) Spain
- (vii) France
- (viii) United Kingdom
- (ix) Ireland
- (x) Italy
- (xi) Netherlands
- (xii) Sweden
- (b) Japan.

Berkeley Lab has no obligation to take action to file or prosecute foreign patent applications on behalf of Digirad until the following occurs:

15.2.1 (With the exception of the three countries listed in 15.3 below) Digirad makes that request in writing to Berkeley Lab within thirty (30) days after the Effective Date. The absence of the required notice from Digirad to Berkeley Lab acts as an election not to proceed on protecting foreign rights.

15.2.2 That notice also identifies the countries Digirad desires.

15.2.3 Digirad pays Berkeley Lab the foreign license fee as set forth in paragraph 15.4

15.3 Digirad agrees to pay Berkeley Lab forty-five thousand dollars (\$45,000.00), upon the day of execution of this Agreement, for the foreign patent counterparts to the U.S. application for the following countries: Germany, France and Japan.

15.4 The foreign license fee for each foreign counterpart in addition to those listed in Section 15.3 to a United States patent application shall be fifteen thousand dollars (\$15,000) for each national filing or for each country designated in the PCT filing for entry into the national phase, European Patent Convention ("EPC") filing, or similar regional filing.

15.5 Berkeley Lab shall bear the expense of preparing, filing, prosecuting and securing all foreign patent applications that Berkeley Lab files at Digirad's request (pursuant to 15.2

CONFIDENTIAL TREATMENT REQUESTED

above). Digirad shall bear the expense of any interference or oppositions and maintaining all resulting patents. Berkeley Lab will hold those patents in its name and obtain them using counsel of its choice that is reasonably acceptable to Digirad.

- 15.6 Berkeley Lab shall promptly provide Digirad with copies of all relevant documentation so that Digirad is informed of the continuing prosecution of Licensed Patents and any foreign patent applications Berkeley Lab files under Section 15.2. Additionally, Berkeley Lab shall provide Digirad a quarterly report at the end of March, June, September, and December of each year summarizing the status of the Licensed Patents and any foreign patent applications Berkeley Lab files under Section 15.2. Digirad shall keep this documentation confidential. Berkeley Lab shall use all reasonable efforts to amend any patent application to include claims reasonably requested by Digirad to protect the products contemplated to be sold under this Agreement.

16. PATENT INFRINGEMENT

- 16.1 If either party learns of the substantial infringement of any of Licensed Patents, the party shall so inform the other party in writing and shall provide the other party with reasonable evidence of the infringement. During the period and in a jurisdiction where Digirad has exclusive rights under this Agreement, neither party may notify a third party of the infringement of any of Licensed Patents without first obtaining written consent of the other party, which consent shall not be unreasonably denied or delayed. Both parties shall use their best efforts in cooperation with each other to terminate such infringement without litigation.
- 16.2 Digirad may request that Berkeley Lab take legal action against the infringement of Licensed Patents. Digirad shall make that request in writing and include reasonable evidence of the infringement and damages to Digirad. If the infringing activity has not been abated within ninety (90) days of that request, Berkeley Lab may elect to: (a) commence suit on its own account; or (b) refuse to participate in the suit. Berkeley Lab shall give written notice of its election to Digirad by the end of the ninetieth (90th) day after receiving notice of the request from Digirad. Digirad may thereafter bring suit for patent infringement only if Berkeley Lab elects not to commence suit (other than as nominal party plaintiff) and if the infringement occurred during the period and in a jurisdiction where Digirad has exclusive rights under this Agreement. In such event, Digirad shall have the sole control and sole decision making authority with respect to defending and enforcing the Licensed Patents solely in connection with such suit and further provided that Berkeley Lab does not thereafter join such suit. If, however, Digirad elects to bring suit in accordance with this paragraph, Berkeley Lab may thereafter join such suit at its own expense.
- 16.3 Such legal action as is decided upon must be at the expense of the party on account of whom suit is brought and all consequent recoveries belong to that party. But if Berkeley Lab and Digirad jointly bring legal action and fully participate in it, the parties must jointly share both the expense and all recoveries in proportion to the share of expense each party pays.

CONFIDENTIAL TREATMENT REQUESTED

- 16.4 Each party shall cooperate with the other in litigation proceedings, including without limitation, signing and arranging for the signature on documents, joining actions as nominal party and similar actions, instituted under this Agreement but at the expense of the party on account of whom suit is brought. The party bringing the suit will control that litigation, except that Berkeley Lab may elect to be represented by counsel of its choice, at its sole expense, in any suit brought by Digirad.

17. WAIVER

- 17.1 The waiver of any breach of any term of this Agreement does not waive any other breach of that or any other term.

18. ASSIGNMENT

- 18.1 This Agreement is binding upon and shall inure to the benefit of Berkeley Lab, its successors and assigns. Upon written notice to Berkeley Lab, Digirad may assign this Agreement to a Digirad wholly owned subsidiary or to a purchaser or acquirer of all or substantially all of the business or assets of Digirad. Any other attempt by Digirad to assign this Agreement is void unless Digirad obtains the prior written consent of Berkeley Lab. Berkeley Lab shall not unreasonably withhold or delay that consent.

19. INDEMNIFICATION

- 19.1 Digirad shall indemnify, hold harmless and defend Berkeley Lab and the U.S. Government and their officers, employees, and agents; the sponsors of the research that led to the Invention; and the inventors of the patents and patent applications in Licensed Patents against any and all claims, suits, losses, damage, costs, fees, and expenses resulting from or arising out of exercise of this license or any sublicense. Berkeley Lab shall promptly notify Digirad in writing of any claim or suit brought against Berkeley Lab in respect of which Berkeley Lab intends to invoke the provisions of this Article 19 (INDEMNIFICATION). No settlement of any claim, suit or perceived threat thereof received by Berkeley Lab shall be made without the approval of Digirad if indemnification is sought by Berkeley Lab hereunder unless require by final decree of a court of competent jurisdiction. Digirad shall pay all reasonable costs incurred by Berkeley Lab in enforcing this indemnification, including reasonable attorney fees.
- 19.2 Digirad, at its sole expense, shall insure its activities in connection with the work under this Agreement and obtain and keep in force Comprehensive or Commercial Form General Liability Insurance (contractual liability and products liability included) or equivalent program of self-insurance with limits as follows:
- | | |
|---|-------------|
| 19.2.1 Each Occurrence | \$1,000,000 |
| 19.2.2 Products/Completed Operations Aggregate | \$5,000,000 |
| 19.2.3 Personal and Advertising Injury | \$1,000,000 |
| 19.2.4 General Aggregate (commercial form only) | \$5,000,000 |
- 19.3 The coverages and limits referred to in this Article 19 do not in any way limit the liability of Digirad. Digirad shall furnish Berkeley Lab with certificates of insurance, including

CONFIDENTIAL TREATMENT REQUESTED

renewals, evidencing compliance with all requirements at least thirty (30) days prior to the first commercial sale, use, practice or distribution of a Licensed Product.

19.3.1 If such insurance is written on a claims-made form, coverage shall provide for a retroactive date of placement on or before the Effective Date.

19.3.2 Digirad shall maintain the general liability insurance specified during: (a) the period that the Licensed Product is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals) by Digirad or by a sublicensee or agent of Digirad, and (b) a reasonable period thereafter, but in no event less than five years.

19.4 The insurance coverage of Section 19.2 must:

19.4.1 Provide for thirty (30) day advance written notice to Berkeley Lab of any modification of any such coverage and provide immediate notice of cancellation of such coverage.

19.4.2 Indicate that DOE and "The Regents of the University of California" are endorsed as additional insureds, but only with respect to the subject matter of this Agreement.

19.4.3 Include a provision that the coverages are primary and do not participate with, nor are excess over, any valid and collectible insurance or program of self-insurance carried or maintained by Berkeley Lab.

20. LATE PAYMENTS

20.1 Excepting issues arising from Section 26.1, if Digirad does not make a payment to Berkeley Lab when due, Digirad shall pay to Berkeley Lab such reasonable administrative fees and interest as Berkeley Lab generally charges third parties on overdue accounts, such interest not to exceed eight percent (8%) simple interest per annum.

21. NOTICES

21.1 Any payment, notice or other communication this Agreement requires or permits either party to give must be in writing to the appropriate address given below, or to such other address as one party designates by written notice to the other party. The parties deem payment, notice or other communication to have been properly given and to be effective (a) on the date of delivery if delivered in person; (b) on the fourth day after mailing if mailed by first-class mail, postage paid; (c) on the second day after delivery to an overnight courier service such as Federal Express, if sent by such a service; or (d) upon confirmed transmission by telecopier. The parties' addresses are as follows:

For payments to Berkeley Lab:

For all other notices to Berkeley Lab:

Ernest Orlando Lawrence

Ernest Orlando Lawrence

CONFIDENTIAL TREATMENT REQUESTED

Berkeley National Laboratory
Accounting/Financial Management
P.O. Box 528
Berkeley, California 94701
Attention: Licensing Accountant
Fax: 510/486-5995
Telephone: 510/486-7113

Berkeley National Laboratory
Technology Transfer Department
Mailstop 90-1070
One Cyclotron Road
Berkeley, California 94720
Attention: Licensing Manager
Fax: 510/486-6457
Telephone: 510/486-6467

In the case of Digirad:

Digirad Corporation
9350 Trade Place
San Diego, California 92126-6334
Attention: President
Fax: 619-549-7714
Telephone: 619-578-5300

22. U.S. MANUFACTURE

- 22.1 Digirad shall have Licensed Products produced for sale in the United States manufactured substantially in the United States so long as Digirad has current exclusive rights in the Field of Use.

23. PATENT MARKING

- 23.1 Digirad shall mark all Licensed Products made, used or sold under this Agreement, or their containers, in accordance with the applicable patent marking laws.

24. GOVERNMENT APPROVAL OR REGISTRATION

- 24.1 If the law of any nation requires that any governmental agency either approve or register this Agreement or any associated transaction, Digirad shall assume all legal obligations to do so. Digirad shall notify Berkeley Lab if it becomes aware that this Agreement is subject to a U.S. or foreign government reporting or approval requirement. Digirad shall make all necessary filings and pay all costs, including fees, penalties, and all other costs associated with such reporting or approval process. Berkeley Lab shall fully cooperate with Digirad, to the extent it is able to do so within the law and established Berkeley Lab policy, to provide documentation and testimony to obtain such approval or registration, at Digirad's sole expense.

25. EXPORT CONTROL LAWS

- 25.1 Digirad shall observe all applicable United States and foreign laws and regulations with respect to the transfer of Licensed Products and related technical data, including, without limitation, the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations.

CONFIDENTIAL TREATMENT REQUESTED

26. FORCE MAJEURE

- 26.1 If a party's performance required under this Agreement is rendered impossible or unfeasible due to any catastrophes or other major events beyond its reasonable control, including, without limitation, the following, the parties are excused from performance: war, riot, and insurrection; laws, proclamations, edicts, ordinances or regulations; strikes, lockouts or other serious labor disputes; and floods, fires, explosions, or other natural disasters. When such events abate, the parties' respective obligations under this Agreement must resume.

27. MISCELLANEOUS

- 27.1 The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
- 27.2 This Agreement is not binding upon the parties until it is signed below on behalf of each party.
- 27.3 No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed on behalf of each party.
- 27.4 This Agreement embodies the entire and final understanding of the parties on this subject. It supersedes any previous representations, agreements, or understandings, whether oral or written.
- 27.5 If a court of competent jurisdiction holds any provision of this Agreement invalid, illegal or unenforceable in any respect, this Agreement must be construed as if that invalid or illegal or unenforceable provision is severed from the Agreement, provided, however, that the parties shall negotiate in good faith substitute enforceable provisions that most nearly effect the parties' intent in entering into this Agreement.
- 27.6 This Agreement must be interpreted under California law without regard to principles of conflicts of laws.

CONFIDENTIAL TREATMENT REQUESTED

Berkeley Lab and Digirad execute this Agreement in duplicate originals through their duly authorized respective officers in one or more counterparts, that taken together, are but one instrument.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, THROUGH THE ERNEST
ORLANDO LAWRENCE BERKELEY
NATIONAL LABORATORY

DIGIRAD CORPORATION

By /s/

By /s/

By Piernaria J. Oddone

By Scott Huennekens

Title Deputy Director

Title President & COO

Date May 16, 1999

Date 5-19, 1999

Approved as to form

 /s/

GLENN R. WOODS

LAWRENCE BERKELEY NATIONAL LABORATORY

CONFIDENTIAL TREATMENT REQUESTED

Exhibit A to License Agreement

PROPRIETARY INFORMATION EXCHANGE AGREEMENT

THIS AGREEMENT, made and entered into as of this 23rd day of April, 1999 by and between DIGIRAD, a Delaware corporation, whose address is 9350 Trade Place, San Diego, California 92126-6334 and The Regents of the University of California as Managers of the Lawrence Berkeley National Laboratory, whose address is 1 Cyclotron Road, Berkeley, CA 94720.

WHEREAS, the parties hereto are undertaking negotiations towards the development of a license agreement between them, and

WHEREAS, in furtherance of such license, each undersigned party (the "Receiving Part") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business and/or intellectual property (including, without limitation, chemical formulas, computer programs, software, technical drawings, names and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical business, financial, customer and product development plans, forecasts, strategies and information, and any and all information, technical or otherwise related to describing Digirad's solid-state detector devices and process technology, whether now or existing or under development, including without limitation, designs and processes for position sensitive, energy resolving solid-state gamma and x-ray detectors, detector assemblies, sub-assemblies and related assemblies for use in medical imaging systems and other applications), information which to the extent previously, presently, or subsequently disclosed to the Receiving Party is hereinafter referred to as "Proprietary Information" of the Disclosing Party.

NOW, THEREFORE, in consideration of the parties' discussions and any access the Receiving Party may have to Proprietary Information of the Disclosing Party, the parties agree that any information received by one party from the other shall be governed by the following terms and conditions:

Definition:

"Proprietary Information" shall not include information which:

- (a) was rightfully in possession of or known to the Receiving Party prior to receiving it from the Disclosing Party; or
- (b) is or becomes part of the public knowledge or literature by acts other than those of the Receiving Party and without fault of the Receiving Party; or
- (c) was rightfully disclosed to the Receiving Party by a third party provided the Receiving Party complies with restrictions imposed by the third party; or

CONFIDENTIAL TREATMENT REQUESTED

(d) is transmitted after the expiration of this Agreement; or

(e) is disclosed by the Receiving Party under a valid order created by a court or government agency, provided that the Receiving Party provides prior written notice to the Disclosing Party of such obligation and the opportunity to oppose such disclosure.

(f) the Receiving Party develops independently, subsequent to receipt of Proprietary Information and for which Receiving Party can demonstrate by written records that independent development occurred without knowledge or use of Proprietary Information.

Handling of Proprietary Information:

The Receiving Party agrees to (i) hold the Disclosing Party's Proprietary Information in strict confidence as a fiduciary and to take reasonable precautions to protect such Proprietary Information and (ii) handle the Proprietary Information in the same manner that it handles its own proprietary information of like importance, but with at least a reasonable degree of care, for a period of five (5) years after the date of disclosure.

Limitation on Disclosure:

The Receiving Party shall not disclose, in whole or in part, such Proprietary Information to any third party without the prior written consent of the Disclosing Party for the period that such information is to be handled as proprietary. The Receiving Party may disclose Proprietary Information only to those of its employees who would require knowledge of such Proprietary Information for the purposes contemplated by this Agreement and who is similarly bound in writing.

Limitation of Use:

The Receiving Party shall make no use, in whole or in part, of any such Proprietary Information other than in furtherance of the purpose of this Agreement without the prior written consent of the Disclosing Party.

If the purpose of the information exchange is the preparation of a proposal to the United States Government, Proprietary Information of either party may be incorporated into the proposal to the United States Government, provided that the proposal document bears the restrictive legend contained in Federal Acquisition Regulation 52.215-12 or a substantially similar successor provision.

Term:

This Agreement shall expire one (1) year from the date recited in the first paragraph of this Agreement. With the exception of information disclosed in accordance with the provisions of the License Agreement for Detector between Digirad Corporation and the Regents of the University of California through the Ernest Orlando Lawrence Berkeley Laboratory, immediately upon a request by the Disclosing Party at any time (which will be effective if actually received or three days after mailed first class postage prepaid to the Receiving Party's address herein), the Receiving Party will turn over to the Disclosing Party all Proprietary

CONFIDENTIAL TREATMENT REQUESTED

Information of the Disclosing Party and all documents or media containing any such Proprietary Information and any and all copies or extracts thereof. The Receiving Party understands that nothing herein (i) requires the disclosure of any Proprietary Information of the Disclosing Party, which shall be disclosed if at all solely at the option of the Disclosing Party (in particular, but without limitation, any disclosure is subject to compliance with export control laws and regulations), or (ii) requires the Disclosing Party to proceed with any proposed transaction or relationship in connection with which Proprietary Information may be disclosed. The party's obligations with respect to Proprietary Information disclosed to it prior to expiration/termination shall survive expiration/termination.

Relationship of Parties:

This Agreement is intended to provide only for the handling and protection of Proprietary Information exchanged or disclosed hereunder, and shall not be construed as a Teaming, Joint Venture, Partnership, or other similar arrangement. Specifically, this Agreement shall not be construed in any manner to be an obligation to enter into a contract, nor shall it result in any claim whatsoever for reimbursement of costs.

No License:

Neither the execution of this agreement nor the furnishing of any Proprietary Information hereunder shall be construed as granting either expressly, by implication, estoppel or otherwise, any license other than as expressly set forth herein under any invention, patent, copyright, trade secret, mask work right, or any other intellectual property right, now or hereafter owned or controlled by the party furnishing same.

U.S. Government Regulations:

A party receiving Proprietary Information shall comply with all relevant United States Government regulations, including the International Traffic in Arms Regulations and the Export Administration Act.

Miscellaneous:

Each party shall perform its respective obligations hereunder without charge to the other.

Except to the extent permitted by the License Agreement for Detector between Digirad Corporation and the Regents of the University of California through the Ernest Orlando Lawrence Berkeley Laboratory, neither party will refer to this Agreement or use the other party's name in any form of publicity or advertising, directly or indirectly, without the prior written consent of the party whose name is proposed for use.

Except as to a sale of the business to which this Agreement relates or transfer of the management of the Ernest Orlando Lawrence Berkeley Laboratory, the rights and obligations of each party under this Agreement may not be assigned or transferred to any person, firm or corporation, without the express prior written consent of the other party, which consent will not be unreasonably withheld.

CONFIDENTIAL TREATMENT REQUESTED

Neither party makes any representations regarding the accuracy, completeness, or freedom from defects of the information disclosed, or with respect to infringement of the rights of others.

The Receiving Party acknowledges and agrees that due to the unique nature of the Disclosing Party's Proprietary Information, there may be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may allow the Receiving Party or third parties to unfairly compete with the Disclosing Party resulting in irreparable harm to the Disclosing Party, and therefore, that upon any such breach or any threat thereof, the Disclosing Party may be entitled to appropriate equitable relief in addition to whatever remedies it might have at law. The Receiving Party will notify the Disclosing Party in writing immediately upon the occurrence of any such unauthorized release or other breach of which it is aware. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect.

Entire Agreement:

This Agreement represents the entire agreement of the parties pertaining to the subject matter of this Agreement, and supersedes any and all prior oral discussions and/or written correspondence or agreements between the parties with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate original copies by their respective duly authorized representatives.

DIGIRAD

The Regents of the University of California
Acting as Manager of the Lawrence Berkeley
Laboratory

By: /s/

By: /s/

Name: Scott Huennekens

Name: Vinana Wolinsky

Title: President & COO

Title: Licensing Manager

Date: 4-30-99

Date: 4-26-99

CONFIDENTIAL TREATMENT REQUESTED

AMENDMENT #1 TO LICENSE AGREEMENT FOR DETECTOR

This Amendment (the "Amendment"), effective as of the signing date of the last party to sign below, is entered into by The Regents of the University of California ("The Regents"), Department of Energy contract-operators of the ("LBNL"), 1 Cyclotron Road, Berkeley, CA 94720, (jointly, "Berkeley Lab"), and Digirad Corporation ("Digirad"), a Delaware corporation having its principal place of business at 9350 Trade Place, San Diego, CA 92126-6330.

The parties entered into a License Agreement for Detector, Reference Number L-90-1261 (the "Agreement"), Effective Date of May 19, 1999. The parties now desire to amend the Agreement by expanding the license to include a Non-Exclusive Field of Use (as defined below) pursuant to the terms and conditions herein. Capitalized terms herein shall have the meaning as set forth in the Agreement except as otherwise defined in this Amendment.

The parties agree as follows:

1. Section 2.2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2.2 "Field of Use" and "Non-Exclusive Field of Use":

2.2.1 "Field of Use" means the development, production and use of photodiodes within products to perform single photon nuclear medicine procedures. Single photon, as used herein, means radioisotopes whose decay chain includes a primary gamma ray with energy greater than 50keV but does not include a positron emission. The Field of Use specifically excludes the use of positron emission tomography, the Non-Exclusive Field of Use and all other kinds of x-ray imaging.

2.2.2 "Non-Exclusive Field of Use" means the development, production and use of photodiodes within products to perform x-ray computed tomography (CT) for medical imaging applications. Non-Exclusive Field of Use specifically excludes the Field of Use, the use of positron emission tomography, as well as all kinds of x-ray imaging other than computed tomography for medical imaging applications.

2. Section 2.4 of the Agreement is hereby deleted in its entirety and replaced with the following:

2.4 "Licensed Patents" means patent rights to any subject matter claimed in or covered by any of the following:

CONFIDENTIAL TREATMENT REQUESTED

- 2.4.1 US Patent Number 6,025,585, issued February 15, 2000, entitled Low-Resistivity Photon-Transparent Window Attached to Photo-Sensitive Silicon Detector, by Stephen E. Holland (LBNL Case # IB-1204);
 - 2.4.2 Any resulting patent issued in Germany or France arising from European Patent Convention Application Serial Number 97950582.3, entitled Low-Resistivity Photon-Transparent Window Attached to Photo-Sensitive Silicon Detector, by Stephen E. Holland (LBNL Case # IB-1204EPO);
 - 2.4.3 Japan Patent Application Serial Number 10-521753, entitled Low-Resistivity Photon-Transparent Window Attached to Photo-Sensitive Silicon Detector, by Stephen E. Holland (LBNL Case # IB-1204JP);
 - 2.4.4 with respect to Sections 2.4.1 to 2.4.3, any division, reexamination, continuation, continuation-in-part (excluding new matter contained and claimed in that continuation-in-part), or of which such application is a successor; any patents issuing on any of the foregoing, and all renewals, reissues and extensions thereof, or other equivalents of a renewal, reissues, and extensions thereof.
3. Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the following:
- 3.1 Subject to the limitations set forth in this Agreement, Berkeley Lab grants to Digirad:
 - 3.1.1 a nontransferable (subject to Section 18.1), limited (by the terms of Sections 3.2 and 3.7) worldwide exclusive, royalty-bearing license, under Licensed Patents, only in the Field of Use, to develop, make, have made, use, practice, sell, have sold, and lease the Licensed Products.
 - 3.1.2 a nontransferable (subject to Section 18.1), nonexclusive worldwide, royalty-bearing license, under Licensed Patents, only within the Non-Exclusive Field of Use, to develop, make, have made, use, practice, sell, and lease the Licensed Products.
4. Section 4.1 of the Agreement is hereby deleted in its entirety and replaced with the following:
- 4.1 As consideration for the licenses granted hereunder:
 - 4.1.1 within the Field of Use, Digirad shall pay Berkeley Lab a license issue fee of forty-five thousand dollars ~~(\$45,000)~~ of which fifteen thousand dollars ~~(\$15,000)~~ has been previously paid under the Option Agreement, and the remaining thirty thousand dollars ~~(\$30,000)~~ has been paid to Berkeley Lab under this Agreement.

