Table of Contents

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

FORM 10-Q

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

For the quarterly period ended March 31, 2013

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

For the transition period from _____ to _____

Commission file number 000 — 51481

MELA SCIENCES, INC.
(Exact name of Registrant as specified in its charter)

Delaware	**13-3986004**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**
50 South Buckhout Street, Suite 1 Irvington, New York	**10533**
(Address of Principal Executive offices)	**(Zip Code)**

Registrant's Telephone Number, including area code:
(914) 591-3783

(Former name if changed since last report)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ ☐

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

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐	Smaller reporting company	☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

As of April 25, 2013: 43,037,144 shares of the Registrant's common stock were outstanding.

Table of Contents

MELA Sciences, Inc.
Table of Contents

MELA SCIENCES, INC.
CONDENSED BALANCE SHEETS

	March 31, 2013 (unaudited)	December 31, 2012 *
ASSETS		
Current Assets:		
Cash and cash equivalents	$ 21,647,046	$ 7,861,524
Accounts receivable, net	169,403	179,956
Inventory	436,960	675,602
Prepaid expenses and other current assets	876,451	965,624
Total Current Assets	23,129,860	9,682,706
Property and equipment, net	8,495,801	7,349,531
Patents and trademarks, net	45,602	47,308
Deferred financing costs	79,877	106,141
Other assets	84,127	84,127
Total Assets	$ 31,835,267	$ 17,269,813
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable (includes related parties of $59,750 and $59,689 as of March 31, 2013 and December 31, 2012, respectively)	$ 1,085,037	$ 1,850,102
Accrued expenses	887,314	956,541
Deferred placement revenue	230,779	171,726
Other current liabilities	60,596	40,811
Total Current Liabilities	2,263,726	3,019,180
Long Term Liabilities:		
Deferred placement revenue	161,471	131,651
Loan payable	5,286,037	—
Warrant liability	547,150	—
Long-term interest payable	7,417	—
Deferred rent	137,859	143,772
Total Long Term Liabilities	6,139,934	275,423
Total Liabilities	8,403,660	3,294,603
COMMITMENTS, CONTINGENCIES and LITIGATION (Note 8)		
Stockholders' Equity		
Preferred stock — $.10 par value; authorized 10,000,000 shares; issued and outstanding: none		
Common stock — $.001 par value; authorized 45,000,000 shares; issued and outstanding 43,037,144 shares at March 31, 2013 and 32,204,720 at December 31, 2012	43,037	32,205
Additional paid-in capital	172,100,055	156,142,873
Accumulated deficit	(148,711,485)	(142,199,868)
Stockholders' Equity	23,431,607	13,975,210
Total Liabilities and Stockholders' Equity	$ 31,835,267	$ 17,269,813

* Derived from the audited balance sheet as of December 31, 2012

See accompanying notes to the financial statements

MELA SCIENCES, INC.
CONDENSED STATEMENTS OF OPERATIONS
(unaudited)

	Three months ended March 31,	
	2013	2012
Revenue	$ 144,100	$ 11,250
Cost of revenue	1,080,263	130,410
	(936,163)	(119,160)
Operating expenses:		
Research and development	1,262,001	2,434,758
General and administrative	4,287,228	3,217,491
Operating loss	(6,485,392)	(5,771,409)
Interest income	(2,105)	(13,384)
Interest expense	48,763	—
Change in fair value of warranty liability	(15,433)	—
Other income, net	(5,000)	(5,000)
Net loss	$ (6,511,617)	$ (5,753,025)
Basic and diluted net loss per common share	$ (.17)	$ (0.19)
Basic and diluted weighted average number of common shares outstanding	39,233,943	30,313,905

See accompanying notes to the financial statements

MELA SCIENCES, INC.
CONDENSED STATEMENTS OF CASH FLOWS
(unaudited)

	Three Months Ended March 31,	
	2013	2012
Cash flows from operating activities:		
Net loss	$ (6,511,617)	$ (5,753,025)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	496,733	148,044
Allowance for uncollectible accounts	40,000	—
Non-cash interest expense	14,101	—
Change in fair value of warrant liability	(15,433)	—
Write-off of unamortized financing costs	41,166	—
Non-cash compensation	268,381	347,618
Changes in operating assets and liabilities:		
Increase in accounts receivable	(29,447)	(12,078)
Decrease (increase) in inventory	238,642	(310,090)
Decrease in prepaid expenses and other current assets	89,173	155,071
(Decrease) increase in accounts payable and accrued expenses	(834,292)	75,391
(Decrease) increase in deferred rent	(5,913)	1,389
Increase in deferred placement revenue	88,873	17,250
Increase in long-term interest payable	7,417	—
Increase in other current liabilities	19,785	13,887
Net cash used in operating activities	(6,092,431)	(5,316,543)
Cash flows from investing activities:		
Purchases of property and equipment	(1,641,297)	(408,079)
Net cash used in investing activities	(1,641,297)	(408,079)
Cash flows from financing activities:		
Proceeds from borrowings and issuance of warrant	6,000,000	—
Expenses related to borrowings and issuance of warrant	(245,358)	—
Proceeds from exercise of stock options	18,059	33,310
Net proceeds from public offerings	15,746,549	(4,293)
Net cash provided by financing activities	21,519,250	29,017
Net increase (decrease) in cash and cash equivalents	13,785,522	(5,695,605)
Cash and cash equivalents at beginning of period	7,861,524	27,996,871
Cash and cash equivalents at end of period	$21,647,046	$22,301,266
Supplemental disclosure of cash flow information:		
Non-cash investing activity:		
Amortization of deferred financing costs	$ 41,166	—
Reclassification of MelaFind® components from other assets to property and equipment	$ —	$ 522,014

See accompanying notes to the financial statements

MELA SCIENCES, INC.
NOTES TO CONDENSED FINANCIAL STATEMENTS
(In thousands, except for share and per share data)
(unaudited)

1. ORGANIZATION AND BASIS OF PRESENTATION

MELA Sciences, Inc., a Delaware corporation (the "Company"), is a medical device company focused on the commercialization of our flagship product, MelaFind®, and the further design and development of MelaFind® and our technology. MelaFind® is a non-invasive, point-of-care (in the doctor's office) instrument to aid in the detection of melanoma. MelaFind® features a hand-held component that emits light of multiple wavelengths to capture digital data from clinically atypical pigmented skin lesions. The data are then analyzed utilizing sophisticated classification algorithms that were 'trained' on our proprietary database of melanomas and benign lesions, in order to provide information to assist in the management of the patient's disease, including information useful in the decision of whether to biopsy the lesion.

The components of the MelaFind® system include:

- a *hand-held component*, which employs high precision optics and multi-spectral illumination (multiple colors of light including near infra-red);
- a *proprietary database* of pigmented skin lesions, which we believe to be the largest in the U.S.; and
- *lesion classifiers*, which are sophisticated mathematical algorithms that extract lesion feature information and classify lesions.

In November 2011, the Company received written approval from the U.S. Food and Drug Administration ("FDA") for the MelaFind® Pre-Market Approval ("PMA") application and in September 2011 received Conformite Europeenne ("CE") Mark approval for MelaFind®. On March 7, 2012, the Company installed the first commercial MelaFind® systems, and proceeded with the first phase of the commercial launch of its breakthrough product for melanoma detection.

During the first quarter of 2013, the Company continued its controlled and deliberate commercial launch of MelaFind® by entering into user agreements with dermatologist customers and installing MelaFind® systems throughout the U.S. and Germany, while simultaneously commencing the second phase of the MelaFind® commercial launch by focusing on system usage and patient mobilization among its current customers. As of March 31, 2013, user agreements with 138 customers were in place and 126 MelaFind® systems were installed, with 12 installations pending scheduling and training of staff. Also during the quarter, the Company continued its Post-Approval Study evaluating the sensitivity of physicians in diagnosing melanomas and high-grade lesions and the false positive rate after using MelaFind®.

The Company anticipates that it will continue to incur net losses for the foreseeable future as it proceeds through the commercial launch phase of the Melafind® device and the post approval study. In June 2012, the Company entered into a sales agreement with Cowen and Company, LLC, to sell shares of the Company's common stock through an "at-the-market" equity offering program (the "ATM Program"), which was terminated on February 15, 2013 in conjunction with the public offering described below. During the quarter ended March 31, 2013, the Company sold approximately 4.7 million shares under the ATM Program for gross and net proceeds of approximately $8.8 million and $8.5 million, respectively. During the term of the ATM Program, the Company sold a total of approximately 6.6 million shares for aggregate gross and net proceeds of approximately $14.4 million and $13.8 million, respectively.