CONFIDENTIAL TREATMENT REQUESTED

- 4.1.2 within the Non-Exclusive Field of Use, Digirad shall pay Berkeley Lab a license issue fee of twenty thousand dollars ~~(\$20,000)~~ of which ten thousand dollars ~~(\$10,000)~~ shall be payable within fifteen (15) days of the effective date of this Amendment, and the remaining ten thousand dollars ~~(\$10,000)~~ shall be paid within one year of the effective date of this Amendment.
5. Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following:
- 5.1 Digirad shall pay to Berkeley Lab an earned royalty of:
- 5.1.1 one and one-quarter percent (1.25%) of the Selling Price of each Licensed Product Digirad sells within the Field of Use;
- 5.1.2 one-half of one percent (0.5%) of the Selling Price of each Licensed Product Digirad sells within the Non-Exclusive Field of Use;
6. Section 5.4 of the Agreement is hereby deleted in its entirety and replaced with the following:
- 5.4 Digirad shall pay to Berkeley Lab by August 31 of each year the difference between the earned royalties for that calendar year Digirad has already paid to Berkeley Lab for the Field of Use and Non-Exclusive Field of Use and the minimum annual royalty set forth in the following schedules for the Field of Use and Non-Exclusive Field of Use. Berkeley Lab shall credit that minimum annual royalty paid against the earned royalty due and owing for the calendar year in which Digirad made the minimum payment; provided that the earned royalties and minimum annual royalties for the Field of Use shall be treated separately from and independent of the earned royalties and minimum annual royalties for the Non-Exclusive Field of Use.

<u>Calendar Year</u>	<u>Minimum Annual Royalty for Field of Use</u>	<u>Minimum Annual Royalty for Non-Exclusive Field of Use</u>
1999	<u>\$10,000</u> (paid)	N/A
2000	<u>\$30,000</u> (paid)	N/A
2001	<u>\$40,000</u>	<u>\$0</u>
2002	<u>\$60,000</u>	<u>\$0</u>
2003	<u>\$60,000</u>	<u>\$10,000</u>
2004	<u>\$60,000</u>	<u>\$20,000</u>
2005 and each year thereafter	<u>\$60,000</u>	<u>\$25,000</u>

7. Sections 6.4 and 6.5 of the Agreement are hereby deleted in their entirety and replaced with the following:

CONFIDENTIAL TREATMENT REQUESTED

6.4 If Digirad is unable to perform any of the following, then Berkeley Lab may either terminate this Agreement or reduce the limited exclusive license within the Field of Use to a non-exclusive license within the Field of Use:

6.4.1 With regard to the Field of Use:

6.4.1.1 complete market preparation and product introduction of the Licensed Products to the marketplace by June 30, 1999 (done); or

6.4.1.2 at any time during the exclusive period of this Agreement, reasonably fill the market demand for Licensed Products following commencement of marketing.

6.4.2 With regard to the Non-Exclusive Field of Use:

6.4.2.1 complete design of prototype photodiode(s) by July 31, 2001;

6.4.2.2 fabricate prototype photodiode(s) by December 31, 2001;

6.4.2.3 complete design of production photodiode by March 31, 2002;

6.4.2.4 fabricate production photodiode by August 31, 2002;

6.4.2.5 complete assembly of production module of Licensed Product by December 31, 2002; or

6.4.2.6 complete market preparation and product introduction of the Licensed Products to the marketplace by June 30, 2003;

It is the understanding of the parties hereto that any termination of the Agreement or reduction of this license to a non-exclusive license as a result of Digirad's failure to meet the specifications of Section 6.4 shall be subject to the sixty (60) day cure period set forth in Section 10.1 below.

6.5 If Berkeley Lab grants a non-exclusive license to any other party within the Field of Use upon royalty rates more favorable than those of this Agreement after reducing the this license within the Field of Use to a non-exclusive license within the Field of Use, then Digirad is entitled to the benefit of the more favorable rates. Digirad must agree in writing to accept all terms of that third party license in whole and not in part in order to enjoy the benefit of the more favorable rates which shall commence upon delivery to Berkeley Lab of that written agreement.

8. The reporting obligations of Section 7 shall apply to both the Field of Use and Non-Exclusive Field of Use, separately and independently. Beginning December 1, 2001 and semi-annually thereafter, Digirad shall submit to Berkeley Lab a progress reports covering Digirad's activities related to the development and testing of all Licensed Products within the Non-Exclusive Field of Use and obtaining of the government approvals necessary for marketing as required pursuant to Section 7.1 *et. seq.*

CONFIDENTIAL TREATMENT REQUESTED

9. Section 11.1 of the Agreement is hereby deleted in its entirety and replaced with the following:
 - 11.1 Digirad at any time may terminate this Agreement in whole or as to any portion of Licensed Patents by giving written notice to Berkeley Lab. Digirad's termination of this Agreement will be effective ninety (90) days after its notice. If that termination pertains to the Field of Use and is without cause within three (3) years of the Effective Date, Digirad shall pay Berkeley Lab as liquidated damages ~~seventy-five thousand~~ dollars ~~(\$75,000)~~ with the notice of termination before that notice is effective.
10. Section 15.2 of the Agreement is hereby deleted in its entirety.
11. Section 15.5 of the Agreement is hereby deleted in its entirety and replaced with the following:
 - 15.5 Berkeley Lab shall bear the expense of preparing, filing, prosecuting and securing all foreign patent applications that Berkeley Lab files at Digirad's request (pursuant to Section 15.3 above). Digirad shall bear the expense of any interference or oppositions and maintaining all resulting patents. Berkeley Lab will hold these patents in its name and obtain them using counsel of its choice that is reasonably acceptable to Digirad.
12. Section 15.6 of the Agreement is hereby deleted in its entirety and replaced with the following:
 - 15.6 Berkeley Lab shall promptly provide Digirad with copies of all relevant documentation so that Digirad is informed of the continuing prosecution of Licensed Patents. Additionally, upon Digirad's request but no more than quarterly, Berkeley Lab shall provide Digirad with a report summarizing the status of the Licensed Patents. Digirad shall keep this documentation confidential. Berkeley Lab shall use all reasonable efforts to amend any patent application to include claims reasonably requested by Digirad to protect the products contemplated to be sold under this Agreement.
13. Digirad acknowledges and agrees that Section 16 applies, other than the first sentence of Section 16.1, only to jurisdictions in which Digirad has exclusive rights under the Agreement. Thus, except for that first sentence of Section 16.1, the entirety of Section 16 will not apply to the Licensed Products insofar as they are within the Non-Exclusive Field of Use.
14. Except as specifically amended herein, the Agreement is hereby ratified and confirmed.

CONFIDENTIAL TREATMENT REQUESTED

Berkeley Lab and Digirad execute this Agreement in duplicate originals through their authorized respective officers in one or more counterparts that, taken together, are but one instrument.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, THROUGH THE ERNEST ORLANDO LAWRENCE BERKELEY NATIONAL LABORATORY

DIGIRAD CORPORATION

By /s/
By Piermaria Oddone
Title Deputy Laboratory Director
Date 5-24-01

By /s/
By Scott Huennekens
Title President and CEO
Date 5-11-01

Approved as to form

/S/
GLENN R. WOODS
LAWRENCE BERKELEY NATIONAL LABORATORY

*redactions
verified against
filed exhibit 6/4/04*

CONFIDENTIAL TREATMENT REQUESTED

10.2

Software License Agreement

This Software License Agreement ("Agreement") is entered into under seal this 16th day of June, 1999 (the "Effective Date") by and between Segami Corporation, a Maryland corporation having its principal offices at 12624 Golden Oak Drive, Ellicott City MD 21042 ("Segami"), and Digirad Corporation ("Digirad"), a Delaware corporation having its principal offices at 9350 Trade Place. San Diego CA 92126.

Statement of Intention

A. Segami is in the business of the development and sale of software for gamma camera image acquisition, processing and display. Segami's current software is called Mirage.

B. Digirad desires to purchase software from Segami for the purpose of gamma camera image acquisition, processing and display which will interface with Digirad's solid state gamma camera.

C. Digirad desires to package the Mirage software and Digirad's hardware for resale as a single product, identifiable only as a Digirad product.

In consideration of the mutual promises and covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree under seal as follows:

1. Definitions. For the purposes of this Agreement, the following terms, when used herein, have the following meaning.

"Base Software"-The existing Mirage software described in Exhibit D hereto in object and executable code forms, and all updates, enhancements, revisions, modifications, modules and or sub-modules thereto and all permitted copies, except that Base Software does not include the Interface Development.

"Interface Development"-The new code written and modifications made to the Base Software which will allow use of the Base Software with Digirad's current hardware, in object and executable code forms, and all updates, enhancements, revisions, modifications, modules and or sub-modules thereto and all permitted copies.

"Product" - Digirad's solid state gamma camera bundled together with the Base Software and Interface Development.

2. License to Digirad. Subject to all the terms of this Agreement, Segami grants to Digirad a nonexclusive worldwide, fully paid-up license:

(a) to sublicense the Base Software to end-users only in connection with the sale and use of the Products; any such sublicense shall be pursuant to a sublicense agreement for Segami's benefit that contains applicable similar restrictions and obligations imposed on Digirad hereunder.

CONFIDENTIAL TREATMENT REQUESTED

(b) to use, adopt, reproduce, display, perform, test, demonstrate and distribute the Base Software as necessary to market, sale and distribute the Products.

(c) sublicense to third parties the distribution rights for the Products and Base Software; any such sublicense shall be pursuant to a sublicense agreement for Segami's benefit that contains applicable similar restrictions and obligations imposed on Digirad hereunder.

The balance of this Section 2 notwithstanding, the license granted to Digirad shall not include the right to sublicense, sell or distribute the Base Software independently and separate from the Product, with the understanding that Digirad may demonstrate the Base Software or distribute demonstration models of the Base Software, limited in function, for use on systems independent from the Product.

3. Use/License Fees.

3.1 Use. Segami hereby grants Digirad the right to package and bundle the Base Software with the Product, the Interface Development and Digirad hardware for sale to end-users by Digirad or its subdistributors.

3.2 License Fees. Digirad shall pay a License Fee (the "License Fee") to Segami, in accordance with the attached Exhibit A, for each copy of the Base Software distributed to any end-user, unless otherwise agreed upon in writing by Segami. Payment of the License Fee shall be made by Digirad and tendered to Segami at the sooner of thirty (30) days after customer payment or seventy-five (75) days after customer installation. Digirad will receive a reasonable number of demonstration versions of the Base Software including the dongle keys ("Keys") for using such versions ("Demo Versions") to be used for customer demonstrations and/or Digirad roadshows (not for sale to customers). Segami shall deliver the Demo Versions within 30 days upon written request from Digirad.

3.3 Audit. Segami shall have the right to audit the books, financial accounts and documents of Digirad one (1) time in each calendar year for which this contract is in force, to verify the number of copies of the Base Software disseminated by Digirad. Segami shall employ an independent Certified Public Accountant at its own cost and expense for such audit. Segami shall give Digirad a minimum of ten (10) days prior written notification of the audit. Digirad shall not unreasonably withhold its cooperation in the audit.

4. Interface Development.

4.1 Development. Segami agrees to undertake and complete the code design, programming and testing of the Interface Development. Interface Development shall be in accordance with the specifications on the attached Exhibit B (the "Specifications") and the delivery schedule attached hereto as Exhibit C (the "Delivery Schedule"). Segami shall be responsible for obtaining and maintaining operational status and approvals of the Base Software and Interface Development (and any new versions or improvements thereto) under FDA, CE and other regulatory authorities or agencies. Segami agrees that its conduct in performing its obligations under this Agreement shall conform in all material respects to all applicable laws and regulations of the U.S. and foreign governments (and political subdivisions thereof).

CONFIDENTIAL TREATMENT REQUESTED

4.2 Acceptance. Digirad will, by written notice, accept or reject any portion of the Interface Development delivered (individually, the "Deliverable(s)") within thirty (30) days after receipt. Failure to give notice of acceptance or rejection within that period will constitute acceptance. Digirad may reject any Deliverable only if the Deliverable fails to meet the Specifications or, at the fault or failing of that Deliverable alone, the Product cannot operate in a commercially reasonable manner. If Digirad properly rejects the Deliverable, Segami will correct the failures properly specified in the rejection notice within fifteen (15) days of the rejection notice. When it believes that it has made the necessary corrections, Segami will again deliver the Deliverable to Digirad and the acceptance/rejection/correction provisions above shall be reapplied until the Deliverable is accepted; provided, however, that upon the third or any subsequent rejection or if the corrections are not made within thirty (30) days of the initial rejection, Digirad may at its option terminate this Agreement by immediate written notice unless the Deliverable is accepted during the notice period.

5. Compensation for Interface Development. Digirad shall make payments to Segami in accordance with the Delivery Schedule. Each payment will be in U.S. dollars from the United States and will be made no later than 30 days from the occurrence of the event specified in the Delivery Schedule for which payment is due.

6. Ownership Rights. As between the parties Segami shall retain all right title and interest, including all patent, copyright, trade secret, trademark, mask work or other rights, in the Base Software, or any other idea or product conceived or reduced to form by Segami, its agents or assigns as of the Effective Date. Digirad shall have all right, title and interest, in the Interface Development. The parties hereby make any assignments necessary to accomplish the foregoing ownership provisions.

7. Support/Maintenance.

7.1 Support. During the term of this Agreement:

(1) Segami shall use its best efforts to respond within ten (10) days after receipt of written notice of verifiable defects, and propose a plan for prompt and effective remedy, and shall provide general guidance concerning the Base Software or Interface Development. Defects shall be reported in writing via electronic mail or facsimile to Segami at the telephone/email numbers provided by Segami to Digirad from time to time.

(2) Segami shall inform Digirad promptly of any changes in the Base Software or delivery schedules.

(3) Subject to the other terms and conditions of this Agreement, Segami shall use its reasonable best efforts to promptly fill Digirad's orders for Keys. Promptly following the execution of this Agreement, Segami shall place thirty (30) Keys in escrow. If Segami materially fails to provide a sufficient number of Keys to Digirad for delivery of Products to end-users, after thirty (30) days written notice to Segami, Digirad shall be entitled to receive from escrow any or all of the Keys. If Segami fails to provide a sufficient number of Keys to Digirad for delivery of Products to end-users, after seventy-five (75) days written notice to Segami, Digirad shall be entitled to a fully executed purchase order from Segami to the Key

CONFIDENTIAL TREATMENT REQUESTED

manufacturer ("Escrow Materials") authorizing the Key manufacturer to provide directly to Digirad those Keys reasonably necessary, in Digirad's sole discretion, for Digirad to sell and install Product. In support of the foregoing and promptly after execution of this Agreement, Segami will place in escrow (pursuant to the terms of an escrow agreement in form mutually acceptable to the parties hereto) the Escrow Materials as they exist at the date of the Agreement. Segami will update the escrow with any new or modified Escrow Materials and Keys promptly as it becomes necessary and will notify Digirad when it does so. All escrow fees will be borne by Digirad.

(4) Segami agrees to provide one standard training program for Digirad personnel. Such program shall be given at Digirad's main office on a schedule reasonably acceptable to Segami but commencing no later than sixty (60) days after Digirad's written request. Digirad shall bear Segami's out-of-pocket travel costs in connection with the program including air travel, room and board.

(5) Segami shall provide free technical support to Digirad personnel up to 200 hours during the first year, and 100 hours per year after that. This does not include time spent on developments set forth in Section 4 or Section 7.1 (1). Segami shall provide Digirad with all the user's documentation in its possession.

7.2 Maintenance Releases. In the exercise of its sole discretion and from time to time, Segami may develop and make available maintenance release for the Base Software at no cost to Digirad. Such maintenance release shall be patches for the purpose of correcting any deficiencies in the Base Software which may become apparent to Digirad and Segami after successful delivery of the Interface Development.

7.3 Enhancements/Upgrades. In the exercise of its sole discretion and from time to time, Segami may develop and make available for sale through Digirad to end-users, and at an additional license fee to Segami, to be negotiated in good faith by the Parties, substantially upgraded versions of the Base Software which incorporate significant functional changes or additions, or substantially improved performance.

8. Confidentiality. Each party agrees that all code, inventions algorithms, know-how and ideas and all other business, technical and financial information they obtain from the other are confidential information and property of the disclosing party ("Confidential Information"). Each party shall use Confidential Information of the other party which is disclosed to it only for the purposes of this Agreement and shall not disclose such Confidential Information to any third party, without the other party's prior written consent, other than to Segami's subcontractors, subdistributors and employees on a need-to-know basis. Each party agrees to take measures to protect the confidentiality of the other party's Confidential Information that, in the aggregate, are no less protective than those measures it uses to protect the confidentiality of its own Confidential Information, but at a minimum, each party shall take reasonable steps to advise their employees, subcontractors and subdistributors of the confidential nature of the Confidential Information and of the prohibitions on copying or revealing such Confidential Information contained herein. The parties each agree to require that the other party's Confidential Information be kept in a reasonably secure location. Notwithstanding anything to the contrary contained in this Agreement neither party shall be

CONFIDENTIAL TREATMENT REQUESTED

obligated to treat as confidential, or otherwise be subject to the restrictions on use, disclosure or treatment contained in this Agreement for any information disclosed by the other party (the "Disclosing party") which: (1) is rightfully known to the recipient prior to its disclosure by the Disclosing Party; (2) is generally known or easily ascertainable by non-parties of ordinary skill in computer process design or programming or in the business of the client; (3) is released by the Disclosing Party to any other person, firm or entity (including governmental agencies or bureaus) without restrictions; (4) is independently developed by the recipient without any reliance on Confidential Information; or (5) is or later becomes publicly available without violation of this Agreement or may be lawfully obtained by a party from a non-party. Neither party will be liable to the other for inadvertent or accidental disclosure of Confidential Information if the disclosure occurs notwithstanding the party's exercise of the same level of protection and care that such party customarily uses in safeguarding its own confidential information.

Notwithstanding the foregoing, all Confidential Information developed by Segami, including but not limited to the Interface Development, in connection with this Agreement shall be deemed Confidential Information of Digirad disclosed by Digirad to Segami and exceptions (1) and (4) above will not be applicable thereto.

9. Export Control. Each party hereby agrees to comply with all export laws and restrictions and regulations of the Department of Commerce or other United States or foreign agency or authority, and not to export, or allow the export or re-export of any proprietary information or software or any copy or direct product thereof in violation of any such restrictions, laws or regulations.

10. Termination

10.1 Termination by Digirad. Digirad may terminate this Agreement if Segami is in material breach of, or default under, this Agreement and such breach or default is not cured within thirty (30) days after Digirad delivers written notice of such breach or default to Segami.

10.2 Termination by Segami. Segami may terminate this Agreement if Digirad is in material breach of, or default under, this Agreement and such breach or default is not cured within thirty (30) days after written notice to Digirad. A material breach of and default under, this Agreement by Digirad shall include, without limitation, the occurrence of the failure of Digirad to pay any License Fee when due.

10.3 Survival. Sections 5-15 of this Agreement, any accrued rights to payment, any licenses granted in this Agreement that are expressly perpetual and any remedies for breach of this Agreement shall survive termination.

11. Limitation of Liability

(a) Except under Section 8 and the indemnity provisions of Section 12, neither party nor its affiliates shall, under any circumstances, be liable to the other party or its affiliates for any claim based upon any third party claim or for consequential, incidental, indirect, punitive, exemplary or special damages of any nature whatsoever, or for any damages arising out of or in connection with any malfunctions, delays, loss of data, loss of profit, interruption of service or

CONFIDENTIAL TREATMENT REQUESTED

loss of business or anticipatory profits, even if a party or its affiliates have been apprised of the likelihood of such damages occurring.

(b) Segami shall not be liable for the actions of any end-users who rely on the images produced by the Product as a diagnoses without the aid of independent professional medical judgment or who does not operate the Product under the direct supervision of a board certified nuclear medicine physician. Digirad shall be responsible for supplying the end-user with a notice of limitation of liability in writing and in language consistent with this Section 11 (b).

12. Indemnification

(a) The parties each agree to indemnify, defend and hold harmless the other from and against any and all amounts, including legal fees and other out-of-pocket expenses, payable under any judgment, verdict, court order or settlement for death or bodily injury or the damage to or loss or destruction of any real or tangible personal property to the extent arising out of the indemnitor's negligence, gross negligence, or willful misconduct in the performance of this Agreement.

(b) Segami agrees to indemnify, defend and hold harmless Digirad, its distributors and end-users from and against any and all amounts, including legal fees and other out-of-pocket expenses, payable under any judgment, verdict, court order or settlement to the extent resulting from any third party allegation that the Base Software or the work performed by Segami under this Agreement infringes such third party's intellectual property rights, including, without limitation, patent, copyright or trade secret. Should Digirad's use of work performed by Segami be determined to have infringed, or if in Segami's and Digirad's reasonable judgment such use is likely to be infringing, Segami may, at its option: (1) procure for Digirad the right to continue to use the work performed by Segami; or (2) replace or modify the work performed by Segami to make its use non-infringing while yielding substantially equivalent results. If neither of such options are or would be available on a basis that Segami finds commercially reasonable, Segami may terminate this Agreement, Digirad shall return infringing work performed to Segami and Segami shall refund the fees paid for the associated services. Digirad reserves any other legal or equitable rights or remedies it may have. This indemnity does not cover alleged infringements caused by modifications to the work performed by Segami that are not made by Segami or that result from Digirad provided designs specifications or other information or from combination of such work with products or services not provided by Segami.

(c) Digirad agrees to indemnify, defend and hold harmless Segami from and against any and all amounts payable under any judgment, verdict, court order or settlement to the extent resulting from any affiliated third party allegation that the work performed by Segami under this Agreement infringes such third party's intellectual property rights to the extent attributable to software, hardware, data, knowledge or services provided by Digirad.

(d) The indemnities in this paragraph are contingent upon: (1) the indemnified party promptly notifying the indemnifying party in writing of any claim which may give rise to a claim for indemnification hereunder; (2) the indemnifying party being allowed to control the defense and settlement of such claim; and (3) the indemnified party cooperating with all

CONFIDENTIAL TREATMENT REQUESTED

reasonable requests of the indemnifying party (at the indemnifying party's expense) in defending or settling such claim. The indemnified party shall have the right, at its option and expense, to participate in the defense of any action, suitor proceeding relating to such a claim through a counsel of its own choosing.

13. Warranties. Segami warrants that it has and will obtain agreements with its employees and contractors sufficient to allow it to provide Digirad with the assignments and licenses to intellectual property rights contemplated in this Agreement. Segami also warrants that the Base Software and Interface Development and any part thereof shall meet the Specifications, and perform in a commercially reasonable manner until the later of (i) four (4) years from the final date of delivery on the Delivery Schedule and (ii) with respect to each product containing the Base Software and/or Interface Development, one (1) year from the date of installation of such product by Digirad or its distributor to an end-user. If Digirad finds that the Products, or part thereof fail to meet the above warranty, Segami shall, at its option, immediately repair or replace the Base Software and/or Interface Development or part thereof at its costs and expenses without prejudice to any other rights and remedies of Digirad under this Agreement or applicable law. If a Deliverable is rejected, the warranty will extend accordingly from any adjusted final delivery date. Except for Section 14, notwithstanding anything to the contrary contained in this Agreement, Segami makes no other warranties, express or implied, or whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession or otherwise including without limitation implied warranties of merchantability and fitness for a particular purpose.

14. Millennium Warranty.

14.1 General. Other sections of this Agreement notwithstanding, Segami represents and warrants that for a period of four (4) years after the Effective Date, the Base Software and the Interface Development will be able to accurately: (a) process any date-roll event with no adverse impact on the functionality of the software including without limitation, the producing of error(s) or abnormal interruption; (b) process date-data calculations including, without limitation, computation, comparisons, sequencing, sorts and extracts and return and display date-data in a consistent manner regardless of the dates used in such date-data whether before, on, during, or after January 1, 2000; (c) process any date-data computations that can be expected from the software if used for its intended purpose, regardless of the date in time on which the processes are actually performed and regardless of the date-data input, whether before, on, during or after January 1, 2000; (d) exchange date-data related information with other hardware, firmware or software with which it interacts, provided that the interacting hardware, firmware or software is itself capable of exchanging accurate date-data; (e) accept and respond to four-digit year-date input in a manner that resolves any ambiguities as to the century in a defined predetermined and appropriate manner; and (f) store and display date-data in ways that are unambiguous as to the determination of the century. No date-data shall cause such software to perform an abnormally ending routine or function within the processes or generate incorrect values or invalid results. For purposes of the foregoing, a date-rollover event is defined as any transaction between one calendar year and the following calendar year including, without limitation, any time, date and day-of-the-week progressions and any regularly scheduled leap events. Date-data is defined as any data, formula, algorithm, process, input or output, which

CONFIDENTIAL TREATMENT REQUESTED

includes, calculates or represents a date, day or time, a reference to a date, day or time, or a representation of a date, day or time.