On February 12, 2013 the Company entered into an underwriting agreement, relating to the public offering of 6,100,000 shares of the Company's common stock, at a price to the public of $1.30 per share less underwriting discounts and commissions. The gross proceeds to the Company from the sale of the Common Stock totaled $7.9 million. After deducting the underwriters' discounts and commissions and other estimated offering expenses payable by the Company, net proceeds were approximately $7.3 million. The offering closed on February 15, 2013. The common stock was offered and sold pursuant to the Company's Prospectus dated June 1, 2010 and the Company's Prospectus Supplement filed with the Securities and Exchange Commission (the "SEC") on February 12, 2013, in connection with a takedown from the Company's shelf registration statement on Form S-3 (File No. 333-167113) declared effective by the SEC on June 1, 2010. On February 11, 2013, a senior executive of the Company contractually agreed to not exercise 900,000 fully vested options until such time as the stockholders of the Company approve an increase in the number of authorized shares of the Company's common stock or, if earlier, the Company's written consent.

On March 15, 2013, the Company executed definitive loan documents finalizing a $10 million loan with a venture capital lender ("Lender"). Of the $10 million, $6 million was funded on March 15, 2013 and the Company will have the option to draw down the remaining $4 million through March 17, 2014, subject to the satisfaction of meeting certain sales and revenue targets. The loan matures 42 months from the initial closing and bears interest at a variable rate adjusted for changes in the prime rate but not less than 10.45% per year. For the period ended March 31, 2013 the rate was 10.45%. During the first 12 months the loan is outstanding, only interest will be paid to the Lender and after that the Company will make 30 equal payments of principal and interest until maturity. The loan is secured by a general lien against all of the Company's assets, other than the Company's intellectual property assets. In addition, the lender has a security interest in the proceeds of the sale of any of the Company's intellectual property assets. The Company must also maintain various non-financial covenants including adhering to limits on incurring additional debt. In addition, the payment of dividends or distributions to stockholders is prohibited.

Upon executing the loan documents on March 15, 2013 the Company became obligated to issue to the Lender a warrant to purchase shares of the Company's common stock upon approval by the Company's stockholders of a proposal to increase the Company's number of authorized shares of common stock at its 2013 Annual Meeting of Stockholders. The number of shares that could be acquired upon exercise of the warrant and the exercise price per share, were not fixed on March 15, 2013 but would be determined when the warrant was issued based on a defined formula using trading prices of the Company's common stock during certain periods prior to the issuance of the warrant. The Company's stockholders approved the increase in the number of authorized shares of common stock on April 25, 2013 and on April 26, 2013 the warrant was issued to the Lender. The terms of the warrant were fixed on the date of issuance whereby the Lender received a warrant to purchase 693,202 shares of common stock at an exercise price of $1.118 per share. The warrant expires on April 26, 2018.

For financial reporting purposes, the $6 million funded by the Lender on March 15, 2013 was allocated first to the fair value of the Company's obligation to issue the warrant ("Warrant Obligation") that totaled approximately $563 and the balance was reduced further by Lender costs and fees ("Costs"), resulting in an initial carrying value of the loan of approximately $5.3 million. The Company used a level 3 Fair value measurement to determine Fair value, which has significant unobservable inputs as defined in ASC 820. The value of the Warrant Obligation was determined using the Monte Carlo pricing model that used various assumptions that include; a stock price of $1.16 to $1.18 per share, volatility of 76.83%, time to maturity of 5 years, an exercise price of $1.15 to $1.16 and a riskless rate of return of .84%. Due to the nature of the Monte Carlo model, a 10% change in the underlying unobservable inputs would not have a significant impact on the Fair value.

The value of the Warrant Obligation combined with the Costs resulted in a loan discount of approximately $727. In addition, the Company is obligated to pay the Lender a fee of $425 at the maturity of the Loan (referred to as "Fee" or "Long-term interest payable"). The loan discount and the Fee are being amortized as additional interest expense over the life of the loan using the interest method. Prior to the terms of the warrant being fixed on April 26, 2013, the Warrant Obligation fell within the scope of Accounting Standards Codification 815 "Derivatives and Hedging" and therefore the Warrant Obligation is accounted for as a derivative reflected as a long-term liability at March 31, 2013 with changes in fair value included in operating results.