14.2 Special Remedies. In the event of any breach of the warranties and covenants contained in this section, provided that such breach is not cured by Segami within fourteen (14) calendar days following receipt of written notice of such breach, in addition to other rights and remedies that may be available to Digirad under this Agreement, Segami shall be responsible for: (a) any costs of repairing, replacing and/or correcting the affected software; and (b) cover and other similar damages that are incurred by Digirad as a result of Segami's breach of this warranty.

15. Miscellaneous

15.1 Binding Nature. This Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns. Segami shall not have any right or ability to assign, transfer, or sublicense any obligations or benefit under this Agreement without the written consent of Digirad, except that Segami may assign and transfer this Agreement and its rights and obligations hereunder to any third party who succeeds to substantially all its business or assets.

15.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no representations, warranties, covenants, or obligations except as set forth in this Agreement. This Agreement supersedes all prior or contemporaneous agreements understandings, negotiations and discussions, written or oral, of the parties to this Agreement, relating to any transaction contemplated by this Agreement.

15.3 Separability. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions in this Agreement are determined to be invalid and contrary to any existing or future law, that invalidity shall not impair the operation of this Agreement or affect those portions of this Agreement which are valid.

15.4 Arbitration. If any dispute or controversy arises among the parties to this Agreement concerning any provision of this Agreement, that dispute or controversy shall be submitted for resolution to a board of arbitration in Baltimore, Maryland if Digirad initiates the dispute and in San Diego, California if Segami initiates the dispute, composed of one member selected by each party, and a third mutually agreed upon. Such arbitration shall be conducted pursuant to the rules of the American Arbitration Association (the "AAA") or other governing rules and a decision of the board of arbitration (including an award of costs of the board) shall be final and binding upon the parties.

15.5 No Agency. This Agreement shall not be deemed to constitute the parties hereto as partners, joint venturers, nor shall either party hereto be deemed to be an agent of any nature, kind and description whatsoever of the other.

15.6 Jurisdiction and Venue. This Agreement shall be governed, enforced, performed and construed in accordance with the laws of the State of Maryland (excepting those conflicts of laws provisions which would serve to defeat application of Maryland substantive law). Subject to the provisions of Section 15.4 hereof each of the parties hereto hereby submits

CONFIDENTIAL TREATMENT REQUESTED

to the exclusive jurisdiction of the state and/or federal courts located within the State of Maryland for any suit, hearing or other legal proceeding of every nature, kind and description whatsoever in the event of any dispute or controversy arising hereunder or relating hereto, or in the event any ruling, finding or other legal determination is required or desired hereunder,

15.7 Attorneys fees. In the event that legal proceedings are commenced in connection with this Agreement or the transactions contemplated hereby, the party or parties which do not prevail in such proceedings shall pay the reasonable attorneys fees and other costs and expenses, including investigation costs, incurred by the prevailing party in such proceedings.

15.8 Ambiguity. The parties acknowledge that each party and its respective counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits, or schedules hereto.

15.9 Exhibits The exhibits attached hereto and each certificate, schedule, list summary or other document provided or delivered pursuant to this Agreement or in connection with the transactions contemplated hereby are incorporated herein by this reference and made a part hereof.

15.10 Counterparts. Provided that all parties hereto execute a copy of this Agreement, this Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Executed copies of this Agreement may be delivered by facsimile transmission or other comparable electronic means.

15.11 Voluntary Agreement. The parties hereto represent that they have carefully read the foregoing Agreement, understood its terms, consulted with an attorney of their choice, and voluntarily signed the same as their own free act with the intent to be legally bound thereby. The terms of this Agreement are contractual and not a mere recital.

15.12 Force Majeure. Neither party shall be liable to the other for its failure to perform any of its obligations under this Agreement during any period in which such performance is delayed due to circumstances beyond its control, including acts of God or public authorities, war and war measures, civil unrest, natural disasters or delays in transportation, delivery or supply.

15.13 Notice. All notices under this Agreement shall be in writing and shall be deemed given when personally delivered or three days after being sent prepaid certified or registered United States mail to the address of the party to be noticed as set forth below or such other addresses as such party last provided to the other by notice:

Digirad: Digirad Corporation
 9350 Trade Place
 San Diego CA 92126
 Attn: President and COO

CONFIDENTIAL TREATMENT REQUESTED

Segami: Segami Corporation
12624 Golden Oak Drive
Ellicott City MD 21042
Attn: Philippe Briandet Ph.D.

Copy to: Christopher S. Young, Esq.
3440 Ellicott Center Drive
Ste. 203
Ellicott City MD 21043

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed under seal as of the date first above written.

ATTEST:

Digirad Corporation

By: /s/

By: /s/

Title: Controller (SEAL)

Title: President and COO

Segami Corporation

By: /s/ (Secretary)

By: /s/

Title: _____ (SEAL)

Title: President

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT A
PRICING SCHEDULE

Fees:	Planar Imaging	SPECT Imaging
Units 1—20	\$5,000/unit	+ \$2,000/unit
21—50	\$4,500/unit	+ \$2,000/unit
51—100	\$4,000/unit	+ \$1,500/unit
101—250	\$3,000/unit	+ \$1,000/unit
251—	\$2,000/unit	+ \$1,000/unit

Quantity pricing for the software shall be solely dependent upon the number of planar imaging units purchased, and shall be cumulative throughout the life of the Agreement. A minimum fee payment of ~~sixty thousand~~ dollars (\$60,000) shall be paid by Digirad to Segami each Agreement year, which shall be defined as July 1- June 30. The first Agreement year shall begin July 1, 1999. Any shipments made to Digirad prior to July 1, 1999 shall be credited toward the minimum requirement fee payment for the first Agreement year of July 1, 1999 - June 30, 2000. All such minimum fee payments shall be payable in advance quarterly to Segami, and shall be credited towards actual fee payments, without any time limit.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT B

Written By: Richard Conwell & Alex Shek

Approval:

Product Engineering Manager 5/25/99
Date

Quality Assurance Manager 5/25/99
Date

REVISION HISTORY

RELEASE DATE	CO#	REV	CHANGE
5/25/99	N/A	01	Initial Prototype Release

1.0 INTRODUCTION

1.1 Purpose

This document details the software requirements that have been established for the 2020tc Gamma Camera. These requirements shall be used by the software developer(s) as software development requirements to meet the design specification and software risk analysis mitigation plan for the 2020tc Gamma Camera.

1.2 Scope

This document will outline the software design for the software data interface, processing and diagnostic requirements of the 2020tc Gamma Camera. This requirement specification covers the software programs TBD.

1.2.1 The software shall be designed to run as service modules under Windows NT and shall address these basic system goals:

- a. Using a PLX Technology driver, interface Digirad's HotLink PCI data acquisition card to a data acquisition and processing module.
- b. Perform data processing to:
 - Decode raw data (32 bit word) into digital address, energy and other status bits
 - Apply energy correction (linearity and offset) and spatial X-Y lookup
 - Apply energy window(s) discrimination
 - Apply "bad detector element" filter
 - Continuously build image in a buffer memory
 - Provide timing information from time stamps in the data stream
 - Interface to Segami Corporation's Mirage display, control and imaging processing software.
- c. Provide diagnosis modules whose functions shall be to provide processing and a GUI interface for:
 - Acquisition and display of an energy spectrum for any selected detector element.
 - Acquire and generate energy correction (linearity and offset) for each detector element.
 - Generation and editing of a "bad detector element" listing.
 - Generation of a sensitivity uniformity correction.

1.3 Definitions, acronyms, and abbreviations

1.3.1 2020tc - A solid state gamma camera with a 64 x 64-detector element, quantized detector head.

1.3.2 Detector Element - The individual detectors of the quantized detector head. Each detector element is approximately 3 mm x 3 mm in area and 6 mm thick.

- 1.3.2 Pd - Peripheral Component Interconnect. A parallel bus, personal computer back plane interface standard.
- 1.3.3 MCA - Multi-Channel Analyzer. A system which tallies the frequency of a stream of signal events as a function of the signal's magnitude. The display of the tallied events takes the form of a histogram.
- 1.3.4 Energy Spectrum - The histogram of the frequency of a gamma ray photons as a function of their energy.
- 1.3.5 Energy Window - The interval of gamma ray energy over which all gamma rays falling within the interval are tallied.
- 1.3.6 Time Stamps - A timing mark embedded in a 32-bit digital word.
- 1.3.7 Bad Detector Element - A detector element in the detector head that is not working within specification.
- 1.3.8 Active Detector Element - A detector element in the detector head that is working within specification, and is not included in the bad detector element file.
- 1.3.9 Detection Efficiency - The ratio, expressed as a percentage, of gamma rays detected to those entering a detector element.
- 1.3.10 Intrinsic Sensitivity - The detection efficiency measured without a collimator in place.
- 1.3.11 HOTLink - A high speed, serial communications link between the 2020tc detector head and a PCI format interface board.
- 1.3.12 INA Board - An instrumentation amplifier system mounted on the HOTLink transmitter board installed in the camera head case.
- 1.3.13 Energy Linearity - The numerical process of mapping the raw value of a gamma ray photon's measured energy into a linear scale having units of energy. In the 2020tc this process is accomplished with a simple - order polynomial.
- 1.3.14 Energy Offset - The offset from zero of the linearized raw values of a gamma ray photon's measured energy.
- 1.3.15 Flood Field - A planar source of gamma ray radiation.
- 1.3.16 Sensitivity Uniformity - The intrinsic variation in gamma ray photon sensitivity of the individual detector elements of the 2020tc.
- 1.3.17 Digital Address - The unique numerical value assigned to each detector element in the 2020tc detector head.
- 1.3.18 Spatial Address - The actual spatial location of a detector element expressed as an X(Y coordinate).
- 1.3.19 Mirage Software - A gamma camera image processing software supplied by Segami Corporation.
- 1.3.20 SPECTour Chair - A mechanized rotating chair assembly to which the 2020tc head is attached and in which a seated patient maybe imaged for SPECT.
- 1.3.21 In this document the word "shall" will mean that it is a requirement, while "should" is a suggestion.

1.4 References

- 1.4.1 SOP 0402 Software Quality Assurance Requirements
- 1.4.2 PRSOO 1 Gamma Camera Product Requirements Specification
- 1.4.3 HRSOO2 Gamma Camera Hardware Requirements Specification

1.5 Overview

This document is a statement of the requirements for the data acquisition, processing, interface and diagnostic software of the 2020tc Gamma Camera. The higher level requirements are from the PRS001 Gamma Camera Product Requirements Specification and are listed along with the more detailed software requirements.

2.0 OVERALL DESCRIPTION

2.1 Product Perspective

The 2020tc Gamma Camera is intended for use in the generation of clinical images in Nuclear Medicine applications. Specifically, the Camera is intended to image the distribution of radiopharmaceuticals in the body by means of a collimated photon radiation detector array. In so doing, the system produces images depicting the anatomical distribution of the radiopharmaceuticals within the human body for interpretation by authorized medical personnel.

2.2 User Characteristics

The user of this device will primarily be a nuclear medicine technologist or nuclear medicine doctor. The user of the diagnostic modules will be a service technician or engineer.

2.3 Constraints

- 2.3.1 The software shall be written in the higher-level language C. The source code shall be written with maintainability as a major priority.

2.4 Assumptions and Dependencies

The operating system shall be Windows NT.

2.5 Apportioning of Requirements

This section is not applicable to these requirements because there are no requirements that need to be delayed until future versions of the system.

3.0 DESIGN REQUIREMENTS

These design requirements are based on PRS001 Gamma Camera Product Requirements Specification.

- 3.1 **Design Requirement:** **PRS001 Section 2:** It is critical that a simple means of removing the imager head from the Camera system's support arm be provided and that a simple means of registering, positioning, attaching, and locking the imaging head to a SPECT gantry assembly be provided.

3.1.1 Software Requirements

In the SPECT data acquisition mode, the image processing and control software will provide a "move" output pulse to the SPECTour chair to rotate the chair. It will also

accept a "moved" input pulse from the SPECTour chair indicating that the chair has moved.

The "move" output pulse should be generated with Register B bit 6 (PBREG[6]). The pulse width should be user select from 0.5sec to 6sec with 0.5 sec step. The operator should also be able to set the "move" output polarity + or - (active high or low). The "move" active time (output pulse width) is used by the SPECT Chair to advance an angular step and settle before the next image acquisition.

The "moved" pulse (~10msec pulse width) is an input which can be monitored by bit 10 in the FIFO 32 bits Time Stamp Data Stream (0x00000400h). The "moved" input pulse polarity (+ or -) should be a parameter which the operator specific prior to image acquisition.

The user should have the choice to ignore the "moved" input signal and operate the SPECT data acquisition mode by setting just the acquisition time and the "move" output pulse width and polarity.

There are 2 angular resolutions which the operator will set the SPECTour chair "Degrees per Move" control to match the image acquisition software setting. The resolutions are $360/128 = 2.8$ degrees and $360/64 = 5.6$ degree.

SPECT Chair only rotates in clockwise direction.

In the ECG mode, Software will monitor the ECGgate input signal in the FIFO 32 bits Time Stamp Data Stream bit 8 (ECGgate = 0x00000100h)

- 3.2 Design Requirement: PRS001 Section 4.:** Interface Card: It is desirable that the computer communicates with the interface card via software driver.... **PRS001 4:** It is critical that the imaging head and Camera system should be capable of a count rate performance of 250,000 counts/sec.

3.2.1 Software Requirements

Data to and from the camera head is communicated in a serial fashion via the HOTLink system.

The HOTLink Receiver logic converts the serial data into two 32-bits data packets defined as illustrated below. Each packet is identified by its highest bit (bit-31): Bit 31=1 indicates that the packet contains detector data and Bit 31=0 indicates ECG data (ECG data is recorded every 0.5 ms).

Channel Bit 31=1	CHADR[13..0] (14)	HEAD ID[2..0] (3)	COLL ID[3..0] (4)	Energy(10)Bit [9..0](10)
---------------------	----------------------	----------------------	----------------------	-----------------------------

Channel Bit 31=0	Reserved [3..0] (4)	RSVD[8..0] (9) Input	Reserved[7..0] (8) Input	ECGFRA ME(1) Bit9	ECGGAT E (1) Bit8	ECG(8) Bit[7..0]
---------------------	------------------------	----------------------------	-----------------------------	-------------------------	----------------------	---------------------

These 32-bits data packets are stored in the Cypress CY7C4271 32K X 9 FIFOs. We are using four 4271 per PCI card to store the data packets. The FIFO has flags indicating when it is full, empty or almost full or almost empty. The almost flags are programmed by the Altera Chip after every reset with values chosen at Altera Compile time. These values currently are set at 4K for almost empty and 16K for almost full. The almost empty flag will assert at 4K or less words and the almost full will assert at 16K or more. The flags are active high in the 8-bits status register (at base+0 Hex) which are defined as followed:

Bit0 = almost empty
Bit1 = empty
Bit2 = almost full
Bit3 = full
Bit4 = PLXINT
Bit5 = EOTF
Bit6 = UNDERUN
Bit7 = OVERUN

These stop points control when DMA will be requested or stopped if demand mode DMA is being used. The PLX chip has to be programmed to attend to the DMA request line coming from the Altera chip for the "FIFO throttle" mechanism to have effect. (The PCI 9080 Data sheet may be download from www.plxtech.com to get familiar with the 9080 PCI interface chip) If the FIFO is read while empty or written while full, the under-run and over-run bit, respectively, will be set in the status register. If Port I enable bits are set (base + 0x1C), either condition can also trigger an interrupt. If the FIFO goes empty during a read and EOT is enabled, the EOT signal will be sent on to the PLX chip to abort any DMA transfer in progress provided that the PLX control register are set to use EOT to terminate DMA. When the overrun, underrun or EOT bit is set in the status register, it can be cleared by writing a 1 back to the register in the respective bit position, whether or not interrupts are enabled. Whenever the FULL bit has a 1 written to it, the FIFO is reset and reinitialized. Any data in the FIFO will be lost.

CONFIDENTIAL TREATMENT REQUESTED

Software use of all these flags may suggest refinements in how they are set and reset. For now it is envisioned that an overrun condition would cause software to read until the Information contained in this document is proprietary to DIGIRAD Corporation and should not be released outside of the company without written permission of the company.

FIFO is empty or underrun and then do an overrun (and underrun) clear. Note that this could result in some lost data between the last words read and the actual write to the status register to clear overrun if a lot of time transpired. The idea is the keep the software service routines prompt so that overruns are avoided and to avoid read loops that underrun. The almost full and empty stops should, in conjunction with the DMA throttle, keep the FIFO within its "operating region". This will require some attention to host CPU utilization and its interrupt latency. The task servicing the FIFO should be at the highest possible priority.

DMA control blocks are set up in host memory. Then the PLX chip is given the go signal to perform a DMA transfer. At the end of the transfer, it can interrupt the host with a PCI interrupt. A DMA chained buffer mode of operation may not be necessary. Care must be taken so as not to set up the PLX chip to burst too long on the PCI bus to avoid bus hogging and system impact. Therefore, the word count must be predetermined or else carefully inferred from the almost full and empty positions with use of the DMA throttle. The most reliable way to use the board is probably to transfer a fixed block of data from the FIFO every time it is almost full (triggering a demand DMA request) and to make sure software keeps up with the data coming in. Experimentation may suggest other algorithms or CPLD enhancements to facilitate data acquisition.

The DMA transfer rate and data parsing shall enable the camera system to operate at > 250,000 events per second.

Should trying to implement DMA transfer with the PLX interrupt fail, the software can poll the Almost Full Flag every 5 msec and still achieve the required transfer rate of 250,000 events per second.

3.3 Design Requirement: Not Stated in PRS001

3.3.1 Software Requirements

After the DMA transfer, the software will decode the data package and display the events on screen. Software shall allow the user to mask off hot pixels and to query the number of events of a particular pixel by simply click at its location.

3.4 Design Requirement: Not Stated in PRS001

3.4.1 Software Requirements

The count data in host memory is in raw energy units and shall be converted to energy units of keV. This conversion shall be performed using a file containing gain and offset

coefficients for each detector element. Energy corrections shall be applied to each event before the event is subject to an energy window test.

3.5 Design Requirement: Not Stated in PRS001

3.5.1 Software Requirements

Up to four energy windows shall be available to the user. The upper and lower energy limits of these windows shall be selectable by the user. Events falling within the bounds of each of these windows shall be used to build a scalar file. These four scalar files may be combined in any fashion to produce three different image files.

3.6 Design Requirement: Not Stated in PRS001

3.6.1 Software Requirements

The image files shall be configured as 64 x 64-element arrays.

3.7 Design Requirement: Not Stated in PRS001

3.7.1 Software Requirements

A bad detector element correction shall be applied every time an image is framed. This shall include persistence mode images. The bad detector element correction shall be accomplished by deleting from the image files data from those detector elements listed in the Bad Detector Element file. The missing data for the bad detector elements shall be derived by computing the mean value of the data from all the detector elements surrounding the bad detector element, then assigning that mean value as the bad detector element's value.

3.8 Design Requirement: Not Stated in PRS001

3.8.1 Software Requirements

An intrinsic sensitivity correction shall be applied every time an image is framed. This shall include persistence mode images. The intrinsic sensitivity correction shall be accomplished by multiplying the event data of each uncorrected active detector element by that detector element's intrinsic sensitivity correction coefficient stored in a file.

3.9 Design Requirement: PRS001 Section 6.: It is critical that the system software performs four basic functions. These functions are Acquisition, Display, Data Transfer/Storage and Diagnostics. **Section 6 a.** The Diagnostic module will acquire data and correct energy scale.

3.9.1 Software Requirements

The Energy Correction module shall generate a gain and offset coefficient that can be used for conversion into units of keV - each detector element's raw digitized energy value. These coefficients shall be stored in a file. Energy correction shall be done by collecting data from flood field data sets of two isotopes of different energies probably ^{201}Tl and $^{99\text{m}}\text{Tc}$). A peak search algorithm shall find the primary peaks of these two

isotopes for every pixel and a gain and offset coefficient for each pixel shall be calculated and stored in an energy correction file.

- 3.10. Design Requirement: PRS001 Section 6.** It is critical that the system software performs four basic functions. These functions are Acquisition, Display, Data Transfer/Storage and Diagnostics. **Section 6 b.** The Diagnostic module will acquire data and generate a flood normalization.

3.10.1 Software Requirements
Redundant to 3.4!

- 3.11 Design Requirement: PRS001 Section 6.** It is critical that the system software performs four basic functions. These functions are Acquisition, Display, Data Transfer/Storage and Diagnostics. **Section 6 c.** The Diagnostic module will acquire data and perform intrinsic correction.

3.11.1 Software Requirements

The Intrinsic Correction module shall generate a file of coefficients that shall be used to normalize each active detector element's response to a user specified radiopharmaceutical. There shall be a minimum of four user-defined files. Using the selected radiopharmaceutical in a uniform flood source, each file shall be generated by collecting an uncorrected data file. The individual detector element's coefficient shall be generated by computing the ratio of each active detector element's response, to the mean value of all the active detector element's responses.

- 3.12 Design Requirement:** Not Stated in PRS001

3.12.1 Software Requirements

The Detector Element Energy Spectrum module shall acquire and display an energy spectrum for any selected detector element(s), including bad detector elements. A detector element may be selected by: 1) pointing at the detector element on the display with the mouse pointer, 2) entering the detector element's spatial location as ari XIY spatial coordinate or by 3) entering the detector element's digital address. The energy spectrum display shall automatically scale the Y-axis (counts) so as to place the photopeak height at 75% of full scale. The X-axis shall be displayed in the energy units of keV. A composite energy spectrum of all active detector elements shall be possible. An active detector element is a detector element that is not listed in the bad detector element file.

- 3.13 Design Requirement:** Not Stated in PRS001

3.13.1 Software Requirements

The Bad Detector Element module shall be used with a uniform flood source to generate a file of detector elements that shall be excluded from use in the formation of an image.

CONFIDENTIAL TREATMENT REQUESTED

The following describes the process that shall be used for determining a “bad detector element”. The term “user” equals a technical service person.

Step One

Take a uniform flood data set without any corrections (energy, uniformity etc.), and record a histogram of energy for each detector element (i) (there shall be 4096 histograms). Within a user definable energy window ($[W_l, W_h]$), find the energy peak E_i , and calculate the FWHM S_i for each histogram. Display histograms of the E_i , and S_i distributions. Make a cut of E_i and S_i with a set of user definable windows ($[E_l, E_h]$, $[S_l, S_h]$).

{If ($E_i < E_l$, or $E_i > E_h$, or $S_i < S_l$ or $S_i > S_h$), then, (detector element “ i ” is added to bad detector element list)}.

Step Two

Take a flood data set, and record an energy corrected histogram for each detector element. Within a user definable energy window ($[W_l, W_h]$), calculate the gamma ray count N_i . Display a histogram of the N_i distribution, and calculated the MEAN and RMS of this distribution. Make cut of N_i with a set of user given window ($[N_l, N_h]$).

{If ($N_i < N_l$, or $N_i > N_h$) then (detector element “ i ” is added to bad detector element list*)}

* Exclude bad detector elements already in the list from the Step One selection.

Step Three

Take a uniform flood data set with all the corrections, and let the user point and select any detector element from the displayed flood image. Display an energy histogram of the selected detector element. If the user desires, he can add this detector element to the bad detector element list. The user can also edit the bad detector element list to manually add or delete any detector element from the list. There should be a display option to mark each bad detector element within flood image. There should be a display to show the bad detector element list and total number of bad detector elements.

The bad detector elements shall be displayable only from the diagnostic display. This display shall be accessible only through a password and shall possibly run as a separate Task under NT. Bad detector elements shall be selectable either by pointing at them with the mouse, entering their XIY spatial coordinates or by entering their digital address.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT C DELIVERY SCHEDULE

Deliveries

Calibration and Diagnostic Modules:	June 30, 1999
Validation Test Report:	21 days after calibration code
Code Revisions:	21 days after test

Payment

Upon signing this Agreement, a sum of \$10,000.

Upon delivery of the Acquisition Modules, a sum of \$10,000.

Upon delivery of the Calibration & Diag. Modules, a sum of \$10,000.

Upon delivery of the Validation Test Report, a sum of \$5,000.

Upon Digirad's acceptance of all final code revisions, a sum of \$5,000.