The aggregate future principal payments due under this $6 million loan are as follows:

Year ended December 31,	
2013 (remaining nine months)	$ 0
2014	1,450
2015	2,374
2016	2,176
	$6,000

The Company faces certain risks and uncertainties which are present in many emerging medical device companies regarding future profitability, ability to obtain future capital, protection of patents and intellectual property rights, competition, rapid technological change, government regulations, changing health care marketplace, recruiting and retaining key personnel, and reliance on third party manufacturing organizations.

As of March 31, 2013 the Company had approximately $21.6 million in cash and cash equivalents. Management believes that this cash balance and anticipated revenues will be sufficient to fund the Company's anticipated level of operations for at least the next twelve months. Should the Company experience unforeseen expenses, or if anticipated revenues are not realized, the effect could negatively impact management's estimated operating results over the next twelve months. In addition, the Company anticipates that long-term it will spend substantial funds to broaden the commercialization of MelaFind®, including further development of a direct sales force and expansion of the Company's contract manufacturing capacity. The timing and amount of any additional funding the Company may require will be affected by the commercial success of its MelaFind® product. The funding could be in the form of either additional equity or debt financing, to the extent permitted under the loan agreement with Lender, or in exchange for product rights in all or certain geographies, for example. There can be no assurances that the Company will be able to raise additional financing in the future. Additional funds may not become available on acceptable terms, and there can be no assurance that any additional funding that the Company does obtain will be sufficient to meet the Company's needs in the long term. Any additional funding that the Company may obtain in the future could be dilutive to common stockholders and could provide new investors with rights and preferences senior to common stockholders. In the event that the Company is unable to raise additional funds, the Company has the ability and intent to reduce certain discretionary expenditures.

The unaudited condensed financial statements included herein have been prepared from the books and records of the Company pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC") for reporting on Form 10-Q. The information and note disclosures normally included in complete financial statements prepared in accordance with generally accepted accounting principles in the United States ("GAAP") have been condensed or omitted pursuant to such rules and regulations. The interim financial statements should be read in conjunction with the audited financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2012.

The Company's management is responsible for the financial statements included in this document. The Company's interim financial statements are unaudited. Interim results may not be indicative of the results that may be expected for the year. However, the Company believes all adjustments considered necessary for a fair presentation of these interim financial statements have been included and are of a normal and recurring nature.

2. REVENUE RECOGNITION

The Company considers revenue to be earned when all of the following criteria are met: persuasive evidence a sales arrangement exists; delivery has occurred or services have been rendered; the price is fixed or determinable; and collectability is reasonably assured. The Company's agreements with dermatologists regarding the MelaFind® system combine the elements noted above with a future service obligation. While the Company is required to place the MelaFind® systems with dermatologists for their exclusive use, ownership of the MelaFind® systems remains with the Company.

The Company generates revenue from the sale of usage based on the number of patient sessions or lesions examined, or a fixed monthly fee. The sale of usage is based upon either the sale of individual patient electronic record cards or a system generated monthly activity report indicating the number of patient sessions or number of lesions examined. Additionally, the Company typically charges an initial installation fee for each MelaFind® system which covers training, delivery, supplies, maintenance and the right to use MelaFind®. In accordance with the accounting guidance regarding multiple-element arrangements, the Company allocates total contract consideration to each element based upon the relative standalone selling prices of each element, and recognizes the associated revenue for each element as delivery occurs or over the related service period, generally expected to be two years. Revenues associated with undelivered elements are deferred until delivery occurs or services are rendered.

Costs of revenue are associated with: the placement of the MelaFind® system in the doctor's office, the cost of consumables delivered at installation, the cost of the electronic record cards, technical support costs and depreciation expense of the MelaFind® system placed with the dermatologist which remains the property of the Company. Certain product quality and manufacturing overhead costs associated with supporting the contract manufacturers of MelaFind® are allocated to costs of revenue.

3. INVENTORIES

Inventories consist of finished products that are stated at the lower of cost (first-in, first-out) or market value. The inventories are purchased items which are consumables to be sold for use in the operation of the MelaFind® systems. Due to the uncertainties associated with the commercialization of a new product, a reserve for inventory shrinkage has been established.

4. USE OF ESTIMATES

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires the use of estimates and assumptions by management that affect reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The most significant estimates relate to stock-based compensation arrangements, the use of estimates to determine the elements of our revenue and deferred revenue, accrued expenses, and the warrant liability. Actual results could differ from these estimates. Estimates of future operating results are based upon numerous factors including past experience, known information and subjective estimates and assumptions. Actual future operating results could be materially different from management's estimates and unforeseen events could adversely affect management's estimates.

5. RECENT ACCOUNTING PRONOUNCEMENTS

The Financial Accounting Standards Board has issued a number of new accounting standards that require future adoption. Based on the Company's initial review of these new standards, none are expected to have a material impact on the Company's financial statements.

6. NET LOSS PER COMMON SHARE

Basic net loss per common share excludes dilution for potentially dilutive securities and is computed by dividing loss attributable to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net loss per common share gives effect to dilutive options, warrants and other potential common shares outstanding during the period. Diluted net loss per common share is equal to the basic net loss per common share since all potentially dilutive securities are anti-dilutive for each of the periods presented. Potential common stock equivalents excluded consist of stock options and warrants which are summarized as follows:

	March 31,	
	2013	2012
Common stock options	1,435,314	2,079,306
Warrants	200,000	546,781
Total	1,635,314	2,626,087

The table above excludes the 693,202 warrants issued to the Lender on April 26, 2013 (see Note 1).

The table above excludes 900,000 fully vested options subject to a forebearance agreement dated February 11, 2013, between the option holder and the Company.

7. COMPREHENSIVE LOSS

For all periods presented, the Company had no comprehensive income items and accordingly there is no difference between the reported net loss and per share amounts per the Statement of Operations and comprehensive net loss and related per share amounts.

8. STOCK-BASED COMPENSATION

As of March 31, 2013, the Company had one stock-based compensation plan, the 2005 Stock Incentive Plan ("2005 Plan"), under which the Board of Directors may currently grant incentives to employees, consultants, directors, officers and collaborating scientists in the form of incentive stock options, nonqualified stock options and restricted stock awards.

Stock awards under the Company's stock option plan have been granted at prices which are no less than the market value of the stock on the date of the grant. Options granted under the 2005 Plan are generally time-based or performance-based, and vesting varies accordingly. Options under this plan expire in up to a maximum of ten years from the date of grant.

The compensation expense recognized in the Statement of Operations in the first quarter of 2013 and 2012 for stock options amounted to $268 (of which $125 relates to performance milestones) and $348 (of which $146 relates to performance milestones), respectively. Cash received from options and warrants exercised under all share-based payment arrangements for the three months ended March 31, 2013 and 2012 was $18 and $33, respectively.

The fair value of each option award granted is estimated on the date of grant using the Black-Scholes option valuation model and assumptions as noted in the following table:

	For the Three Months Ended March 31, 2013	For the Three Months Ended March 31, 2012
Expected life	6.5 years	6.5 years
Expected volatility	76.83%	79.68%
Risk-free interest rate	1.25-1.38%	1.40-1.51%
Dividend yield	0%	0%

The expected life of the options is based on the expected time to full-vesting, forfeiture and exercise. The expected volatility assumptions were determined based upon the historical volatility of the Company's daily closing stock price. The risk-free interest rate is based on the continuous rates provided by the U.S. Treasury with a term equal to the expected life of the option. The expected dividend yield is zero as the Company has never paid dividends and does not currently anticipate paying any in the foreseeable future.

During the three months ended March 31, 2013, the weighted average fair value of options granted, estimated as of the grant date using the Black-Scholes option valuation model, was $1.16. For the three month period ended March 31, 2012, the weighted average fair value of options granted was $2.62. For the three months ended March 31, 2013 the total intrinsic value of options exercised was $17. During the three months ended March 31, 2012 the total intrinsic value of options exercised was $74.

The status of the Company's stock option plans at March 31, 2013 is summarized below.

At March 31, 2013, stock options to purchase 1,435,314 shares of common stock at exercise prices ranging from $1.48 to $11.11 per share are outstanding and exercisable at various dates through 2023. The 900,000 share fully vested options subject to a forebearance agreement dated February 11, 2013 between the option holder and the Company have been excluded from the 'Outstanding' and

'Vested' total numbers of option shares. The 900,000 share options are included under number of shares 'Forfeited' until such time as a sufficient number of shares are authorized. On April 25, 2013, the Company's stockholders approved such sufficient increase in the Company's authorized number of shares.