EXHIBIT D
SEGAMI'S BASE SOFTWARE

Planar imaging:

Acquisition [not including PCI interface board and software]

- User entry of patient information - name, MR #, age , etc. (see database)
- Multiple static images
- Dynamic mode suitable for "flow studies" including first-pass RNV
- Gated (ECG) blood pool
- Byte & word mode in 64 x 64 to 512 x 512 pixels per frame
- On screen zoomed persistence display - adjustable refresh time
- Display previous images on screen while a new image is being acquired
- Histogram of R-R wave intervals, beat rejection for gated RNV
- Simultaneous acquisition of one study while processing a second study
- Adjustment of display parameters - gray scale & color translation tables
- Multi-peak, multi-isotope imaging
- Uniformity (flood field) analysis & correction

2. Processing

- Renal function: Renogram curves, ERPF, & GFR
- Pulmonary quantitation
- LVEF & RVEF calculation - gated blood pool
- Regional ventricular function, e.g., phase & amplitude analysis
- Gastric emptying & esophageal reflux
- First-pass RNV - calculation of LV & RV ejection fraction
- First-pass cardiac shunt calculation
- Frames - move, copy, delete, format (for printing)
- Perform math functions on image frames, e.g., spatial & temporal filters

3. Output/Archive/Other

- A. File transfer via Ethernet link to network server in DICOM 3 compliant format
- Additional bit-mapped (BMP) file format, for file transfer
- Printer output drivers to common printers including PostScript
- Storage on standard recording media, e.g., hard disk, R-CDROM, etc.
- On-line, context sensitive help - index with references to specific instructions
- Complete set of manuals
- Documentation of governmental &/or other regulatory approval, U.S. or foreign

4. Database

- SQL compatible Access database storage of patient information
- Search features
- DICOM 3 compliant fields

*verified against
exh. filed 6/4/04*

10.3

CONFIDENTIAL TREATMENT REQUESTED

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is made and entered into as of the 22 day of May, 2001, by and between CEDARS-SINAI HEALTH SYSTEM ("CSHS"), a d/b/a of CEDARS-SINAI MEDICAL CENTER, a California nonprofit public benefit corporation ("Medical Center"), and DIGIRAD CORPORATION, a Delaware corporation, ("Licensee"), with reference to the following facts:

A. CSHS has developed and is the owner of certain Technology (as such term is hereinafter defined) and has the right to grant licenses therein.

B. Licensee is desirous of obtaining from CSHS, and CSHS is willing to grant to Licensee, a non-exclusive license in and to the Technology and the Improvements (as such term is hereinafter defined) pursuant to the terms and conditions of this Agreement.

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

1. Definitions. The following terms shall have the following meanings for purposes of this Agreement:

1.1 Affiliates. "Affiliates" shall mean, with respect to any person or entity, any other persons or entities that, directly or indirectly, control, are controlled by or are under common control with such person or entity. For this purpose, "control" of an entity shall include, without limitation, having ownership of fifty-one percent (51%) or more of the voting shares (or equivalent) of such entity, or having the right to direct, appoint or remove a majority or more of the members of the board of directors (or equivalent) of such entity, or having the power to control the general management of such entity, by contract, law or otherwise.

1.2 Confidential Information. "Confidential Information" shall mean the confidential and proprietary information of either party hereto.

1.3 CSHS Parties. "CSHS Parties" shall mean CSHS, the Medical Center and its officers, directors, employees, representatives and agents, and each of their respective successors and assigns.

1.4 End User. "End User" shall mean a customer of Licensee authorized to use a Licensed Product for internal purposes only and not for further distribution.

1.5 First Commercial Release Date. "First Commercial Release Date" shall mean the date upon which CSHS and Licensee have reasonably agreed that the functional performance of the Technology has met the Specifications and on which Licensee shall have released and made the Licensed Products available to End Users; provided, however, that the First Commercial Release Date shall occur on or before October 1, 2001.

1.6 Improvements. "Improvements" shall mean any computer software which includes all or any part of, or is based in whole or in part on, the Technology,

CONFIDENTIAL TREATMENT REQUESTED

including but not limited to translations of the Technology to other foreign or computer languages, adaptations of the Technology to other hardware platforms, abridgments, condensations and revisions to the Technology and software incorporating all or any part of the Technology which may also include modifications created by Licensee in order to meet good manufacturing practices and the standards of the United States Food and Drug Administration ("FDA").

1.7 Licensed Products. "Licensed Products" shall mean any and all products that incorporate or utilize or are manufactured using any of the Technology or the Improvements.

1.8 Licensed Field of Use. "Licensed Field of Use" shall mean the use of the Technology and the Improvements on workstations manufactured by or on behalf of Licensee which are designed to acquire, process and/or display medical images.

1.9 New Products. "New Products" shall have the meaning set forth in Section 4 hereof.

1.10 Specifications. "Specifications" shall mean the specifications, performance standards and other descriptions of the Technology set forth on Exhibit A attached hereto.

1.11 Technology. "Technology" shall mean all computer programming code (in executable form only) and all related documentation and other written materials pertaining thereto relating to those portions of CSHS's software developed by CSHS and more fully described on Exhibit A attached hereto.

1.12 Territory. "Territory" shall mean all countries, states and geographic regions worldwide.

1.13 Updates. "Updates" shall mean all updates, upgrades, revisions and new versions of the software code developed by CSHS which result from problem corrections of the Technology and Improvements to the Technology.

2. Grant of License.

2.1 Grant. CSHS hereby grants to Licensee a non-exclusive license (including the right, subject to Section 2.2 hereof, to grant sublicenses) in the Technology and the Improvements, subject to the other terms and conditions set forth in this Agreement for the purposes of making, having made, using and selling Licensed Products in the Territory. Without limiting the generality of the foregoing, the license granted hereby shall include the following rights: (a) the right to use, test, modify, reproduce and develop the Technology with any associated documentation, to prepare Improvements, to incorporate the Technology or any Improvement into Licensed Products and to otherwise develop Licensed Products; (b) the right to make, have made, reproduce, use, market and distribute Licensed Products to End Users, directly or indirectly, through Licensee's distributors and other distribution channels in the

CONFIDENTIAL TREATMENT REQUESTED

Territory; and (c) the right to use the Technology or any Improvements in connection with maintenance services relating to Licensed Products.

2.2 Sublicenses. Licensee shall have the right to grant sublicenses of the license granted pursuant to Section 2.1 hereof only to its Affiliates of Licensee and to End Users, provided that each sublicensee must agree in writing to be bound by and to observe the provisions of Section 2.3, 6, 10, 11, 12.2 and 12.3 of this Agreement. Licensee shall submit to CSHS a copy of each sublicense entered into hereunder promptly after execution thereof. As used in this Section 2.2, the term "sublicense" shall include the right of an Affiliate of Licensee to distribute or sell Licensed Products to End Users, subject to the provisions of Section 3 hereof. However, the term "sublicense" as used in this Section 2.2 shall not permit any End User to copy, distribute or sell any Licensed Products to other third parties, which is strictly prohibited hereunder.

2.3 Limitations to Grant.

(a) Limited to Licensed Field of Use. The license granted under Section 2.1 hereof shall not be construed to confer any rights upon Licensee to any intellectual property not specifically included in this Agreement, whether by implication, estoppel or otherwise. The license granted under Section 2.1 hereof is limited to the Licensed Field of Use.

(b) Non-Exclusive License. The license granted under Section 2.1 hereof is, and shall be, non-exclusive, and CSHS expressly retains the right to grant other licenses relating to the Technology and any Improvements to any third party on such terms as CSHS may, in its sole and absolute discretion, deem appropriate. CSHS also retains the right to use the Technology and any Improvements for clinical and research purposes.

(c) No Modification or Decompilation. Licensee shall not modify, disassemble, decompile, reverse engineer, recreate or generate any of the Technology or any portion or version thereof. Licensee shall not attempt any of the foregoing or aid, abet or permit any others to do so (including, without limitation, any of its Affiliates or any End Users).

(d) Copy Protection. Licensee, in exercising its rights set forth in Section 2.1(b) hereof, shall take all actions as CSHS may reasonably request to ensure that its Affiliates and End Users do not (i) take any of the actions set forth in Section 2.3(c) hereof, or (ii) duplicate, copy or otherwise distribute any Licensed Products provided to them. Licensee shall submit to CSHS a copy of all documentation prepared by Licensee to meet its obligations under this Section 2.3(d), and Licensee shall provide CSHS with a written report every six (6) months during the term of this Agreement containing the identity of all Affiliates holding Licensed Products and End Users, details of all sales of Licensed Products to such Affiliates and End Users and such other information as shall be reasonably requested by CSHS.

(e) Limited Rights with Respect to Code; No Competing Products. The license granted under Section 2.1 hereof is limited to the use of the executable code of the Technology solely in connection with the development of Licensed Products and Improvements by Licensee, and the performance of maintenance services relating to Licensed

CONFIDENTIAL TREATMENT REQUESTED

Products. Such license shall not include any right to transfer, license or otherwise dispose of the code of the Technology or any copies thereof, or to use such code to develop any software or products which are similar to or competitive with the Technology or any Improvements.

(f) Trademarks; Trade Names of CSHS and Medical Center.

Nothing contained or construed to be contained in this Agreement shall constitute the grant by CSHS of any right, by way of license or otherwise, to Licensee to use any trademark or trade name of CSHS or the Medical Center without the prior written consent of CSHS or the Medical Center, which consent may be withheld by CSHS and the Medical Center in their sole and absolute discretion. All licenses relating to the Technology and Improvements conceived or first actually reduced to practice in the performance of experimental, developmental or research work funded in whole or in part by a United States governmental agency are subject to the rights, conditions and limitations imposed by the Patent and Trademark Amendments Act of 1980 (P.L. 96-517), as amended by Title V of P.L. 98-620 (1984), 35 U.S.C. §§200-212, and accordingly, the non-exclusive license granted hereunder may be held by the United States Government pursuant to 35 U.S.C. §202(c)(4). CSHS reserves the right in its sole and absolute discretion and without any consent from Licensee, to settle any interference involving the Technology and/or the Improvements by licensing the Technology and/or the Improvements, by filing a disclaimer or reissue application or in any other manner, and CSHS shall have the right to file with any appropriate governmental agency any agreement entered into in connection therewith.

3. Fees and Royalties. In consideration for the license granted by CSHS to Licensee pursuant to Section 2.1 hereof, Licensee shall pay to CSHS the fees and royalties set forth in Exhibit B attached hereto. The price established for the Licensed Product shall not exceed an amount of twice the royalty to be paid hereunder.

4. Updates. CSHS shall cause the Division of Nuclear Physics Medicine of the Medical Center to provide Licensee with all Updates developed during the term of this Agreement. Notwithstanding anything to contrary set forth herein, CSHS shall have no obligation to make available to Licensee any additional products which have no direct relationship to the Technology ("New Products"). Licensee shall not have any rights with respect to any New Products unless it has been granted the same by CSHS pursuant to a separate license agreement or an amendment to this Agreement, which separate license agreement or amendment shall contain such license fees, royalty payments and other terms regarding the New Products as may be negotiated by the parties.

5. Reports and Records.

5.1 Quarterly Earned Royalty Payment and Reports. Licensee shall provide CSHS with written reports and earned royalty payments within thirty (30) days after the end of each calendar quarter during the term of this Agreement. Each written report shall state the number and description of Licensed Products distributed during the preceding calendar quarter, and the resulting calculation of earned royalty payments due CSHS covered by such report, all in accordance with the provisions of Exhibit B attached hereto. Licensee shall provide such written reports whether or not any royalties are due to CSHS for the preceding calendar quarter.

CONFIDENTIAL TREATMENT REQUESTED

5.2 Retention of Records. Licensee shall keep and maintain complete and accurate records and documentation concerning sales or other dispositions of Licensed Products in sufficient detail to enable the royalties payable hereunder by Licensee to be determined, and Licensee shall retain such records and documentation for not less than five (5) years from the date of their creation.

5.3 Inspection of Records. During the term of this Agreement and for a period of one (1) year thereafter, CSHS and its representatives and agents shall have the right, upon reasonable notice to Licensee and during regular business hours, to inspect the records and documentation required to be retained by Licensee pursuant to Section 5.2 hereof.

5.4 Costs of Inspection. The costs of any inspection pursuant to Section 5.3 hereof shall be borne by CSHS, unless as a result of such inspection it is determined that the amounts payable by Licensee to CSHS for any period are in error by greater than ten percent (10%), in which case the out-of-pocket costs of such inspection shall be borne by Licensee. CSHS shall report the results of any such inspection to Licensee, and Licensee shall promptly thereafter pay to CSHS the amount of any underpayment, and the amount of any overpayment shall be credited by CSHS against future amounts payable by Licensee to CSHS or if no future amounts are payable to CSHS within ninety (90) days of the report of the result of such inspection, then the amount of any overpayment shall be refunded to Licensee. In addition, Licensee shall pay interest on the amount of any such underpayment at a rate which is the lower of (a) two percent (2%) over the "prime rate" of interest as published in The Wall Street Journal from time to time, and (b) the highest rate permitted by applicable law, from the date such amount was underpaid to the date such payment is actually paid.

6. Title to the Technology; Marking; License to Copyright.

6.1 Title to the Technology. Licensee acknowledges that CSHS shall retain title to the Technology and all Improvements.

6.2 Marking. Licensee shall mark all Licensed Products (or their containers or labels) which are made, sold or otherwise disposed of by Licensee under the license granted pursuant to Section 2.1 hereof in such manner as is intended to protect or preserve CSHS's rights to the Technology and the Improvements as is customary in the market for the Licensed Products or in such a manner as CSHS may designate in writing to Licensee. Without limiting the generality of the foregoing, Licensee agrees that all copies of Licensed Products and related documentation made by Licensee pursuant to the license granted herein shall include a copyright notice in the following form: "© 2000 Cedars-Sinai Medical Center. All rights reserved." The copyright notice shall be affixed to all copies or portions thereof in such manner and location as to give reasonable notice to CSHS's claim of copyright.

6.3 License to Copyright and Patent (if any). The license granted under Section 2.1 hereof includes a license under CSHS's copyright in the Technology and any Improvement. In the event that the Technology or any Improvement becomes subject to or covered by, the allowed claims of any patent issued or assigned to CSHS, the license granted to

CONFIDENTIAL TREATMENT REQUESTED

Licensee hereunder shall be deemed to include a license under such patent to the extent necessary to permit Licensee to exercise its rights under this Agreement.

7. Delivery of Materials; Testing; Governmental Approvals.

7.1 Delivery of Materials. Upon the execution and delivery of this Agreement by Licensee, CSHS shall deliver to Licensee one (1) copy of any relevant documentation, the object code (in executable form only) for the Technology as it currently exists. CSHS and Licensee shall thereafter exchange updates and enhancements to the Technology no less frequently than once per calendar quarter until the Technology has conformed to the Specifications. Thereafter, CSHS shall provide Licensee with relevant documentation and object code updates for the Technology upon corrections or improvements of the Technology's performance characteristics. The material delivered by CSHS to Licensee under this Section 7.1 shall contain the object code for the Technology in an executable form only and suitable for installation and use by Licensee, and shall include the full set of material comprising the Technology and complete program maintenance documentation, including all flow charts, schematics and annotations which constitute the pre-coding detailed design specifications, test plan with results and all other materials necessary to allow a reasonably skilled computer programmer or analyst familiar with the Technology to maintain or support the Technology without the help of any other person or reference to any other material. CSHS shall promptly supplement the object code materials delivered to Licensee under this Section 7.1 with all changes or additions so that the object code materials correspond fully to the most current version of the Technology during the term of this Agreement.

7.2 Testing. CSHS and Licensee shall jointly (a) test all Technology and Improvements for proper operation, and (b) perform any debugging on Technology and Improvements, and (c) CSHS shall make or suggest any corrections necessary for Technology and Improvements to achieve performance in accordance with the Specifications and acceptable commercial standards.

7.3 Governmental Approvals. Notwithstanding anything to the contrary set forth herein, CSHS shall have no obligation to obtain any domestic or foreign governmental approvals (including, without limitation, any approvals of the FDA) with respect to the Technology, Improvements or Licensed Product. Licensee shall be responsible for seeking and obtaining any necessary domestic and foreign governmental approvals (including, without limitation, any and all approvals of the FDA) with respect to the Licensed Products as Licensee shall deem appropriate. The failure by Licensee to obtain any governmental approval shall not be deemed a breach by Licensee of this Agreement.

8. Support. CSHS shall cause the Division of Nuclear Physics Medicine of the Medical Center to assist Licensee with the evaluation, maintenance and support of Licensed Products during the term of this Agreement. Such assistance will be limited to work performed on the original Technology, upgrades, revisions and new versions of the software code, and providing debugging and technical support services. In the event that the Division is unable to provide the assistance which may be reasonably necessary to Licensee during the term hereof, CSHS shall have no obligation to provide such assistance, and representatives of CSHS and

CONFIDENTIAL TREATMENT REQUESTED

Licensee shall meet to discuss whether or not any modifications of the terms of this Agreement are necessary.

9. Milestones. Licensee shall have commenced marketing of the Licensed Products on or before the First Commercial Release Date. Further, Licensee shall satisfy the market demand for the Licensed Products during the term of this Agreement.

10. Compliance with Laws. Licensee shall conduct all activities pursuant to this Agreement in an ethical and businesslike manner and in substantial compliance with all applicable laws, rules and regulations of all applicable governmental authorities. Licensee shall provide to CSHS any data compilations, records, reports or other information regarding the Technology, the Improvements and/or the Licensed Products which CSHS may reasonably require for submission to any governmental authorities in order to comply with any applicable laws, rules or regulations.

11. Confidentiality.

11.1 Obligation. Each party acknowledges that this Agreement may require the disclosure by one party to the other party of its Confidential Information. Each party shall regard and preserve the Confidential Information of the other party as secret and confidential, and during the term of this Agreement and for a period of five (5) years thereafter neither party shall publish or disclose any Confidential Information in any manner without the prior written consent of the other party. Notwithstanding the foregoing, however, the parties agree that Licensee's obligation under this Section 11.1 with respect to the code for the Technology or any Improvement (to the extent they constitute "Confidential Information" hereunder) shall be unlimited in duration. Each party shall use the same level of care to prevent the disclosure of the Confidential Information of the other party that it exercises in protecting its own Confidential Information and shall, in any event, take all reasonable precautions to prevent the disclosure of Confidential Information to any third party.

11.2 Non-Confidential Information. The following shall not be considered to be Confidential Information: (a) information which is publicly known or which becomes publicly known through no fault of the receiving party; (b) information which is lawfully obtained by the receiving party from a third party (which third party itself lawfully obtained the Confidential Information and has no obligation of confidentiality); and (c) information which is in the lawful possession of the receiving party, as documented by the records of such receiving party, prior to such information having been initially disclosed by the disclosing party.

11.3 Publicity. Neither party shall, without the prior written consent of the other party, disclose to any third party the terms or conditions of this Agreement unless such disclosure is required under applicable law or in connection with the legal enforcement of this Agreement.

11.4 Injunctive Relief. Each party acknowledges that in the event of any breach or default or threatened breach or default by either party of Section 11.1 or Section

CONFIDENTIAL TREATMENT REQUESTED

11.3 hereof, the other party may be irreparably damaged and that it would be extremely difficult and impractical to measure such damage, so that the remedy of damages at law would be inadequate. Consequently, each party acknowledges and agrees that other party, in addition to any other available rights or remedies and without the necessity of posting any bond or similar security, shall be entitled to specific performance, injunctive relief and any other equitable remedy for the breach or default or threatened breach or default of said Section 11.1 or Section 11.3, and each party waives any defense that a remedy at law or damages is adequate.

12. Representations and Warranties; Limitation on Damages.

12.1 Authority. Each party represents and warrants to the other party that this Agreement has been duly authorized, executed and delivered by it and that this Agreement is its binding obligation, enforceable in accordance with its terms, subject, as to enforcement of remedies, to applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, and to general equitable principles.

12.2 DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CSHS MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY EXPRESS OR IMPLIED WARRANTY THAT THE USE OF THE TECHNOLOGY OR THE MANUFACTURE, USE OR SALE OF ANY OF THE LICENSED PRODUCTS WILL NOT INFRINGE ANY PATENT, COPYRIGHT OR RIGHT OF ANY THIRD PARTY), OF ANY KIND OR NATURE WHATSOEVER.

12.3 LIMITATION ON DAMAGES. IN NO EVENT SHALL CSHS BE LIABLE FOR ANY LOSS OF OR DAMAGE TO REVENUES, PROFITS OR GOODWILL OR OTHER SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND RESULTING FROM CSHS'S PERFORMANCE OR FAILURE TO PERFORM ANY OBLIGATIONS UNDER THIS AGREEMENT, OR RESULTING FROM THE FURNISHING, PERFORMANCE, USE OR LOSS OF USE OF ANY PART OF THE TECHNOLOGY, IMPROVEMENTS LICENSED PRODUCTS, OR ANY DATA, INFORMATION OR OTHER PROPERTY OF LICENSEE, INCLUDING, WITHOUT LIMITATION, ANY INTERRUPTION OF LICENSEE'S BUSINESS, WHETHER RESULTING FROM BREACH OF CONTRACT OR BREACH OF WARRANTY, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. Indemnification and Insurance.

13.1 Indemnification. Licensee shall indemnify, defend and hold harmless the CSHS Parties from and against any and all claims, demands, lawsuits, actions, proceedings, liabilities, losses, damages, fees, costs and expenses (including, without limitation, attorneys' fees, and costs of investigation and experts (whether or not suit is filed)) resulting from or arising out of (a) the manufacture, use or sale of any of the Licensed Products or the exercise by Licensee of any right granted hereunder, including, without limitation, any liabilities, losses or damages whatsoever with respect to death or injury to any individual or damage to any

CONFIDENTIAL TREATMENT REQUESTED

property arising from the possession, use or operation of any of the Licensed Products by Licensee or any third Party in any manner whatsoever (except to the extent such death, injury or damage arises directly from the failure or malfunction of the Technology or Improvements used by Licensee in accordance with this Agreement), or (b) any claim that Licensee's manufacture, use, sale or other disposition of the Licensed Products infringes or violates any patent, copyright or other right of any third party, except to the extent such alleged infringement or violation relates solely to the Technology or Improvements.

13.2 Insurance. Licensee shall maintain at all times during and after the term of this Agreement comprehensive general liability insurance, including product liability insurance, with reputable and financially secure insurance carriers and having commercially reasonable limits giving due consideration to the nature and extent of such activities and the risks inherent therein to cover the activities of Licensee contemplated by this Agreement. Any such insurance shall provide for no cancellation or material alteration except upon at least thirty (30) days' prior written notice to CSHS. Licensee shall timely provide CSHS with certificates of insurance evidencing such coverage.

14. Infringement.

14.1 Third Party Infringement. In the event that either party learns of facts which it concludes may constitute an infringement of any of the Technology or any Improvements by any third party during the term of this Agreement, the party learning of such facts shall promptly notify the other party in writing, setting forth such facts and the basis for its conclusion, and shall include with such notice any other reasonably available evidence in support thereof.

14.2 Procedure. CSHS shall have the right, but no the obligation, to take all appropriate action against the infringing party and CSHS shall pay all costs and expenses (including without limitation CSHS's attorneys' fees and costs of investigation and experts) incurred in connection with such action. Licensee, at its own expense, shall have the right to participate in, and, to the extent that it may wish, to jointly assume the prosecution of such action with counsel reasonably satisfactory to CSHS. If CSHS declines to take action, then Licensee shall have the right to take such action. In the event Licensee does elect to take action, Licensee shall pay or reimburse CSHS for all costs and expenses (including without limitation attorneys' fees and costs of investigation and experts) incurred by CSHS at either Licensee's request or as may be required in order for Licensee to pursue such action. Licensee shall obtain the consent of CSHS prior to settling any such action.

14.3 Proceeds. Any proceeds from any settlement or judgment of any infringement claim, action, suit or proceeding brought by CSHS shall be allocated and/or paid within thirty (30) days of receipt thereof as follows: (a) first to reimburse CSHS (and Licensee, *pari passu* to the extent that it has not otherwise been reimbursed for attorneys' fees, costs and expenses incurred in connection with participation in the prosecution of such infringement) for attorneys' fees and other costs and expenses reasonably incurred in connection with the prosecution or other efforts to terminate the infringement pursuant to the terms of this Agreement; and (b) thereafter, the remainder shall be divided equally between the parties.

CONFIDENTIAL TREATMENT REQUESTED

14.4 Nominal Plaintiff. In the event any infringement action, suit or proceeding is brought hereunder by either party to enforce any rights in the Technology in the Territory, each party shall upon the written request of the other party, be named, joined and participate therein as a nominal plaintiff.

14.5 Indemnification. CSHS shall indemnify, defend and hold harmless Licensee from and against any and all claims, demands lawsuits, actions, proceedings, liabilities, losses, damages, fees, costs and expenses (including, without limitation, attorneys' fees, and costs of investigation and experts (whether or not suit is filed)) resulting from or arising out of any claim that Licensee's use of the Technology or Improvements in accordance with this Agreement infringes or violates any patent, copyright or other intellectual property rights of any third party.

15. Term. This Agreement shall become effective on the date first above written and shall remain in effect until the later of (a) five (5) years after such date, or (b) the expiration date of the last to expire of any patents (if any) included in the Technology, unless sooner terminated pursuant to Section 17.1 hereof.

16. Termination.

16.1 Termination for Impossibility or Breach. This Agreement may be terminated at any time at the option of either party if action by any governmental authority renders impossible performance under this Agreement by either party. In addition, this Agreement may be terminated by either party if the other party breaches any material provision hereof (including without limitation any provision requiring payment by Licensee to CSHS), provided that termination may only take place if (a) the claiming party has given the breaching party written notice specifying the respects in which the claiming party claims this Agreement has been breached and (b) the breaching party fails to remedy such breach within thirty (30) days after receiving such notice.

16.2 Effect of Termination or Expiration. Upon the termination or expiration of the term of this Agreement, the license granted by CSHS to Licensee pursuant to Section 2.1 hereof shall terminate. Notwithstanding any termination or expiration of the term of this Agreement, Licensee shall be permitted to sell or otherwise dispose of all Licensed Products then in inventory and shall have the obligation to pay to CSHS all amounts which have accrued or shall accrue by reason of the sale of such Licensed Products. Licensee shall not be entitled to any refund of any amounts by reason of any termination or expiration of the term of this Agreement. Notwithstanding anything to the contrary set forth in this Agreement, in no event shall any rights afforded to End Users pursuant to Section 2.1(b) terminate as a result of expiration or termination of this Agreement for any reason.

17. Assignment. The rights and obligations of Licensee under this Agreement shall not be assignable without the prior written consent of CSHS (which consent may be granted or withheld by CSHS in its sole and absolute discretion) except in the event of a merger, consolidation or sale of substantially all of the assets of Licensee. In the event of any such merger, consolidation or sale of assets, CSHS shall have the right to approve or disapprove, on a

CONFIDENTIAL TREATMENT REQUESTED

reasonable basis, the use of any Licensed Products by the person or entity which is the successor-in-interest to Licensee. The rights and obligations of CSHS hereunder shall be assignable without the prior written consent of Licensee, upon written notice to Licensee.

18. Notice. Any notice or other communication hereunder must be given in writing and either (a) delivered in person, (b) transmitted by facsimile or telecopy mechanism provided that any notice so given is also mailed as provided herein, (c) delivered by Federal Express® or similar commercial delivery service or (d) mailed by certified mail, postage prepaid, return receipt requested, to the party to which such notice or communication is to be given at the address set forth on the signature page of this Agreement or to such other address or to such other person as either party shall have last designated by such notice to the other party. Each such notice or other communication shall be effective (i) when personally delivered, (ii) if given by telecommunication, when transmitted, (iii) if given by mail, seven (7) days after such communication is deposited in the mail and addressed as aforesaid, (iv) if given by Federal Express® or similar commercial delivery service, three (3) business days after such communication is deposited with such service using next business day delivery and addressed as aforesaid, and (v) if given by any other means, when actually delivered at such address.

19. Arbitration. Any disagreement or any question of determination of terms, interpretation, enforceability or validity arising under or relating to the provisions of this Agreement or the subject matter hereof shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and such arbitration shall be held in Los Angeles, California. The arbitrability of any such disagreement or question of determination shall likewise be subject to arbitration. The parties shall use their best efforts to cause any such arbitration to be completed as quickly as possible. The parties shall equally share the costs of the arbitrator(s), transcripts and any official translator(s). Any order, award or decision resulting from any such arbitration shall be final and binding upon the parties and shall be enforceable in any court of competent jurisdiction.

20. Governing Law. This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of California, except where such are governed exclusively by federal law.

21. Attorneys' Fees. In any arbitration or action between the parties seeking enforcement of any of the provisions of this Agreement, the prevailing party in such arbitration or action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorneys' fees.

22. Relationship of Parties. Each party shall conduct all business in its own name as an independent contractor. No joint venture, partnership, employment, agency or similar arrangement is created between the parties. Neither party has the right or power to act for or on behalf of the other or to bind the other in any respect, to pledge its credit, to accept any service of process upon it, or to receive any notices of any nature whatsoever on its behalf.

CONFIDENTIAL TREATMENT REQUESTED

23. Severability. If any provision of this Agreement is determined to be illegal, invalid or otherwise unenforceable by a court of competent jurisdiction then, to that extent and within the jurisdiction in which it is illegal, invalid or unenforceable, it shall be limited, construed or severed and deleted from this Agreement, and the remaining extent and/or remaining portions hereof shall survive, remain in full force and effect and continue to be binding and shall not be affected except insofar as may be necessary to make sense hereof, and shall be interpreted to give effect to the intention of the parties insofar as that is possible.

24. Entire Agreement. This Agreement (including all exhibits attached hereto which are herein incorporated by this reference) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, agreements, arrangements and understandings with respect to the subject matter hereof.

25. Interpretation. The normal rule of construction that an agreement shall be interpreted against the drafting party shall not apply to this Agreement. In this Agreement, whenever the context so requires, the masculine, feminine or neuter gender, and the singular or plural number or tense, shall include the others.

26. Amendment and Waiver. Neither this Agreement nor any of its provisions may be amended, changed, modified or waived except in a writing duly executed by an authorized officer of the party to be bound thereby.

27. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns.

CONFIDENTIAL TREATMENT REQUESTED

28. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute one agreement.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the day and year first above written.

“CSHS”:

CEDARS-SINAI HEALTH SYSTEM
Cedars-Sinai Medical Center
8700 Beverly Boulevard
Los Angeles, CA 90048-1865
Attn: Senior Vice President & CFO
Facsimile: (310) 423-0101

“LICENSEE”:

DIGIRAD, INC.
9350 Trade Place
San Diego, California 92126-6334
Attn: President & CEO
Facsimile: (858) 549-9789

By: /s/ Schlomo Melmed, M.D.
Shlomo Melmed, M.D.
Senior Vice President for
Academic Affairs

By: /s/ R. Scott Huennekens
R. Scott Huennekens
Digirad Corporation

By: /s/ Edward M. Prunchunas
Edward M. Prunchunas
Senior Vice President for
Finance & CFO

CONFIDENTIAL TREATMENT REQUESTED

TECHNOLOGY AND SPECIFICATIONS

1. Technology.

General Description: All information, data and know-how, whether patentable or unpatentable, in whatever form or medium, relating to those portions of CSHS's software technologies known as:

"Quantitative Gated SPECT Software" (QGS)

"Quantitative Perfusion SPECT Software" (QPS)

"Blood Pool Gated SPECT Software" (BPGS)

2. Specifications.

[to be attached]

CONFIDENTIAL TREATMENT REQUESTED

FEES, ROYALTIES AND PAYMENT

1. Royalties. Licensee shall pay to CSHS royalties in the amounts set forth in the following table for each of the Licensed Products sold or otherwise distributed by Licensee during the term of the Agreement. Royalties shall accrue and be payable on a quarterly basis within thirty (30) days after the end of each calendar quarter in which a sale of Licensed Products occurs. (For the purposes of this section, the word "sale" shall mean the date on which the Licensee ships the Licensed Product to the particular End User.)

Royalties for individual software packages within Technology shall be as follows:

QGS:

Amount of Royalty per Copy

\$1,700

QPS:

Amount of Royalty per Copy

\$1,700

BPGS:

Amount of Royalty per Copy

\$1,700

Licensee shall be responsible for all royalties due hereunder with respect to sales or other dispositions of Licensed Products to its Affiliates. Each payment of royalties pursuant hereto shall be accompanied by a statement setting forth (a) the number of Licensed Products sold, and (b) such additional details as may be necessary for the calculation of the royalty payment.

2. Payments. All payments by Licensee to CSHS shall be made in United States Dollars by check and shall be without set-off and free and clear of and without any deduction or withholding for or on account of any taxes, duties, levies, imposts or similar fees or charges. If any restrictions on the transfer of currency exist in any country or other jurisdiction so as to prevent Licensee from making payments to CSHS in the United States, Licensee shall take all reasonable steps to obtain a waiver of such restrictions or otherwise enable Licensee to make such payments, and if Licensee is unable to do so, Licensee shall make such payments to CSHS to a bank account or other depository designated by CSHS in such country or jurisdiction, which payments shall be in the local currency of such country or jurisdiction unless payment in United States Dollars is permitted. Any payment by Licensee to CSHS on the basis of sales of Licensed Products in currencies other than United States Dollars shall be calculated using the appropriate foreign exchange rate for such currency quoted in *The Wall Street Journal* for the close of business of the last banking day of the calendar quarter for which such payment is being made.

FEES, ROYALTIES AND PAYMENT

3. Minimum Royalties. Licensee agrees to pay for a minimum of twelve copies (12) for QGS software and the same minimum number of QPS software licensed hereunder during the first year of the Agreement and twenty-five (25) licenses for QGS software and the same minimum number of QPS software licensed hereunder for each year thereafter during the term of the Agreement. (There is no minimum requirement for BPGS software.) During the term of the Agreement, Licensee shall pay to CSHS a minimum royalty ("Minimum Royalty") for both the QGS and QPS software technologies within thirty (30) days of the end of each calendar quarter. During the first year after the First Commercial Release Date, the Minimum Royalty payable from and after that date shall be Five Thousand One Hundred Dollars (\$5,100) per calendar quarter for the QGS software and the same amount for the QPS software for a total of Ten Thousand Two Hundred Dollars (\$10,200). The Minimum Royalty payable one year after the First Commercial Release Date shall be Ten Thousand Six Hundred Twenty-Five Dollars (\$10,625) per calendar quarter for the QGS software and the same amount for the QPS software for a total of Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250). Each payment of the Minimum Royalty for each of the two referenced software technologies shall be credited on an ongoing basis against royalties payable for each particular software technology pursuant to Paragraph 2 hereof Accordingly, no royalty shall be payable for a particular software technology (e.g., QGS and/or QPS as the case may be) pursuant to Paragraph 2 hereof with respect to any particular calendar quarter for that software technology unless the aggregate amount of all royalties pursuant to Paragraph 2 hereof for that software technology through and including such calendar quarter exceeds the aggregate amount of all Minimum Royalty payments theretofore made for that particular software technology plus the Minimum Royalty payment for that software technology in such calendar quarter. Sales of QGS shall not be credited towards the minimum required sales of QPS and vice versa.

4. Late Payments. Any amount payable by Licensee to CSHS which is not paid within thirty (30) days of the invoice date shall bear interest at the rate which is the lower of (i) two percent (2%) over the rate of interest published in *The Wall Street Journal* as the "prime rate" as such "prime rate" is in effect from time to time or (ii) the highest rate permitted by applicable law, from the date such amount was due to the date such amount is paid. Neither the foregoing obligation to pay interest nor the acceptance of such interest shall in any way constitute any limitation or waiver of any of the rights or remedies of CSHS resulting from the failure of Licensee to pay in a timely manner any amount payable by Licensee to CSHS.

verified against
filed ex. 6/4/04

CONFIDENTIAL TREATMENT REQUESTED

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is made and entered into as of the 1st day of April, 2003, by and between CEDARS-SINAI HEALTH SYSTEM ("CSHS"), a d/b/a of CEDARS-SINAI MEDICAL CENTER, a California nonprofit public benefit corporation ("Medical Center"), and DIGIRAD CORPORATION, a Delaware corporation, ("Licensee"), with reference to the following facts:

A. CSHS has developed and is the owner of certain Technology (as such term is hereinafter defined) and has the right to grant licenses therein.

B. Licensee is desirous of obtaining from CSHS, and CSHS is willing to grant to Licensee, a non-exclusive license in and to the Technology and the Improvements (as such term is hereinafter defined) pursuant to the terms and conditions of this Agreement.

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

1. Definitions. The following terms shall have the following meanings for purposes of this Agreement:

1.1 Affiliates. "Affiliates" shall mean, with respect to any person or entity, any other persons or entities that, directly or indirectly, control, are controlled by or are under common control with such person or entity. For this purpose, "control" of an entity shall include, without limitation, having ownership of fifty-one percent (51%) or more of the voting shares (or equivalent) of such entity, or having the right to direct, appoint or remove a majority or more of the members of the board of directors (or equivalent) of such entity, or having the power to control the general management of such entity, by contract, law or otherwise.

1.2 Confidential Information. "Confidential Information" shall mean the confidential and proprietary information of either party hereto.

1.3 CSHS Parties. "CSHS Parties" shall mean CSHS, the Medical Center and its officers, directors, employees, representatives and agents, and each of their respective successors and assigns.

1.4 End User. "End User" shall mean a customer of Licensee authorized to use a Licensed Product for internal purposes only and not for further distribution.

1.5 First Commercial Release Date. "First Commercial Release Date" shall mean the date upon which CSHS and Licensee have reasonably agreed that the functional performance of the Technology has met the Specifications and on which Licensee shall have released and made the Licensed Products available to End Users; provided, however, that the First Commercial Release Date shall occur on or before February 1, 2003.

1.6 Improvements. "Improvements" shall mean any computer software which includes all or any part of, or is based in whole or in part on, the Technology, including but not limited to translations of the Technology to other foreign or computer

CONFIDENTIAL TREATMENT REQUESTED

languages, adaptations of the Technology to other hardware platforms, abridgments, condensations and revisions to the Technology and software incorporating all or any part of the Technology which may also include modifications created by Licensee in order to meet good manufacturing practices and the standards of the United States Food and Drug Administration ("FDA").

1.7 Licensed Products. "Licensed Products" shall mean any and all products that incorporate or utilize or are manufactured using any of the Technology or the Improvements.

1.8 Licensed Field of Use. "Licensed Field of Use" shall mean the use of the Technology and the Improvements on workstations manufactured by or on behalf of Licensee which are designed to acquire, process and/or display medical images.

1.9 New Products. "New Products" shall have the meaning set forth in Section 4 hereof.

1.10 Specifications. "Specifications" shall mean the specifications, performance standards and other descriptions of the Technology set forth on Exhibit A attached hereto.

1.11 Technology. "Technology" shall mean all computer programming code (in executable form only) and all related documentation and other written materials pertaining thereto relating to those portions of CSHS's software developed by CSHS and more fully described on Exhibit A attached hereto.

1.12 Territory. "Territory" shall mean all countries, states and geographic regions worldwide.

1.13 Updates. "Updates" shall mean all updates, upgrades, revisions and new versions of the software code developed by CSHS which result from problem corrections of the Technology and Improvements to the Technology.

2. Grant of License.

2.1 Grant. CSHS hereby grants to Licensee a non-exclusive license (including the right, subject to Section 2.2 hereof, to grant sublicenses) in the Technology and the Improvements, subject to the other terms and conditions set forth in this Agreement for the purposes of making, having made, using and selling Licensed Products in the Territory. Without limiting the generality of the foregoing, the license granted hereby shall include the following rights: (a) the right to use, test, modify, reproduce and develop the Technology with any associated documentation, to prepare Improvements, to incorporate the Technology or any Improvement into Licensed Products and to otherwise develop Licensed Products; (b) the right to make, have made, reproduce, use, market and distribute Licensed Products to End Users, directly or indirectly, through Licensee's distributors and other distribution channels in the Territory; and (c) the right to use the Technology or any Improvements in connection with maintenance services relating to Licensed Products.

CONFIDENTIAL TREATMENT REQUESTED

2.2 Sublicenses. Licensee shall have the right to grant sublicenses of the license granted pursuant to Section 2.1 hereof only to its Affiliates of Licensee and to End Users, provided that each sublicensee must agree in writing to be bound by and to observe the provisions of Section 2.3, 6, 10, 11, 12.2 and 12.3 of this Agreement. Licensee shall submit to CSHS a copy of each sublicense entered into hereunder promptly after execution thereof. As used in this Section 2.2, the term "sublicense" shall include the right of an Affiliate of Licensee to distribute or sell Licensed Products to End Users, subject to the provisions of Section 3 hereof. However, the term "sublicense" as used in this Section 2.2 shall not permit any End User to copy, distribute or sell any Licensed Products to other third parties, which is strictly prohibited hereunder.

2.3 Limitations to Grant.

(a) Limited to Licensed Field of Use. The license granted under Section 2.1 hereof shall not be construed to confer any rights upon Licensee to any intellectual property not specifically included in this Agreement, whether by implication, estoppel or otherwise. The license granted under Section 2.1 hereof is limited to the Licensed Field of Use.

(b) Non-Exclusive License. The license granted under Section 2.1 hereof is, and shall be, non-exclusive, and CSHS expressly retains the right to grant other licenses relating to the Technology and any Improvements to any third party on such terms as CSHS may, in its sole and absolute discretion, deem appropriate. CSHS also retains the right to use the Technology and any Improvements for clinical and research purposes.

(c) No Modification or Decompilation. Licensee shall not modify, disassemble, decompile, reverse engineer, recreate or generate any of the Technology or any portion or version thereof. Licensee shall not attempt any of the foregoing or aid, abet or permit any others to do so (including, without limitation, any of its Affiliates or any End Users).

(d) Copy Protection. Licensee, in exercising its rights set forth in Section 2.1(b) hereof, shall take all actions as CSHS may reasonably request to ensure that its Affiliates and End Users do not (i) take any of the actions set forth in Section 2.3(c) hereof, or (ii) duplicate, copy or otherwise distribute any Licensed Products provided to them. Licensee shall submit to CSHS a copy of all documentation prepared by Licensee to meet its obligations under this Section 2.3(d), and Licensee shall provide CSHS with a written report every six (6) months during the term of this Agreement containing the identity of all Affiliates holding Licensed Products and End Users, details of all sales of Licensed Products to such Affiliates and End Users and such other information as shall be reasonably requested by CSHS.

(e) Limited Rights with Respect to Code; No Competing Products. The license granted under Section 2.1 hereof is limited to the use of the executable code of the Technology solely in connection with the development of Licensed Products and Improvements by Licensee, and the performance of maintenance services relating to Licensed Products. Such license shall not include any right to transfer, license or otherwise dispose of the code of the Technology or any copies thereof, or to use such code to develop any software or products which are similar to or competitive with the Technology or any Improvements.

CONFIDENTIAL TREATMENT REQUESTED

(f) Trademarks; Trade Names of CSHS and Medical Center.

Nothing contained or construed to be contained in this Agreement shall constitute the grant by CSHS of any right, by way of license or otherwise, to Licensee to use any trademark or trade name of CSHS or the Medical Center without the prior written consent of CSHS or the Medical Center, which consent may be withheld by CSHS and the Medical Center in their sole and absolute discretion. All licenses relating to the Technology and Improvements conceived or first actually reduced to practice in the performance of experimental, developmental or research work funded in whole or in part by a United States governmental agency are subject to the rights, conditions and limitations imposed by the Patent and Trademark Amendments Act of 1980 (P.L. 96-517), as amended by Title V of P.L. 98-620 (1984), 35 U.S.C. §§200-212, and accordingly, the non-exclusive license granted hereunder may be held by the United States Government pursuant to 35 U.S.C. §202(c)(4). CSHS reserves the right in its sole and absolute discretion and without any consent from Licensee, to settle any interference involving the Technology and/or the Improvements by licensing the Technology and/or the Improvements, by filing a disclaimer or reissue application or in any other manner, and CSHS shall have the right to file with any appropriate governmental agency any agreement entered into in connection therewith.

3. Fees and Royalties. In consideration for the license granted by CSHS to Licensee pursuant to Section 2.1 hereof, Licensee shall pay to CSHS the fees and royalties set forth in Exhibit B attached hereto. The price established for the Licensed Product shall not exceed an amount of twice the royalty to be paid hereunder.

4. Updates. CSHS shall cause the Division of Nuclear Physics Medicine of the Medical Center to provide Licensee with all Updates developed during the term of this Agreement. Notwithstanding anything to contrary set forth herein, CSHS shall have no obligation to make available to Licensee any additional products which have no direct relationship to the Technology ("New Products"). Licensee shall not have any rights with respect to any New Products unless it has been granted the same by CSHS pursuant to a separate license agreement or an amendment to this Agreement, which separate license agreement or amendment shall contain such license fees, royalty payments and other terms regarding the New Products as may be negotiated by the parties.

5. Reports and Records.

5.1 Quarterly Earned Royalty Payment and Reports. Licensee shall provide CSHS with written reports and earned royalty payments within thirty (30) days after the end of each calendar quarter during the term of this Agreement. Each written report shall state the number and description of Licensed Products distributed during the preceding calendar quarter, and the resulting calculation of earned royalty payments due CSHS covered by such report, all in accordance with the provisions of Exhibit B attached hereto. Licensee shall provide such written reports whether or not any royalties are due to CSHS for the preceding calendar quarter.

5.2 Retention of Records. Licensee shall keep and maintain complete and accurate records and documentation concerning sales or other dispositions of Licensed Products in sufficient detail to enable the royalties payable hereunder by Licensee to be

CONFIDENTIAL TREATMENT REQUESTED

determined, and Licensee shall retain such records and documentation for not less than five (5) years from the date of their creation.

5.3 Inspection of Records. During the term of this Agreement and for a period of one (1) year thereafter, CSHS and its representatives and agents shall have the right, upon reasonable notice to Licensee and during regular business hours, to inspect the records and documentation required to be retained by Licensee pursuant to Section 5.2 hereof.

5.4 Costs of Inspection. The costs of any inspection pursuant to Section 5.3 hereof shall be borne by CSHS, unless as a result of such inspection it is determined that the amounts payable by Licensee to CSHS for any period are in error by greater than ten percent (10%), in which case the out-of-pocket costs of such inspection shall be borne by Licensee. CSHS shall report the results of any such inspection to Licensee, and Licensee shall promptly thereafter pay to CSHS the amount of any underpayment, and the amount of any overpayment shall be credited by CSHS against future amounts payable by Licensee to CSHS or if no future amounts are payable to CSHS within ninety (90) days of the report of the result of such inspection, then the amount of any overpayment shall be refunded to Licensee. In addition, Licensee shall pay interest on the amount of any such underpayment at a rate which is the lower of (a) two percent (2%) over the "prime rate" of interest as published in The Wall Street Journal from time to time, and (b) the highest rate permitted by applicable law, from the date such amount was underpaid to the date such payment is actually paid.

6. Title to the Technology; Marking; License to Copyright.

6.1 Title to the Technology. Licensee acknowledges that CSHS shall retain title to the Technology and all Improvements.

6.2 Marking. Licensee shall mark all Licensed Products (or their containers or labels) which are made, sold or otherwise disposed of by Licensee under the license granted pursuant to Section 2.1 hereof in such manner as is intended to protect or preserve CSHS's rights to the Technology and the Improvements as is customary in the market for the Licensed Products or in such a manner as CSHS may designate in writing to Licensee. Without limiting the generality of the foregoing, Licensee agrees that all copies of Licensed Products and related documentation made by Licensee pursuant to the license granted herein shall include a copyright notice in the following form: "© 2002 Cedars-Sinai Medical Center. All rights reserved." The copyright notice shall be affixed to all copies or portions thereof in such manner and location as to give reasonable notice to CSHS's claim of copyright.

6.3 License to Copyright and Patent (if any). The license granted under Section 2.1 hereof includes a license under CSHS's copyright in the Technology and any Improvement. In the event that the Technology or any Improvement becomes subject to or covered by, the allowed claims of any patent issued or assigned to CSHS, the license granted to Licensee hereunder shall be deemed to include a license under such patent to the extent necessary to permit Licensee to exercise its rights under this Agreement.

CONFIDENTIAL TREATMENT REQUESTED

7. Delivery of Materials; Testing; Governmental Approvals.

7.1 Delivery of Materials. Upon the execution and delivery of this Agreement by Licensee, CSHS shall deliver to Licensee one (1) copy of any relevant documentation, the object code (in executable form only) for the Technology as it currently exists. CSHS and Licensee shall thereafter exchange updates and enhancements to the Technology no less frequently than once per calendar quarter until the Technology has conformed to the Specifications. Thereafter, CSHS shall provide Licensee with relevant documentation and object code updates for the Technology upon corrections or improvements of the Technology's performance characteristics. The material delivered by CSHS to Licensee under this Section 7.1 shall contain the object code for the Technology in an executable form only and suitable for installation and use by Licensee, and shall include the full set of material comprising the Technology and complete program maintenance documentation, including all flow charts, schematics and annotations which constitute the pre-coding detailed design specifications, test plan with results and all other materials necessary to allow a reasonably skilled computer programmer or analyst familiar with the Technology to maintain or support the Technology without the help of any other person or reference to any other material. CSHS shall promptly supplement the object code materials delivered to Licensee under this Section 7.1 with all changes or additions so that the object code materials correspond fully to the most current version of the Technology during the term of this Agreement.

7.2 Testing. CSHS and Licensee shall jointly (a) test all Technology and Improvements for proper operation, and (b) perform any debugging on Technology and Improvements, and (c) CSHS shall make or suggest any corrections necessary for Technology and Improvements to achieve performance in accordance with the Specifications and acceptable commercial standards.

7.3 Governmental Approvals. Notwithstanding anything to the contrary set forth herein, CSHS shall have no obligation to obtain any domestic or foreign governmental approvals (including, without limitation, any approvals of the FDA) with respect to the Technology, Improvements or Licensed Product. Licensee shall be responsible for seeking and obtaining any necessary domestic and foreign governmental approvals (including, without limitation, any and all approvals of the FDA) with respect to the Licensed Products as Licensee shall deem appropriate. The failure by Licensee to obtain any governmental approval shall not be deemed a breach by Licensee of this Agreement.

8. Support. CSHS shall cause the Division of Nuclear Physics Medicine of the Medical Center to assist Licensee with the evaluation, maintenance and support of Licensed Products during the term of this Agreement. Such assistance will be limited to work performed on the original Technology, upgrades, revisions and new versions of the software code, and providing debugging and technical support services. In the event that the Division is unable to provide the assistance which may be reasonably necessary to Licensee during the term hereof, CSHS shall have no obligation to provide such assistance, and representatives of CSHS and Licensee shall meet to discuss whether or not any modifications of the terms of this Agreement are necessary.

CONFIDENTIAL TREATMENT REQUESTED

9. Milestones. Licensee shall have commenced marketing of the Licensed Products on or before the First Commercial Release Date. Further, Licensee shall satisfy the market demand for the Licensed Products during the term of this Agreement.

10. Compliance with Laws. Licensee shall conduct all activities pursuant to this Agreement in an ethical and businesslike manner and in substantial compliance with all applicable laws, rules and regulations of all applicable governmental authorities. Licensee shall provide to CSHS any data compilations, records, reports or other information regarding the Technology, the Improvements and/or the Licensed Products which CSHS may reasonably require for submission to any governmental authorities in order to comply with any applicable laws, rules or regulations.

11. Confidentiality.

11.1 Obligation. Each party acknowledges that this Agreement may require the disclosure by one party to the other party of its Confidential Information. Each party shall regard and preserve the Confidential Information of the other party as secret and confidential, and during the term of this Agreement and for a period of five (5) years thereafter neither party shall publish or disclose any Confidential Information in any manner without the prior written consent of the other party. Notwithstanding the foregoing, however, the parties agree that Licensee's obligation under this Section 11.1 with respect to the code for the Technology or any Improvement (to the extent they constitute "Confidential Information" hereunder) shall be unlimited in duration. Each party shall use the same level of care to prevent the disclosure of the Confidential Information of the other party that it exercises in protecting its own Confidential Information and shall, in any event, take all reasonable precautions to prevent the disclosure of Confidential Information to any third party.

11.2 Non-Confidential Information. The following shall not be considered to be Confidential Information: (a) information which is publicly known or which becomes publicly known through no fault of the receiving party; (b) information which is lawfully obtained by the receiving party from a third party (which third party itself lawfully obtained the Confidential Information and has no obligation of confidentiality); and (c) information which is in the lawful possession of the receiving party, as documented by the records of such receiving party, prior to such information having been initially disclosed by the disclosing party.

11.3 Publicity. Neither party shall, without the prior written consent of the other party, disclose to any third party the terms or conditions of this Agreement unless such disclosure is required under applicable law or in connection with the legal enforcement of this Agreement.

11.4 Injunctive Relief. Each party acknowledges that in the event of any breach or default or threatened breach or default by either party of Section 11.1 or Section 11.3 hereof, the other party may be irreparably damaged and that it would be extremely difficult and impractical to measure such damage, so that the remedy of damages at law would be inadequate. Consequently, each party acknowledges and agrees that other party, in addition to any other available rights or remedies and without the necessity of posting any bond or similar

CONFIDENTIAL TREATMENT REQUESTED

security, shall be entitled to specific performance, injunctive relief and any other equitable remedy for the breach or default or threatened breach or default of said Section 11.1 or Section 11.3, and each party waives any defense that a remedy at law or damages is adequate.

12. Representations and Warranties; Limitation on Damages.

12.1 Authority. Each party represents and warrants to the other party that this Agreement has been duly authorized, executed and delivered by it and that this Agreement is its binding obligation, enforceable in accordance with its terms, subject, as to enforcement of remedies, to applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, and to general equitable principles.

12.2 DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CSHS MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY EXPRESS OR IMPLIED WARRANTY THAT THE USE OF THE TECHNOLOGY OR THE MANUFACTURE, USE OR SALE OF ANY OF THE LICENSED PRODUCTS WILL NOT INFRINGE ANY PATENT, COPYRIGHT OR RIGHT OF ANY THIRD PARTY), OF ANY KIND OR NATURE WHATSOEVER.

12.3 LIMITATION ON DAMAGES. IN NO EVENT SHALL CSHS BE LIABLE FOR ANY LOSS OF OR DAMAGE TO REVENUES, PROFITS OR GOODWILL OR OTHER SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND RESULTING FROM CSHS'S PERFORMANCE OR FAILURE TO PERFORM ANY OBLIGATIONS UNDER THIS AGREEMENT, OR RESULTING FROM THE FURNISHING, PERFORMANCE, USE OR LOSS OF USE OF ANY PART OF THE TECHNOLOGY, IMPROVEMENTS LICENSED PRODUCTS, OR ANY DATA, INFORMATION OR OTHER PROPERTY OF LICENSEE, INCLUDING, WITHOUT LIMITATION, ANY INTERRUPTION OF LICENSEE'S BUSINESS, WHETHER RESULTING FROM BREACH OF CONTRACT OR BREACH OF WARRANTY, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. Indemnification and Insurance.

13.1 Indemnification. Licensee shall indemnify, defend and hold harmless the CSHS Parties from and against any and all claims, demands, lawsuits, actions, proceedings, liabilities, losses, damages, fees, costs and expenses (including, without limitation, attorneys' fees, and costs of investigation and experts (whether or not suit is filed)) resulting from or arising out of (a) the manufacture, use or sale of any of the Licensed Products or the exercise by Licensee of any right granted hereunder, including, without limitation, any liabilities, losses or damages whatsoever with respect to death or injury to any individual or damage to any property arising from the possession, use or operation of any of the Licensed Products by Licensee or any third party in any manner whatsoever (except to the extent such death, injury or damage arises directly from the failure or malfunction of the Technology or Improvements used by Licensee in accordance with this Agreement), or (b) any claim that Licensee's manufacture, use, sale or other disposition of the Licensed Products infringes or violates any patent, copyright

CONFIDENTIAL TREATMENT REQUESTED

or other right of any third party, except to the extent such alleged infringement or violation relates solely to the Technology or Improvements.

13.2 Insurance. Licensee shall maintain at all times during and after the term of this Agreement comprehensive general liability insurance, including product liability insurance, with reputable and financially secure insurance carriers and having commercially reasonable limits giving due consideration to the nature and extent of such activities and the risks inherent therein to cover the activities of Licensee contemplated by this Agreement. Any such insurance shall provide for no cancellation or material alteration except upon at least thirty (30) days' prior written notice to CSHS. Licensee shall timely provide CSHS with certificates of insurance evidencing such coverage.

14. Infringement.

14.1 Third Party Infringement. In the event that either party learns of facts which it concludes may constitute an infringement of any of the Technology or any Improvements by any third party during the term of this Agreement, the party learning of such facts shall promptly notify the other party in writing, setting forth such facts and the basis for its conclusion, and shall include with such notice any other reasonably available evidence in support thereof.

14.2 Procedure. CSHS shall have the right, but not the obligation, to take all appropriate action against the infringing party and CSHS shall pay all costs and expenses (including without limitation CSHS's attorneys' fees and costs of investigation and experts) incurred in connection with such action. Licensee, at its own expense, shall have the right to participate in, and, to the extent that it may wish, to jointly assume the prosecution of such action with counsel reasonably satisfactory to CSHS. If CSHS declines to take action, then Licensee shall have the right to take such action. In the event Licensee does elect to take action, Licensee shall pay or reimburse CSHS for all costs and expenses (including without limitation attorneys' fees and costs of investigation and experts) incurred by CSHS at either Licensee's request or as may be required in order for Licensee to pursue such action. Licensee shall obtain the consent of CSHS prior to settling any such action.

14.3 Proceeds. Any proceeds from any settlement or judgment of any infringement claim, action, suit or proceeding brought by CSHS shall be allocated and/or paid within thirty (30) days of receipt thereof as follows: (a) first to reimburse CSHS (and Licensee, *pari passu* to the extent that it has not otherwise been reimbursed for attorneys' fees, costs and expenses incurred in connection with participation in the prosecution of such infringement) for attorneys' fees and other costs and expenses reasonably incurred in connection with the prosecution or other efforts to terminate the infringement pursuant to the terms of this Agreement; and (b) thereafter, the remainder shall be divided equally between the parties.

14.4 Nominal Plaintiff. In the event any infringement action, suit or proceeding is brought hereunder by either party to enforce any rights in the Technology in the Territory, each party shall upon the written request of the other party, be named, joined and participate therein as a nominal plaintiff.

CONFIDENTIAL TREATMENT REQUESTED

14.5 Indemnification. CSHS shall indemnify, defend and hold harmless Licensee from and against any and all claims, demands lawsuits, actions, proceedings, liabilities, losses, damages, fees, costs and expenses (including, without limitation, attorneys' fees, and costs of investigation and experts (whether or not suit is filed)) resulting from or arising out of any claim that Licensee's use of the Technology or Improvements in accordance with this Agreement infringes or violates any patent, copyright or other intellectual property rights of any third party.

15. Term. This Agreement shall become effective on the date first above written and shall remain in effect until the later of (a) five (5) years after such date, or (b) the expiration date of the last to expire of any patents (if any) included in the Technology, unless sooner terminated pursuant to Section 17.1 hereof.

16. Termination.

16.1 Termination for Impossibility or Breach. This Agreement may be terminated at any time at the option of either party if action by any governmental authority renders impossible performance under this Agreement by either party. In addition, this Agreement may be terminated by either party if the other party breaches any material provision hereof (including without limitation any provision requiring payment by Licensee to CSHS), provided that termination may only take place if (a) the claiming party has given the breaching party written notice specifying the respects in which the claiming party claims this Agreement has been breached and (b) the breaching party fails to remedy such breach within thirty (30) days after receiving such notice.

16.2 Effect of Termination or Expiration. Upon the termination or expiration of the term of this Agreement, the license granted by CSHS to Licensee pursuant to Section 2.1 hereof shall terminate. Notwithstanding any termination or expiration of the term of this Agreement, Licensee shall be permitted to sell or otherwise dispose of all Licensed Products then in inventory and shall have the obligation to pay to CSHS all amounts which have accrued or shall accrue by reason of the sale of such Licensed Products. Licensee shall not be entitled to any refund of any amounts by reason of any termination or expiration of the term of this Agreement. Notwithstanding anything to the contrary set forth in this Agreement, in no event shall any rights afforded to End Users pursuant to Section 2.1(b) terminate as a result of expiration or termination of this Agreement for any reason.

17. Assignment. The rights and obligations of Licensee under this Agreement shall not be assignable without the prior written consent of CSHS (which consent may be granted or withheld by CSHS in its sole and absolute discretion) except in the event of a merger, consolidation or sale of substantially all of the assets of Licensee. In the event of any such merger, consolidation or sale of assets, CSHS shall have the right to approve or disapprove, on a reasonable basis, the use of any Licensed Products by the person or entity which is the successor-in-interest to Licensee. The rights and obligations of CSHS hereunder shall be assignable without the prior written consent of Licensee, upon written notice to Licensee.

18. Notice. Any notice or other communication hereunder must be given in writing and either (a) delivered in person, (b) transmitted by facsimile or telecopy mechanism

CONFIDENTIAL TREATMENT REQUESTED

provided that any notice so given is also mailed as provided herein, (c) delivered by Federal Express® or similar commercial delivery service or (d) mailed by certified mail, postage prepaid, return receipt requested, to the party to which such notice or communication is to be given at the address set forth on the signature page of this Agreement or to such other address or to such other person as either party shall have last designated by such notice to the other party. Each such notice or other communication shall be effective (i) when personally delivered, (ii) if given by telecommunication, when transmitted, (iii) if given by mail, seven (7) days after such communication is deposited in the mail and addressed as aforesaid, (iv) if given by Federal Express® or similar commercial delivery service, three (3) business days after such communication is deposited with such service using next business day delivery and addressed as aforesaid, and (v) if given by any other means, when actually delivered at such address.

19. Arbitration. Any disagreement or any question of determination of terms, interpretation, enforceability or validity arising under or relating to the provisions of this Agreement or the subject matter hereof shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and such arbitration shall be held in Los Angeles, California. The arbitrability of any such disagreement or question of determination shall likewise be subject to arbitration. The parties shall use their best efforts to cause any such arbitration to be completed as quickly as possible. The parties shall equally share the costs of the arbitrator(s), transcripts and any official translator(s). Any order, award or decision resulting from any such arbitration shall be final and binding upon the parties and shall be enforceable in any court of competent jurisdiction.

20. Governing Law. This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of California, except where such are governed exclusively by federal law.

21. Attorneys' Fees. In any arbitration or action between the parties seeking enforcement of any of the provisions of this Agreement, the prevailing party in such arbitration or action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorneys' fees.

22. Relationship of Parties. Each party shall conduct all business in its own name as an independent contractor. No joint venture, partnership, employment, agency or similar arrangement is created between the parties. Neither party has the right or power to act for or on behalf of the other or to bind the other in any respect, to pledge its credit, to accept any service of process upon it, or to receive any notices of any nature whatsoever on its behalf.

23. Severability. If any provision of this Agreement is determined to be illegal, invalid or otherwise unenforceable by a court of competent jurisdiction then, to that extent and within the jurisdiction in which it is illegal, invalid or unenforceable, it shall be limited, construed or severed and deleted from this Agreement, and the remaining extent and/or remaining portions hereof shall survive, remain in full force and effect and continue to be binding and shall not be affected except insofar as may be necessary to make sense hereof, and shall be interpreted to give effect to the intention of the parties insofar as that is possible.

CONFIDENTIAL TREATMENT REQUESTED

24. Entire Agreement. This Agreement (including all exhibits attached hereto which are herein incorporated by this reference) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, agreements, arrangements and understandings with respect to the subject matter hereof.

25. Interpretation. The normal rule of construction that an agreement shall be interpreted against the drafting party shall not apply to this Agreement. In this Agreement, whenever the context so requires, the masculine, feminine or neuter gender, and the singular or plural number or tense, shall include the others.

26. Amendment and Waiver. Neither this Agreement nor any of its provisions may be amended, changed, modified or waived except in a writing duly executed by an authorized officer of the party to be bound thereby.

27. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns.

28. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts together, shall constitute one agreement.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the day and year first above written.

“CSHS”:

CEDARS-SINAI HEALTH SYSTEM
Cedars-Sinai Medical Center
8700 Beverly Boulevard
Los Angeles, CA 90048-1865
Attn: Senior Vice President & CFO

Facsimile: (310) 423-0101

“LICENSEE”:

DIGIRAD, INC.

9350 Trade Place
San Diego, California 92126-6334
Attn: David Sheehan,
President & CEO
Facsimile: (858) 549-9789

By: /s/ Shlomo Melmed
Shlomo Melmed, M.D.
Senior Vice President for
Academic Affairs

By: /s/ David Sheehan
David Sheehan
President & CEO
Digirad Corporation

By: /s/ Edward M. Prunchunas
Edward M. Prunchunas
Senior Vice President for
Finance & CFO

CONFIDENTIAL TREATMENT REQUESTED

TECHNOLOGY AND SPECIFICATIONS

1. Technology.

General Description: All information, data and know-how, whether patentable or unpatentable, in whatever form or medium, relating to those portions of CSHS's software technologies known as: "Motion Correction Software" (MoCo)

2. Specifications.

[to be attached]

CONFIDENTIAL TREATMENT REQUESTED

FEES, ROYALTIES AND PAYMENTS

1. Royalties.

(a) Sales of MoCo to Third Party End Users. Licensee shall pay to CSHS royalties in the amounts set forth in the following table for the Licensed Products sold or otherwise distributed by Licensee during the term of the Agreement. Royalties shall accrue and be payable on a quarterly basis within thirty (30) days after the end of each calendar quarter in which a sale of Licensed Products occurs. (For the purposes of this section, the word "sale" shall mean the date on which the Licensee ships the Licensed Product to the particular End User.)

Royalties for individual software packages of MoCo and not sold as a part of a "Cedars Suite" (as such term is defined hereinafter) shall be as follows:

MoCo:

Amount of Royalty per Copy

\$1,500

(b) Sales of MoCo as a Part of a Cedars Suite License. The parties have a valid and existing License Agreement for, among other things, the QGS and QPS technologies dated May 22, 2001 ("QGS & QPS License") pursuant to which Licensee is obliged to pay certain royalty fees for such technologies. Pursuant to an Addendum to the QGS & QPS License, Licensee has the right to license the QGS, QPS and MoCo technologies as a suite ("Cedars Suite") at a discounted price of Four Thousand Dollars (\$4,000) for each Cedars Suite. It is understood and agreed that no additional royalty is due and payable by Licensee under this License for any such sales of MoCo as a part of a Cedars Suite.

(c) Use of MoCo by Licensee. The parties acknowledge that Licensee owns and operates forty-four (44) mobile cameras which are used to provide services at third party sites. Licensee intends to install MoCo on the mobile cameras in the first quarter of 2003. The total royalties for the forty-four (44) licenses is Sixty-Six Thousand Dollars (\$66,000) and shall be paid with the other royalty payments due and payable hereunder in four (4) equal installments of Sixteen Thousand Five Hundred Dollars (\$16,500) per quarter in 2003.

(d) Royalty Reports. Licensee shall be responsible for all royalties due hereunder with respect to sales or other dispositions of Licensed Products to its Affiliates. Each payment of royalties pursuant hereto shall be accompanied by a statement setting forth (a) the number of Licensed Products sold individually and as a part of a Cedars Suite license, (b) such additional details as may be necessary for the calculation of the royalty payment and (c) in the first four (4) quarterly reports, a statement confirming the royalty payments made for the mobile cameras as provided in subparagraph 1(c) above.

CONFIDENTIAL TREATMENT REQUESTED

FEES, ROYALTIES AND PAYMENTS

2. Payments. All payments by Licensee to CSHS shall be made in United States Dollars by check and shall be without set-off and free and clear of and without any deduction or withholding for or on account of any taxes, duties, levies, imposts or similar fees or charges. If any restrictions on the transfer of currency exist in any country or other jurisdiction so as to prevent Licensee from making payments to CSHS in the United States, Licensee shall take all reasonable steps to obtain a waiver of such restrictions or otherwise enable Licensee to make such payments, and if Licensee is unable to do so, Licensee shall make such payments to CSHS to a bank account or other depository designated by CSHS in such country or jurisdiction, which payments shall be in the local currency of such country or jurisdiction unless payment in United States Dollars is permitted. Any payment by Licensee to CSHS on the basis of sales of Licensed Products in currencies other than United States Dollars shall be calculated using the appropriate foreign exchange rate for such currency quoted in *The Wall Street Journal* for the close of business of the last banking day of the calendar quarter for which such payment is being made.

3. Late Payments. Any amount payable by Licensee to CSHS which is not paid within thirty (30) days of the invoice date shall bear interest at the rate which is the lower of (i) two percent (2%) over the rate of interest published in *The Wall Street Journal* as the "prime rate" as such "prime rate" is in effect from time to time or (ii) the highest rate permitted by applicable law, from the date such amount was due to the date such amount is paid. Neither the foregoing obligation to pay interest nor the acceptance of such interest shall in any way constitute any limitation or waiver of any of the rights or remedies of CSHS resulting from the failure of Licensee to pay in a timely manner any amount payable by Licensee to CSHS.

verified against
exh. filed 6/4/04

CONFIDENTIAL TREATMENT REQUESTED

10.5

DEVELOPMENT AND SUPPLY AGREEMENT

This Development and Supply Agreement ("Agreement"), is made and entered into as of June 18, 1999, and is effective as of the 18th day of June, 1999 (the "Effective Date") by and between Digirad Corporation, a Delaware corporation ("Digirad"), and QuickSil, Inc., a California corporation ("QuickSil").

WITNESSETH

WHEREAS, QuickSil and Digirad wish to jointly develop certain products and wish to have QuickSil supply these products to Digirad.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter expressed, the parties agree as follows:

1. DEVELOPMENT OF PRODUCTS

- (a) Gamma Product. Digirad and QuickSil shall continue to work together to develop and design a backside-illuminated photodiode (X by Y array) for Digirad's ClearSight gamma camera program (the "Gamma Device"). The Gamma Device shall have a thin backside N+ contact and field termination methodology that enables Digirad to achieve the specifications set forth on Exhibit A (the "Performance Specifications and Acceptance Criteria"). QuickSil will provide Digirad a detailed description of the current diode manufacturing process as well as a description of the experiments completed and underway to improve the backside contact within 14 days of the Effective Date.
- (b) Definition of Products. "Products" shall refer to the Gamma Device
- (c) Reliability. QuickSil will warrant the reliability of the product. Product reliability performance will be defined within 60 days of the Effective Date, but will conform to Mil Standard requirements for optical devices.
- (d) Product Quantity. "Product Quantity" equals the number of wafers that meet the Product Acceptance criteria specified in Exhibit A. Digirad and QuickSil shall work together to develop wafer probe and dicing capabilities for the Products to enable QuickSil to deliver good die that have passed the criteria defined in Exhibit A.
- (e) Reporting: QuickSil shall provide a written monthly report to Digirad which identifies the monthly development objectives, accomplishments against these objectives and a project schedule update. QuickSil shall also provide a weekly WIP (work-in-process inventory) status update and yield data (for tested wafers)

CONFIDENTIAL TREATMENT REQUESTED

for all product and experiments. This report should be sent to the VP Operations and MDE Manager.

- (f) Product Shipment Times. Digirad's orders shall be binding, to the extent set forth in Subsection 2(b); provided, however, Digirad shall be free to increase orders in any time period so long as QuickSil is given advance notice of the requested increase in production for a period greater than the Product Shipment Lead Time. The "Product Shipment Lead Time" target is 3 weeks during the Product's development phase. Products ordered pursuant to the provisions of Subsection 2(b) below shall be delivered to Digirad on time as specified in Subsection 2(b) and all additional orders shall be delivered to Digirad no later than after the order than the Product Shipment Lead Time.
- (g) Future Product. The parties will work together in good faith to develop a low-gain avalanche photodiode to be used in coincident imaging applications.

2. SUPPLY OF PRODUCTS

- (a) Supply Requirements. Pursuant to the terms of this Agreement and so long as QuickSil supplies Products meeting the specifications defined in the Performance and Acceptance Specifications defined in Exhibit A, Digirad shall purchase Products from QuickSil. Prior to the release of the Production Gamma Device as noted in Section 2(d), QuickSil and Digirad will expand the acceptance requirements in Exhibit A to include quality, customer service and updates to the Product Performance criteria.
- (b) Product Acceptance Criteria: The product shall meet the acceptance criteria ("Acceptance") set forth in Appendix A. Such criteria shall include, but not be limited to yield, visual inspection, and electrical performance, and production traveler and shall be provided to Digirad in writing with each product lot. The criteria set forth in Appendix A represents product acceptance in the product development phase, and will become more comprehensive prior to shipment of the production unit as noted in Section 2(d).
- (c) Forecasts and other Purchasing Requirements. Digirad shall notify QuickSil on a rolling monthly basis of its projected requirements for Products for the next 6 month period. The first three months of the forecast will be binding with respect to the rolling forecast. Digirad's initial purchase order will be placed for a three month period, then on a monthly basis, Digirad will submit a purchase order for the third months of the new forecast. The remaining three months forecast serve as Digirad's good faith estimate of future needs.
- (d) Initiation of Shipment. Production shipments of Gamma Devices shall begin in October 1999.

CONFIDENTIAL TREATMENT REQUESTED

- (e) Manufacturing Changes. QuickSil shall not make any changes to the manufacturing process or manufacturing location without the prior written approval of Digirad.
- (f) Conformance to Specifications and Laws. All Products supplied or delivered to Digirad under this Agreement shall be in compliance with (i) the Performance Specifications and (ii) all proper and accurate marking and label requirements under applicable laws, regulations and statutes. The Products shall (i) comply with all federal, state and local laws, rules and regulations; (ii) not be the subject of any notice directed specifically to QuickSil from any court or other competent governmental body with respect to the Products that such Products are in violation of any law, regulation, order, decree or ruling of or restriction imposed by any judicial, governmental or regulatory body or agency; (iii) fully comply with the quality and other relevant specifications required for the Products by the relevant registration and marketing approvals for the Products. Without limiting any claims or remedies available to Digirad under the terms of this Agreement, or under applicable law, QuickSil, shall promptly take all actions, legal and otherwise, to seek the replacement of defective or nonconforming Products supplied to Digirad under this Agreement.
- (g) Title, Risk of Loss and Damage. Title and risk of loss shall pass to Digirad when the Products are duly delivered to Digirad by a common carrier. Digirad shall give QuickSil written notice of any claimed shipping error or non-conformities within thirty (30) days after the date of shipment from QuickSil. Failure of Digirad to give such notice within such 60-day period shall be deemed a waiver of Digirad's claim for shortages or incorrect shipments.
- (h) Price. Prices for 1999 are detailed on Exhibit B attached hereto. For future years QuickSil and Digirad shall agree on pricing each December (for the following year) and such prices shall be effective for the next calendar year. In no event shall any price increase for the next year (in percentage terms) exceed the Consumer Price Index as measured by the U.S. Bureau of Labor statistics for the first six months of the current year.
- (i) Payment for Products. QuickSil shall invoice Digirad for Digirad's purchases at the time of each shipment. Such invoices shall be payable net thirty (30) days from shipment of Products to Digirad.
- (j) Technology Transfer and Escrow. In the event that either (i) QuickSil has an insolvency event (as defined in 6(b))(ii) files for Bankruptcy, (iii) QuickSil fails to produce the number of functional Products ordered by Digirad for more than sixty days (60) in any calendar year, or (iv) QuickSil is acquired by or merged into any company with whom Digirad determine in good faith competes in the nuclear medicine imaging market, then Digirad shall receive all rights to the technology used in the Products and all necessary information, data, know how, procedures, schematics, and specifications needed to produce the Products as described in Section 6 (b) (iii). The parties will take all actions and make all

CONFIDENTIAL TREATMENT REQUESTED

necessary assignment to facilitate such transfer of rights and information. In order to facilitate such a transfer, QuickSil shall place all such information with a reputable third party escrow agent pursuant to a mutually acceptable Technology Escrow Agreement within sixty days (60) of the execution of this Agreement.

3. OWNERSHIP

- (a) Digirad has licensed from Lawrence Berkeley National Laboratory ("LBNL") device and process technology (the "LBNL Technology") to make silicon photodiode detectors (the "Silicon Photodiode Detectors") suitable for backside illumination Gamma devices for use in the nuclear medical imaging field. The Silicon photodiodes manufactured by QuickSil for Digirad do not utilize the exact LBNL process flow, specific changes have been made to the process flow by QuickSil to enhance performance. Digirad has developed, and may further develop in connection with this Agreement, Photodiode Designs utilizing the LBNL Technology and Quicksil Process Technology that meet the requirements of the Gamma Device. As such, Digirad has contributed Device and Design Technology to the Product. Digirad expressly retains the rights, title and interest (including all patent rights, copyrights, trade secrets rights and other intellectual property rights) to Device and Product Design Technology previously developed and developed pursuant to this agreement.
- (b) QuickSil has contributed to this project process technology originally developed to reduce the resultant device dark current (increase effective device minority carrier lifetimes/diffusion lengths) and reduce and control the negative impacts of ion implant induced damage (P+ diffusion) and process induced contamination in the manufacture of such devices (Process Technology). Note that these and similar techniques have been routinely utilized at QuickSil as part of its process technology arsenal
- (c) QuickSil hereby grants Digirad a royalty free, non-exclusive, non-transferable license of the QuickSil Process Technology and any improvements or modifications for internal use only and expressly limited to the specific application field of building Gamma Devices in the nuclear medical imaging field. This License shall be limited to the terms of this Agreement, in accordance with the paragraphs 4 (a), 4 (b), and 6 (a), 6 (b), and 6 (c). QuickSil expressly retains for all purposes all rights to the Process Technology utilized at the inception of the Digirad project addressed in this agreement. QuickSil expressly retains the rights (including all patent rights, copyrights, trade secrets rights and other intellectual property rights) to Process Technology previously developed and that is developed pursuant to this agreement as set forth in paragraphs 4 (a), 4 (b), and 6 (a), (b), and (c) herein.
- (d) QuickSil agrees that it shall be required to negotiate directly with LBNL if it seeks to license the Design Technology for any field of use other than the nuclear medical field, or for customers other than and with Digirad. In no event shall any

CONFIDENTIAL TREATMENT REQUESTED

such effort to license violate paragraphs 4(a), 4(b), and 6 (a), (b), and (c) of this agreement.

4. EXCLUSIVITY

- (a) Noncompete. Digirad will have exclusive rights to this Technology in the Medical Device Imaging marketplace. The initial period of exclusivity will be for twenty four months (24), beginning January 1, 2000 through December 31, 2001 and during this term, QuickSil shall neither develop nor sell any photodiodes or other products containing photodiodes to any customer or third party (other than Digirad) engaged in or intending to engage in the production or sale of nuclear medicine imaging equipment, without written authorization from Digirad. During the fourth quarter of 2001 and of each following calendar year, QuickSil and Digirad will determine the number of wafers Digirad will purchase from QuickSil during the next calendar year to maintain exclusivity, but in no event shall the number of wafers be below 600 wafers per year. In the event that the parties are unable to agree on such volume after December 31, 2001, Digirad's rights to the technology will become non-exclusive.
- (b) Digirad Commitment. During the term of this Agreement Digirad shall order at least 90% of its annual requirements for Products from QuickSil. QuickSil will help Digirad work with other suppliers by supplying technical information which will allow Digirad meet its contractual commitments which require that Digirad have alternate suppliers capable of supplying all major components. Digirad anticipates that it will give between 1% and 10% of its annual Products orders to these other suppliers to ensure that the alternate suppliers are capable of producing Products. QuickSil will help to organize a second source for its wafer technology and will ensure that this second source has the required non-compete clause in their supply agreement.

5. CONFIDENTIALITY.

In order to aid in the fulfillment of the development and supply goals of the contract, both Digirad and QuickSil are conveying to each other and will in the future convey proprietary corporate information which each party has a significant interest in keeping protected and confidential. As a result, Digirad and QuickSil agree that:

- (i) The information furnished by one party shall not be used by the other party for any purpose, except to fulfill the obligations to the other party under this Agreement and such information will be kept confidential by the receiving party and shall not be disclosed to any third party; provided, however, that any such information may be disclosed to a receiving party's affiliates, officers and employees who need to know such information for the purpose of evaluating a possible collaboration between both parties. The one exception to this requirement is defined in Section 4(b), in which Digirad and QuickSil will disclose process technology to a second source wafer foundry.

CONFIDENTIAL TREATMENT REQUESTED

(ii) In addition, no party shall without prior written consent of the other party, disclose to any unaffiliated third persons that discussions or negotiations are taking place concerning a possible collaboration between the parties or any of the terms, conditions, or other facts with respect to any such possible collaboration including the status thereof.

(iii) The term "information" as used in the here above paragraphs and the nondisclosure obligations contained in this Agreement do not include information which:

1. is or becomes generally available to the public, other than as a result of a disclosure by a defaulting party;
2. was known by the other party prior to its disclosure by one party;
3. becomes available to a party on a non-confidential basis from a source other than the other party provided that such source is not bound by a confidentiality agreement with the other party;
4. is in the public domain;
5. is developed independently, as evidenced by appropriate documentation, by employees or agents or subcontractors of the receiving party who have not had access to the information;
6. is or becomes available to the receiving party by casual observance or analysis of products in the market; or
7. is disclosed pursuant to judicial order, a lawful requirement of governmental agency; or by operation of law, but then only to the extent so ordered; in such case the receiving party will use its best efforts to timely advise the disclosing party prior to disclosure and allow the disclosing party an opportunity to obtain protections preventing the disclosure of the information.

(iv) Information shall remain the exclusive property of the disclosing party. No license whatsoever is implied from this Agreement except the license for non-commercial use as expressly set forth above.

(v) All Information disclosed by either Party to the other party shall be deemed to be confidential unless it is disclosed in written form and stamped by the disclosing party with the words "Non-Confidential Information" or the like at the time of disclosure.

(vi) Each party commits to immediately return all information received from the other party and to destroy or erase any and all copies it may have, either at any time upon simple request or upon termination or expiration of the business relationship between the parties.

(vii) The confidentiality and non-use obligations contained in this Agreement shall survive for five years from the date information is disclosed under this Agreement.

6. TERM AND TERMINATION.

(a) Term. Unless terminated early as described in this Section 6(b), the contract shall terminate on December 31, 2004. This Agreement shall automatically renew for successive one year periods so long as Digirad places its forecast pursuant to subsection 2(c) on or about July 31 (e.g., when Digirad places an order and it is accepted by QuickSil on July 31, 2004, this Agreement shall automatically be renewed until December 31, 2005.) However, the non-compete provisions of Section 4(a) above shall not apply in any given year beyond December 31, 2001 unless both Digirad and QuickSil both agree on the minimum number of Products that Digirad must purchase in a given year for Section 4(a) to continue in force.

(b) Early Termination. This Agreement may be terminated at any time upon the occurrence of any of the following events:

(i) Default. Sixty (60) days following written notice by the performing party to the other party in the event that the other party breaches any material provision of this Agreement and has not cured such breach within such sixty day (60) notice period.

(ii) Insolvency. Immediately upon written notice by either party to the other party upon (i) the insolvency of the other party, or the appointment of a receiver by the other party, or for all or any substantial part of its properties, provided that such receiver is not discharged within sixty (60) days of his appointment; (ii) the adjudication of the other party as a bankrupt; (iii) the admission by the other party in writing of its inability to pay its debts as they become due; (iv) the execution by the other party of an assignment for the benefit of its creditors, or (v) the filing by the other party of a petition to be adjudged a bankrupt, or a petition or answer admitting the material allegations of a petition filed against the other party in any bankruptcy proceeding, or the act of the other party in instituting or voluntarily being or becoming a party to any other judicial proceeding intended to effect a discharge of the debts of the other party, in whole or in part (an "Insolvency Event").

(iii) Acquisition. In the event that QuickSil is acquired by or merged into another entity or that more than fifty percent of its voting stock is acquired through one or a series of transactions, then QuickSil must give notice to Digirad of the completion of such event. If QuickSil is acquired by or merged into an entity with whom Digirad in good faith determine competes in the nuclear medicine imaging market, Digirad shall have the right to terminate this Agreement at anytime during the 90 day period immediately following its receipt of such notice. In the event Digirad terminates this agreement, pursuant to the preceding sentence, Digirad shall retain exclusive rights to the technology used in the Products and all necessary information, data, know how, procedures, schematics, and specifications needed to produce the Products until Dec 31, 2004, unless the Agreement is earlier terminated by QuickSil pursuant to section 6(b) (i)

CONFIDENTIAL TREATMENT REQUESTED

or (ii). At the end of the term, the right to the technology used in the Product and required information become non-exclusive.

- (c) Survival. Termination under this Agreement shall not relieve any party of its obligations or liability for breaches of this Agreement incurred prior to or in connection with termination.

7. INDEMNIFICATION

- (a) Indemnification by QuickSil. QuickSil will indemnify and hold Digirad harmless against any and all liability, damage, loss, cost or expense (including reasonable attorney fees) (collectively, "Liabilities") resulting from any third party claims made or suits brought against Digirad (excluding incidental or consequential damages suffered or incurred by Digirad directly as opposed to incidental or consequential damages suffered or incurred by third parties who are, in turn, seeking the same from Digirad, which shall be covered by the indemnity set forth, herein) which arise from QuickSil's breach of its obligations hereunder, or QuickSil's gross negligence or willful misconduct, except to the extent caused by Digirad's gross negligence, willful misconduct or breach of Digirad's obligations hereunder.
- (b) Indemnification by Digirad. Digirad will indemnify and hold QuickSil harmless against any and all liability, damage, loss, cost or expense (including reasonable attorney fees) (collectively, "Liabilities") resulting from any third party claims made or suits brought against QuickSil (excluding incidental or consequential damages suffered or incurred by QuickSil directly as opposed to incidental or consequential damages suffered or incurred by third parties who are, in turn, seeking the same from QuickSil, which shall be covered by the indemnity set forth, herein) which arise from Digirad's breach of its obligations hereunder, or Digirad's gross negligence or willful misconduct, except to the extent caused by QuickSil's gross negligence, willful misconduct or breach of QuickSil's obligations hereunder.
- (c) Costs of Indemnification. If either party expects to seek indemnification from the other under Sections 6(a) or 6(b) it shall promptly give notice to the other party of any such claim or suit threatened, made or filed against it which forms the basis for such claim of indemnification and shall cooperate fully with the other party in the defense of all such claims or suits. No settlement or compromise shall be binding on a party hereto without its prior written consent.

8. GENERAL PROVISIONS

- (a) Notices. Any notices permitted or required by this Agreement shall be sent by telex or telecopy or by certified or registered mail and shall be effective when received if sent and addressed as follows or to such other address as, may be designated by a party in writing:

CONFIDENTIAL TREATMENT REQUESTED

If to QuickSil:

QuickSil, Inc.
1971 N. Capital Ave.
San Jose, CA 95132

Attention: Dr. Luc Bauer
Fax Number: (408) 935-7813

If to Digirad:

Digirad, Inc.
9350 Trade Place
San Diego, CA 92126

Attention: Scott Huennekens
Fax Number: (619) 549-7714

with a copy to:

Brobeck, Phleger & Harrison, LLP
550 West C Street, Suite 1300
San Diego, CA 92101-3532

Attention: Martin Nichols, Esq.
Fax Number: (619) 234-3848

- (b) Entire Agreement; Amendment; Consents The parties hereto acknowledge that this Agreement sets forth the entire agreement and understanding of the parties and supersedes all prior written or oral agreements or understandings with respect to the subject matter hereof. No modification or amendment of any of the terms of this Agreement, or any amendments thereto, shall be deemed to be valid unless in writing and signed by all the parties hereto. No course of dealing or usage of trade shall be used to modify the terms and conditions herein.
- (c) Waiver. No waiver by either party of any default, right or remedy shall be effective unless in writing, nor shall any such waiver operate as a waiver of any other or the same default, right or remedy on a future occasion.
- (d) Assignment. This Agreement shall be binding upon and inure to the benefit of the successors or permitted assigns of each of the parties and may not be assigned or transferred by QuickSil without the prior written consent of Digirad, which consent will not be unreasonably withheld.

CONFIDENTIAL TREATMENT REQUESTED

- (e) No Third-Party Rights. No provision of this Agreement shall be deemed or construed in any way to result in the creation of any rights or obligations in any other individual, group, entity or organization not a party to this Agreement.
- (g) Further Assurance. Each party hereby agrees to duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including, without limitation, the filing of such additional assignments, agreements, documents and instruments, that may be necessary or as the other party hereto may at any time and from time to time reasonably request in connection with this Agreement.
- (i) Force Majeure Events. Failure of any party to perform its obligations under this Agreement shall not subject such party to any liability to the other if such failure is caused by acts such as but not limited to acts of God, fire, explosion, flood, drought, war, riot, sabotage, embargo, strikes, compliance with any order or regulation of any government entity acting with color of right promulgated after the dates hereof. Upon occurrence of an event of force majeure, the party affected shall promptly notify the other in writing, setting forth the details of the occurrence, and making every attempt to resume the performance of its obligations as soon as practicable after the force majeure event ceases.
- (j) Attorneys' Fees. Each party shall bear its own attorney's fees for the negotiation, execution and performance of this Agreement. In the event it becomes necessary for either party (or any of its affiliates) to institute any action at law or in equity (or in arbitration pursuant to the requirements of this Agreement) against the other party to enforce its rights hereunder, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, court costs and expenses relating to such action.
- (k) Arbitration. The parties hereby agree that the proper venue and forum for all disputes under this Agreement is binding arbitration before a neutral arbitrator mutually acceptable to both parties and such arbitration to be conducted in San Diego California pursuant to the rules of the American Arbitration Association.
- (l) Governing Law. The validity, interpretation and effect of this Agreement shall be governed by and construed under the laws of the State of California without regard to principles of conflict of laws.
- (m) Severability. If any term or provision of this Agreement shall violate any applicable statute, ordinance or rule of law in any jurisdiction in which it is used or otherwise be unenforceable, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.
- (n) Headings, Exhibits. The headings used in this Agreement are for convenience only and are not a part of this Agreement. All exhibits references herein are hereby made a part of this Agreement.

CONFIDENTIAL TREATMENT REQUESTED

- (o) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same original.
- (p) Relationship of Parties. The relationship of the parties under this Agreement is that of independent contractors. Nothing contained in this Agreement is intended or is to be construed so as to constitute the parties as partners, joint venturers, or any party as an agent or employee of the other. No party has any express or implied right under this Agreement to assume or create any obligation on behalf of or in the name of any other party, or to bind any other party to any contracts, agreement or undertaking with any third party, and no conduct of the parties shall be deemed to infer such right.
- (q) Survival: Section 3, Section 5, Section 7 and Section 8 shall survive the termination of this agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CONFIDENTIAL TREATMENT REQUESTED

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly-authorized representatives effective as of the date and year set forth above.

QUICKSIL, INC.

By: /s/ Laura Bauer

Laura Bauer

Its President and CEO

DIGIRAD CORPORATION

By: /s/ Scott Hennekens

Scott Hennekens

Its President & CEO

[SIGNATURE PAGE TO DEVELOPMENT AND SUPPLY AGREEMENT]

EXHIBIT A**Gamma Product Photodiode Wafer Performance Specification**

Test Levels:

- 05 - Spot-Check (8 Dice per Wafer), Thick Getter Poly Back
- 10 - Spot-Check (8 Dice per Wafer), Etch-Thinned Back Contact Layer
- 20 - 100% Test, Etch-Thinned Back Contact Layer
- 22 - 100% Retest, Etch-Thinned Back Contact Layer, Post-Anneal
- 80 - Stage in process not listed above
- 0 - 100% Test, Thick Getter Poly Back

Conditions:

Test Temperature: 25C nominal

Illumination: None (Dark)

Test Voltage: 60V Reverse Bias; $V_{\text{pixel}} = V_{\text{guard}} = V_{\text{gs}} = -60\text{V}$

Wafer	Device			Bin		I _{pixel} Criteria		I _{guard} Criteria						
	P/N	P/N	ID	GDPW	No.	Category	I _{pixel} = I _{gs} Range	# of Pixels	I _{pixel} = I _{gs} Range					
					01	PASS	$10 < I_{\text{pixel}} \leq 60$ pA	16	0.01	<	I _{guard}	≤	5.0	n/A
105441	105442	CS02NS												
			37 to 39		02	Marginal	$10 < I_{\text{pixel}} \leq 60$ pA $60 < I_{\text{pixel}} \leq 80$ pA	15 11	0.01	<	I _{guard}	≤	5.0	n/A
503453	503454	CS02NM												
					03	FAIL	All I _{pixel} & I _{guard} combinations not falling in Bin 01 or 02							

Gamma Product Acceptance Criteria

Wafer and Lot Rejection:

Wafer Rejection: standard wafers with yield (NDPW/GDPW) < 15% at Test Level 20 are to be rejected (MDPW or ZERO wafer)

Lot Rejection: standard lots with aggregate yield (NDPL/GDPL) < 30% at Test Level 20 are to be rejected (MYLD or ZERO lot)

EXHIBIT B**1999 Wafer Pricing**

Wafers shipped per month	Product	Price per wafer
100	Gamma Products	\$400
200	Gamma Products	\$350
400	Gamma Products	\$305

2002 Pricing

Wafers shipped per month	Price per Die
200	10
300	9
400	8.5

2003 Pricing

Wafers shipped per month	Price per Die
200	9
300	8
400	7.5

2004 Pricing

Wafers shipped per month	Price per Die
300	8
400	7
500	6.5

AGREEMENT FOR SERVICES

10.25

THIS **AGREEMENT FOR SERVICES** is made and entered into on the 5th day of May, 2003, but effective for all purposes as of the 1st day of April, 2002 (the "Effective Date"), by and between **DIGIRAD IMAGING SOLUTIONS, INC.**, a Delaware corporation (the "Client" or "DIS"), and **MBR AND ASSOCIATES, INC.**, a Florida corporation ("MBR").

WHEREAS, MBR is a corporation engaged in the business of providing certain management, financial, billing, collection, accounting, bookkeeping, regulatory compliance, and other related consulting financial services for healthcare clients (generally, the "Services"); and

WHEREAS, the Client is in the healthcare business and has engaged MBR in the past to provide certain selected Services to the Client, and the Client and MBR are willing to continue their business relationship on the terms and conditions set forth herein beginning as of the Effective Date.

NOW, THEREFORE, in consideration of the premises and of the promises and agreements of the parties set forth below, and for other good and valuable consideration, the parties agree as follows:

1. **SERVICES TO BE RENDERED:**

A. As part of the compensation set forth in section 2.A., MBR agrees to provide billing and collections services, up to and including the following designated Services to and for the Client:

- (1) Prepare and submit insurance claims to Medicare and other third party payors, as applicable, and bill patients for applicable copayments.
- (2) Prepare and submit bills to all customers, including physicians, medical groups, facilities, hospitals, MSO's and other customers;
- (3) Print and mail statements;
- (4) Provide month-end billing reports;
- (5) Provide HCFA/CMS Forms, envelopes, statements, and return envelopes;
- (6) Update procedure codes;
- (7) Post payments and adjustments;
- (8) Make bank deposits into Client's account;
- (9) Review outstanding accounts and advise Client of status;

CONFIDENTIAL TREATMENT REQUESTED

- (10) Respond to telephone and other inquiries relating to billing and collection services;
- (11) Enter charge data;
- (12) Notify Client immediately in writing of any notices of audit, requests for medical records or other documentation or information out of the normal course of business from representatives of Medicare, Medicaid or private payors, or of any significant pattern of payor denials or downcodings;
- (13) Assist the Client with any reviews or audits of claims submitted or billing practices by a federal, state or local regulatory agency or their contractors which occur in the normal course of business. Additional consulting services required for any extraordinary audits will be provided under Section 1.C;
- (14) Provide electronic and physical reports and access to data, at a detailed level, in order to properly account for each transaction, credits and adjustments. All information and access will be agreed upon by both parties;
- (15) Adopt and comply with a compliance plan, which is consistent with the OIG's Compliance Program Guidance for Third Party Billing Companies, to insure that MBR and MBR's employees abide by all applicable federal and state statutes, regulations, and rules relating to (i) its billing and collecting for all applicable services hereunder, and (ii) maintaining the privacy and confidentiality of patient medical information in its possession;

B. In addition, as part of the compensation set forth in section 2.B., MBR agrees to periodically prepare a list of accounts which, in its judgment, are uncollectible, or in need of collection action. Upon receipt of such list, the Client shall have the opportunity to advise MBR as to which accounts on said list are to be transferred to a collection agency, and MBR will follow any instructions given, or take such actions as it deems proper if no instructions are given within five (5) days of the list being delivered to the Client. MBR shall select the collection agency, including itself, to which such accounts shall be transferred provided that the Client shall retain the right to approve or disapprove such selection on a reasonable basis. MBR shall monitor the actions of the collection agency and provide monthly status summaries to the Client with any recommendations as to bad debt write offs. MBR shall negotiate a market fee with the selected collection agency (including MBR, but with Client approval) for collecting such accounts, and MBR will not be entitled to any fee under section 2.A. with respect to any amounts collected by such collection agency.

C. In addition, as part of the compensation set forth in section 2.B., MBR agrees to provide the Client with consultation services in the following areas: regulatory compliance (including but not limited to Medicare compliance), managed care contracting, and

CONFIDENTIAL TREATMENT REQUESTED

credentialing of providers. All such consulting services shall be requested at the sole discretion of the Client, in writing and may include items as listed below:

- (1) Prepare and update Medicare 855 enrollment forms with information provided by Client;
- (2) Assist and consult the Client with any extraordinary reviews or audits by a federal, state or local regulatory agency or their contractors beyond responding to normal course of business assistance as listed under Section 1.A.

D. During the term of this Agreement, MBR may retain Client's records in a secure off-site storage facility. Upon termination or expiration of this Agreement, Client will notify MBR of where to have its records delivered after the ninety-day collection period. MBR will not be responsible for these records after delivery to the Client.

2. **COMPENSATION TO MBR:** The Client agrees to pay MBR as follows (all of which fees may be retained by MBR directly from collections received on behalf of the Client):

A. For Services under Section 1.A. above, (i) four percent (4%) of actual revenues collected (net of refunds, recoupments and prepayments) up to \$20 million, plus (ii) three and one-half percent (3-1/2%) of actual revenues collected (net of refunds, recoupments and prepayments) over \$20 million and up to \$30 million, plus (iii) three percent (3%) of actual revenues collected (net of refunds, recoupments and prepayments) over \$30 million. Both the Client and MBR will diligently work to further reduce the average days-sales-outstanding (DSO), targeting an average level of no more than 70 days. The Client and MBR will review the DSO progress on a quarter basis and assess areas of improvement. The Client and MBR, collectively, will establish a financial objective and DSO minimum threshold, starting April 1, 2004.

B. For Services under Section 1.C. above and anything outside the other services listed in Section 1, \$95.00 per hour for senior employees, listed on Exhibit A and \$45.00 for other employees, plus reimbursement of MBR's direct expenses (including travel, room and board, telephone calls, courier charges, equipment, and outside consultants) with respect to such Services. All such services are to be pre-approved, in writing by the Client.

C. Special projects as agreed between the parties.

MBR will submit monthly or more frequent statements for its Services under this Agreement. All amounts billed to the Client under this Section 2 are due and payable by the Client to MBR within forty-five (45) days from the Client's scheduled month-end for the Services performed (or cash collected) by MBR since the prior scheduled month-end, provided that in no event shall payment be due less than ten (10) days from the date the invoice is received. Invoices that are not paid when due will incur a late charge of 1-1/2% per month (or part thereof) of the amount due, except that interest shall not accrue on any amount which is reasonably disputed, provided that all undisputed amounts are paid. In the event any refund or recoupment occurs after MBR has been paid for such Services, Client shall be entitled to a refund of the fees paid for such Services,

CONFIDENTIAL TREATMENT REQUESTED

which refund shall be credited to next bill or recoupment, not to exceed 30 days, otherwise, refund is to be repaid to Client within thirty days of such refund or recoupment.

In addition to the foregoing, MBR shall be reimbursed for its out-of-pocket expenses for postage and overnight courier and delivery charges that are incurred by MBR in connection with sending and receiving information for and behalf of Client in connection with MBR's performing the services described in Section 1, including, without limitation, for billing and collection purposes.

3. **TERM:** The initial term of this Agreement shall be for three (3) years from the Effective Date, and thereafter the term shall automatically renew for consecutive one (1) year terms unless either party, upon ninety (90) days written notice prior to the end of the current one-year renewal term, informs the other party of its intention to terminate the Agreement at the end of the current term. Either party shall have the right to terminate this agreement at anytime, without cause, upon one-hundred eighty (180) days written notice, but no such notice shall be given prior to October 1, 2003. MBR shall have the right to bill and collect for all of the Services performed by MBR until the actual date of termination, and MBR agrees to remain available to render such Services for the compensation set forth in Section 2 for up to one hundred eighty (180) days after expiration of the ninety (90) day notice period and to cooperate on a reasonable basis to facilitate a smooth transition of such Services to the Client or to another person designated by the Client. MBR shall be entitled to its fees on all Services performed by MBR, including with respect to collections on accounts that were billed by MBR prior to termination, but received within one hundred twenty (120) days after being billed by MBR.

After the termination of this Agreement and the payment of all amounts due MBR, billing and management information and related nonproprietary software, including, without limitation, PCN licensed software (if and only if Client has PCN licensed software) shall be sent to Client with a back-up tape and printed report. A back-up tape of all billing information relating to this Agreement shall be prepared and stored in a safe place by MBR on a weekly or more frequent basis. Client, at its expense, reserves the right to review and audit MBR's billings and collections infrastructure, back-up process and any other processes deemed to be more than di minimis in nature and relating to the Client's relationship with MBR. Such review and audit shall be at a time mutually agreed upon by both parties, which agreement shall not be unreasonably withheld.

4. **EXPENSES AND LICENSES:** Each party is responsible for obtaining and maintaining, at its expense, all licenses, permits, or other items necessary to conduct its business, including all required insurances and bonding.

5. **NON-SOLICITATION; NO HIRING:** Both parties agree that during the term of this Agreement, and for ninety (90) days thereafter, regardless of the reason for the termination, neither party (or any affiliate of a party) will hire, or attempt to hire, or solicit for employment, any employee or independent contractor of the other party used in performing the Services.

6. **CONFIDENTIALITY:** Both parties mutually recognize and acknowledge that the clients, services, and methods of operation are valuable, special, and unique assets of such business. The parties further recognize and acknowledge that all business information,

CONFIDENTIAL TREATMENT REQUESTED

proprietary files, records, analyses, compilations, studies or opinions, financial statements, customer lists, lists of business acquaintances, processes, techniques, services, intellectual property, programming, techniques of application, concepts, purchasing, accounting, marketing, selling, recording of any activity disclosed to each other in connection with MBR's performance under this Agreement are confidential information. Both parties shall keep in strict secrecy and confidence all information that each part assimilated or obtained or to which either party had access during the term of this Agreement for any reason or purpose without the prior written consent of the other party. These terms and conditions shall survive the term of this Agreement.

Each party shall keep confidential all information relating to billing and financial information with respect to the Client and its affiliates, except to the extent reasonably needed to facilitate the services to be rendered under this Agreement or as required by law.

Each party shall comply with all applicable federal and state statutes, regulations, and rules relating to privacy and confidentiality of patient medical information.

7. **INSURANCE**: At all times during the term of this Agreement, MBR shall, at its expense, obtain, keep in force and maintain (i) workers' compensation and (ii) comprehensive or commercial form general liability insurance and errors and omission (contractual liability included) in a form and with an insurance carrier satisfactory to Client, with coverage limits (in the case of the general liability insurance) of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate. If the above insurance is written on a claims-made form, it shall continue for no less than three (3) years following termination of this Agreement. The coverage and limits described above shall in no way limit any liability of MBR. To the extent available without significant surcharge, MBR will cause Client to be named as an additional insured on MBR's general liability insurance policy. As evidence of MBR's coverage, MBR shall furnish to Client certificates of insurance under these policies prior to the effective date and annually thereafter, which shall include a provision for at least a thirty (30) day prior written notice of cancellation or reduction directed to the attention of both Client and the Compliance Officer. MBR shall maintain and provide Client with evidence of a minimum of One Million Dollars (\$1,000,000) fidelity bonding for itself and its employees and Client Personnel involved in the handling of accounting for the monies of Client. The Client shall furnish MBR proof of general liability insurance, errors and omissions insurance, directors insurance and fidelity bonding.

8. **PERSONNEL**: All personnel providing Services hereunder shall be trained and qualified to perform their applicable duties, and none of them shall be excluded or suspended from Medicare, Medicaid or any other governmental payment program. MBR shall notify Client in the event of the exclusion or suspension of any such personnel whereupon, Client shall have the options of demanding that the affected person(s) be removed immediately, whereupon if MBR does not do so within Thirty (30) days, Client may terminate this Agreement upon written notice.

9. **BREACH**: If either party commits a material breach of this Agreement, then the other party may give written notice specifying the nature of the breach. If the party receiving such notice does not substantially remedy such breach within twenty (20) business days after its receipt of such notice, then the party who has sent such notice shall have the right immediately to

CONFIDENTIAL TREATMENT REQUESTED

terminate this Agreement and/or to seek appropriate remedies as provided in this Agreement or otherwise.

10. CLIENT'S OBLIGATIONS:

A. The Client agrees to make available to MBR all records necessary for performing the Services hereunder. The Client will communicate with MBR, in a timely manner, as reasonably necessary for MBR to perform the Services hereunder, provided that all such communications between the parties will be in writing.

B. The Client covenants that the patient account card submitted for billing and collection will contain all billing information required for the completion and submission of claims, including, but not limited to, current patient name and address, code numbers, procedure, time, face sheet and insurance card copies, etc., and including other information necessary in the billing and collection procedures.

C. The Client agrees to maintain a checking account reasonably acceptable to MBR to be exclusively for business purposes and into which collections made hereunder shall be deposited.

D. The Client agrees that MBR is its exclusive agent for billing and collecting its accounts and that it will provide to MBR all accounts accumulated in its business during the term of this Agreement for processing by MBR. Client agrees to provide the complete information necessary to bill each physician flat fee contract, leased physician client, and/or patient/physician mixed billing method, including, but not limited to, current patient name and address, copy of insurance cards front and back, written procedures, CPT codes, HCPCS codes, ICD9M codes, time and date of service and other information available to Client and necessary in the billing and collection process. Any information delivered not in compliance shall require the respective facility to be called or returned to Client for completion.

E. The Client authorizes MBR to provide training to the employees of Client, identified by Client, who are responsible for data collection, copying, and forwarding to MBR. Such training will be part of the set-up cost and be provided at no additional cost to the Client's employees at the time of execution of this Agreement. If the Client hires or replaces staff who require training, the additional training will be billed at the rate of \$30.00 per hour, plus expenses.

F. The Client agrees that it will not market, broker, sell, or re-sell MBR's services to any other person (including, without limitation, customers or clients of the Client) without MBR's prior written consent.

11. CLIENT'S REPRESENTATIONS: Client represents, warrants, and covenants that:

A. Client is duly organized and exists in good standing under the laws of the State of Delaware and is qualified to do business in each state in which Client is required to be so qualified.

CONFIDENTIAL TREATMENT REQUESTED

B. Neither the execution nor the consummation of the transactions contemplated by this Agreement will conflict with or result in a breach of performance required by the provisions for any other agreement or contract to which the Client is a party.

C. Client has adopted a compliance plan or plans to insure that Client and Client's employees abide by all applicable federal and state statutes, regulations, and rules relating to (i) its providing or arranging for healthcare services, (ii) its marketing to its customers and prospective customers, (iii) its billing and collecting for all such services, and (iv) maintaining the privacy and confidentiality of patient medical information in its possession.

D. Throughout the term of this Agreement, Client and Client's employees shall comply with its compliance plan or plans and with all applicable federal, state, or local laws governing its business and professional practice and employees.

E. Throughout the term of this Agreement, all of Client's personnel providing information or working with MBR in connection with the Services hereunder, shall be trained and qualified to perform their applicable duties. None of Client's personnel shall be excluded or suspended from Medicare, Medicaid or any other governmental payment programs.

F. None of Client's employees, contractors, clients, or customers is, has been, or will be, during the term of this Agreement, excluded or suspended from Medicare, Medicaid, or any other governmental payment program. The Client will include in its contracts with all physicians under which MBR shall bill and collect for such services entered into after April 15, 2003 physician representation language that the physicians and any of their participating personnel in the services under contract, are not excluded or suspended from Medicare, Medicaid or any other governmental payment programs.

12. **INDEPENDENT CONTRACTOR STATUS:** It is understood and agreed that the services of MBR have been and will be rendered as an independent contractor and not as an employee, agent, or representative of Client. In this regard, neither MBR nor any of its employees or agents shall be deemed for purposes of this Agreement to be employed by Client for purposes of any tax or contribution levied by the Federal Social Security Act or any corresponding state law with respect to employment or compensation for employment, and MBR will file all forms and pay all taxes and other amounts required of an independent contractor.

MBR shall have complete control over its method of providing services, subject to the requirements of this Agreement and applicable law. Client will not exercise direct or implied authority over MBR in its work nor shall it have supervisory power over MBR or any of its employees or agents, other than to assure MBR's adherence to the terms of this Agreement. Neither party shall have any responsibility for, or liability as a result of, any action, inaction, error or omission by the other.

13. **REVIEWS AND AUDITS:** Client shall, upon reasonable notice and conditions, be allowed to review any and all of the documentation, procedures and information concerning Client's billing and to appoint a third party consultant to review such billing on the premises of MBR, all at Client's sole expense. MBR agrees to cooperate with any review. MBR may impose reasonable standards and restrictions on any such audit and review to insure the privacy

CONFIDENTIAL TREATMENT REQUESTED

or patient medical information of patients who are not Client's patients. MBR will review any reports upon such billing procedures, suggestions for improvement or otherwise and will exercise good faith in maintaining an acceptable level of efficiency and accuracy in its billing procedures. Any and all information obtained under review shall be kept confidential except as required to comply with Client's legal obligations.

14. **INDEMNIFICATION:** Each party (the "Indemnifying Party") hereby agrees to indemnify and hold the other party, including its directors, officers, shareholders, employees, and agents (collectively, the "Indemnified Party") harmless from and against any losses, claims, damages, or expenses, and all reasonable costs of prosecution or defense regarding its rights hereunder, whether in judicial proceedings, including appellate proceedings, or out of court, including, without limiting the generality of the foregoing, attorneys' fees and all costs and expenses of litigation (collectively, a "Loss"), arising from or growing out of a material violation of the terms of this Agreement or negligent or willful misconduct by the Indemnifying Party.

15. **MEDIATION AND ARBITRATION:** It is the intention of all parties that no dispute under this Agreement or with respect to relationship between parties will be the subject of any court action or litigation in the local, state, or federal judicial system. The parties recognize that the problem resolution processes of mediation and arbitration are appropriate and preferable to resolve issues between the parties. If any party hereto wishes to resolve an issue under or relating to this Agreement, then such party must give notice of a request for mediation to the other parties, which notice shall set forth the names of not less than three (3) mediators from the panel of JAMS/Endispute or the American Arbitration Association or other mutually agreed upon alternative dispute resolution service in Hillsborough County if mediation is commenced by Digirad or in San Diego County if mediation is commenced by MBR. The party receiving such notice shall agree upon one or more such mediators with ten (10) days of receipt of such notice and a mediation will be scheduled as soon as feasible between the parties and their respective advisors, and the parties and their advisors will cooperate fully with respect to sharing of information and attendance at meetings in order to seek resolution. The parties will share mediation expenses with the party requesting the mediation, paying one-half of such expense of the mediator fees and the other party paying the other one-half of such expenses. If resolution of the matters between the parties cannot be resolved in mediation within twenty (20) days of the selection of a mediator by the party receiving such notice, then the matter shall be presented to formal arbitration pursuant to the rules utilized by the alternative dispute resolution service selected by an arbitrator from such service's panel agreed upon by the parties or, if the parties are unable to agree upon an arbitrator within ten (10) days of the completion of mediation, by a panel of three (3) arbitrators from such panel selected by such service's administrator. Arbitration shall take place in the venue in which the mediation shall have occurred as soon as possible and the decision of the arbitrator panel shall be binding upon the parties for all purposes. The party which does not prevail in such proceeding or in any judicial proceeding shall pay all reasonable fees and costs, including attorneys' and expert witness fees, incurred by the prevailing party relating to such proceeding, except that the arbitrator shall have discretion to reduce or eliminate such award of costs and fees if such award would be inequitable or unreasonable under the circumstances. It is the intention of the parties that this Agreement shall be construed and interpreted in a fair and equitable manner based upon the facts and circumstances of the parties taking into account the present intention of the parties to have a fair and equitable agreement under the terms and conditions set forth in this Agreement.

CONFIDENTIAL TREATMENT REQUESTED

16. **ENFORCEMENT**: Each covenant shall be construed as a covenant independent of any other covenant or provision of this Agreement or any other Agreement which MBR and Client may have, and the existence of any claim or cause of action of one party against the other, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of such covenants.

17. **TERMINATION**: During the term of this Agreement, MBR may retain Client's records in an off-site storage facility. Upon termination or expiration of this Agreement, Client will notify MBR of where to have its records delivered after the ninety-day (90) collection period. MBR will not be responsible for these records after delivery to the Client.

18. **ADDITIONAL COVENANTS OF MBR**: MBR covenants that it has and will maintain its expertise, procedures and employee training with respect to billing and reimbursement issues, coding, maximizing revenues in a prudent manner, and other billing related activities. MBR agrees to provide monthly reporting of billings, receipts, aged receivables, and such other matters as are requested by the Client on a reasonable basis. MBR will maintain such insurances with reputable insurance carriers in such amounts and upon terms that are deemed reasonable and appropriate.

19. **COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996**. The parties acknowledge that Client is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder ("HIPAA"), including but not limited to, the Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164; and that HIPAA mandates that Client require MBR to provide for the protection of the privacy and security of Health Information. Accordingly, MBR shall provide such protection as required by this Agreement.

A. **Definitions**. The following terms shall be defined as follows:

- (1) "Disclose" and "Disclosure" mean, with respect to Health Information, the release, transfer, provision of access to, or divulging in any other manner of Health Information outside MBR's internal operations or to other than its employees.
- (2) "Health Information" means information that (a) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; (b) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (c) is received by MBR from or on behalf of Client or is created by MBR, or is made accessible to MBR by Client.
- (3) "Privacy Regulations" means the Standards for Privacy of Covered Individually Identifiable Health Information, 45 CFR Parts 160 and 164, promulgated under HIPAA.

CONFIDENTIAL TREATMENT REQUESTED

- (4) "Services" means the services provided by MBR pursuant to this Agreement.
- (5) "Use" or "Uses" means, with respect to Health Information, the sharing, employment, application, utilization, examination or analysis of such Health Information within MBR's internal operations.

B. Permitted Uses and Disclosures of Health Information. MBR is authorized to do the following:

- (1) Use and Disclose Health Information as necessary to perform Services for, or on behalf of Client;
- (2) Use Health Information to create aggregated or de-identified information (in accordance with the requirements of the Privacy Regulations);
- (3) Use or Disclose Health Information (including aggregated or de-identified information) as otherwise directed by Client provided that Client shall not request MBR to Use or Disclose Health Information in a manner that would not be permissible if done by Client;
- (4) Use and Disclose Health Information as required by law.

C. Other Uses of Health Information. MBR may use Health Information for the proper management and administration of MBR or to carry out its legal responsibilities. MBR may Disclose Health Information for the proper management and administration of MBR, provided that with respect to any such Disclosure either (1) the Disclosure is required by law (within the meaning of the Privacy Regulations) or (2) MBR obtains reasonable assurance from the person to whom the information is to be Disclosed that such person will hold the information in confidence and will not Use or further Disclose such information except as required by law or for the purpose(s) for which it was Disclosed by MBR to such person, and that such person will notify MBR of any instances of which it is aware in which the confidentiality of the information has been breached.

D. Adequate Safeguards for Health Information. MBR warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Health Information in any manner other than as permitted herein or by law.

E. Mitigation. MBR agrees to mitigate, to the extent practicable, any harmful effect that is known to MBR of a Use or Disclosure of Health Information by MBR in violation of the requirements of this Agreement.

F. Reporting Non-Permitted Use or Disclosure. MBR shall not Use or Disclose Health Information except as permitted by this Agreement or as required by law. MBR

CONFIDENTIAL TREATMENT REQUESTED

shall report to Client a Use or Disclosure that is made by MBR that is not permitted by this Agreement or which MBR becomes aware.

G. Availability of Internal Practices, Books, and Records. MBR agrees to make its internal practices, books and records relating to the Use and Disclosure of Health Information available to the Secretary of the Secretary for purposes of determining Client's compliance with the Privacy Regulations.

H. Access to and Amendment of Health Information. MBR shall, to the extent Client determines that any Health Information constitutes a "designated records set" of Client under the Privacy Regulations, (a) make the Health Information specified by Client available to Client or to the individual(s) identified by Client as being entitled to access and copy that Health Information, and (b) make any amendments to Health Information that are requested by Client.

I. Accounting of Disclosures. Upon Client's request, MBR shall provide to Client an accounting of each Disclosure of Health Information made by MBR as required by the Privacy Regulations. For each Disclosure that requires an accounting under this Section 19, MBR shall securely maintain the information for six (6) years from the date of the Disclosure.

J. Use of Subcontractors and Agents. MBR shall require each of its agents and subcontractors that receive Health Information from MBR to comply with this Section 19 of this Agreement with respect to such Health Information.

K. Privacy Notice. Client shall notify MBR of any limitations(s) in Client's notice of privacy practices to the extent such limitation(s) may affect MBR's Use or Disclosure of Health Information.

L. Changes or Restrictions. Client shall notify MBR of any changes in permission by an individual to use or disclose Health Information to the extent such change may affect MBR's Use or Disclosure of Health Information. Client shall notify MBR of any restriction to which Client agrees that may affect MBR's Use or Disclosure of Health Information.

M. Disposition of Health Information Upon Termination or Expiration. Upon termination or expiration of this Agreement, MBR shall either return or destroy all Health Information in the possession or control of MBR and its agents and subcontractors. In such event, MBR shall retain no copies of such Health Information. However, if MBR determines that neither return nor destruction of Health Information is feasible, MBR shall notify Client of the conditions that make return or such destruction infeasible, and may retain Health Information provided that MBR (1) continues to comply with the provisions related to the protection of Health Information for as long as it retains Health Information, and (2) further limits the Uses and Disclosures of Health Information to those purposes that make the return or destruction of Health Information infeasible.

N. Amendments to Comply With Law. The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance

CONFIDENTIAL TREATMENT REQUESTED

with such developments. The parties specifically agree to take such actions as is necessary to implement the standards and requirements of HIPAA and other applicable laws relating to the security or confidentiality of Health Information.

20. MISCELLANEOUS:

A. This Agreement shall constitute the entire agreement of the parties and takes the place of the prior written agreement between the parties dated January 30, 2001 (the "Prior Agreement") as of the Effective Date. It may not be changed orally, but only by agreement in writing signed by both parties.

B. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by (i) certified or registered mail, return receipt requested, (ii) hand delivery or overnight courier with proof of delivery, or (iii) facsimile transmission with confirmation of receipt, to the parties as follows:

If to MBR: 4519 George Road, Suite 100
Tampa, Florida 33634
Facsimile No.: (813) 496-8546
ATTENTION: Becky Cacciatore, President

If to Client: 9350 Trade Place
San Diego, California 92126-6334
Facsimile No.: (858) 549-7714
ATTENTION: PRESIDENT OR CHIEF FINANCIAL OFFICER

C. The rights and obligations of the parties under this Agreement shall inure to the benefit of and shall be binding upon their respective heirs, executors, administrators, sublessors and assigns. No party may assign any of its rights, obligations or interest in this Agreement without the prior written consent of all parties to this Agreement.

D. This Agreement shall be governed by the laws of the State of Florida.

E. This Agreement shall be deemed to have been "executed" when the last party to sign this Agreement has affixed his, her or its signature at the end of this Agreement.

F. All parties to this Agreement specifically agree to act in good faith in interpreting this Agreement and in carrying out their respective duties and obligations hereunder.

G. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, and all of which shall constitute but a single agreement notwithstanding that each such counterpart is executed on a different date.

H. Because each party has participated fully in the drafting and preparation of this Agreement, the Agreement shall not be construed more strongly against any party.

I. Each party to this Agreement hereby acknowledges and confirms that he, she or it has had an opportunity to retain independent legal counsel to independently advise that

CONFIDENTIAL TREATMENT REQUESTED

part of the legal consequences of the Agreement to the party. Each party to this Agreement further acknowledges and confirms that each such party received the strong recommendation by all other parties to the Agreement that each party should retain separate and independent legal counsel to advise each party of the legal consequences of the Agreement to that party.

J. All prior negotiations and/or oral agreements between the parties and/or two or more of the parties hereby are merged and extinguished into this Agreement.

K. Unless otherwise expressly provided in this Agreement, all rights, obligations and other terms and conditions specifically stated in this Agreement shall survive the execution of this Agreement.

L. If any one or more of the provisions contained in this Agreement for any reason are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above but effective for all purposes as of April 1, 2002.

MBR AND ASSOCIATES, INC.

DIGIRAD IMAGING SOLUTIONS, INC.

By: /s/
Name: Becky M. Cacciatore
Title: President

By: /s/
Name: Todd P. Clyde
Title: CFO