	Number of Shares	Weighted Average Exercise Price per Share	Weighted Average Remaining Contractual Term in Years	Aggregate Intrinsic Value
Outstanding at December 31, 2012	2,426,533	$ 4.01	7.0	$ 29
Granted	58,850	1.68	—	—
Exercised	(18,059)	1.00	—	—
Forfeited or expired	(1,032,010)	3.80	—	—
Outstanding at March 31, 2013	1,435,314	$ 4.11	7.9	0
Vested and exercisable at March 31, 2013	760,289	$ 4.32	7.2	$ 0

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted-Average Remaining Contractual Life	Weighted Average Exercise Price	Number Exercisable	Weighted-Average Exercise Price
$ .01-$ 3.00	229,351	9.5 years	$ 2.20	67,151	$ 2.30
$3.01-$ 6.00	910,763	8.6 years	$ 3.49	532,088	$ 3.43
$6.01-$11.11	295,200	4.5 years	$ 7.52	161,050	$ 8.11
$ .01-$11.11	1,435,314	7.9 years	$ 4.11	760,289	$ 4.32

As of March 31, 2013, of the total 1,435,314 options outstanding (which excludes 900,000 fully vested options subject to a forebearance agreement dated February 11, 2013, between the option holder and the Company), 675,025 have not vested. Of this total unvested amount, 242,825 options will vest upon the attainment of certain milestones, and the balance will vest over the requisite service period. The weighted average vesting period for the non-milestone, non-vested awards not yet recognized is 1.5 years.

As of March 31, 2013, of the $696 of total unrecognized compensation cost related to unvested options to be recognized, $186 is to be recognized over a period to be determined by performance-based milestones, and $510 is to be recognized over the requisite service period through 2017.

As of March 31, 2013, there were 1,295,899 shares available for future grants under the Company's 2005 Plan.

On April 25, 2013, at the Company's 2013 Annual Meeting of Stockholders, the Company's stockholders approved the Company's adoption of the new 2013 Stock Option Incentive Plan having terms substantially similar to the Company's 2005 Plan and having 3.5 million shares available for grant.

9. COMMITMENTS, CONTINGENCIES and LITIGATION

The Company is obligated under a non-cancelable operating lease for office, lab, and manufacturing space expiring December 2016. The lease is subject to escalations for increases in operating expenses. The approximate aggregate minimum future payments due under this lease are as follows:

Year ended December 31,	
2013 (remaining nine months)	$ 364
2014	477
2015	478
2016	478
	$1,797

Rental payments are recognized as rent expense on a straight-line basis over the term of the lease.

ASKION GmbH ("ASKION"), located in Gera Germany, which specializes in precision optics, has become an integral member of the MelaFind® development team and the Company expects to continue to work with ASKION for the foreseeable future. ASKION produced the MelaFind® hand-held components used in our pivotal clinical trials and is currently under contract to build additional units and perform additional developmental activities.

Beginning in August 2006, the Company, primarily through ASKION, engaged Carl Zeiss Jena GmbH ("Zeiss") to build the lenses and assemblies, as well as provide certain technical consulting, for the MelaFind® units which have been used in the Company's pivotal clinical trials. This work is expected to continue on commercial MelaFind® units throughout 2013.

The Company has an employment agreement with its President and Chief Executive Officer, Dr. Gulfo, which provides for an annual base salary, stock options and discretionary performance bonuses. The agreement, which provides for automatic one-year renewal terms, currently runs through the end of 2013.

From time to time, we may be a party to certain legal proceedings, incidental to the normal course of our business. These may include controversies relating to contract claims and employment related matters, some of which claims may be material in which case we will make separate disclosure as required.

10. STOCKHOLDERS' EQUITY

In May 2010, the Company filed a Form S-3 shelf registration statement for an indeterminate number of shares of common stock, warrants to purchase shares of common stock and units consisting of a combination thereof having an aggregate initial offering price not to exceed $75 million. The registration statement was declared effective by the SEC on June 1, 2010.

On December 15, 2011, the Company entered into an underwriting agreement, relating to the public offering of 5,000,000 shares of the Company's common stock, at a price to the public of $3.25 per share less underwriting discounts and commissions. The common stock was offered and sold pursuant to the Company's Prospectus dated June 1, 2010 and the Company's Prospectus Supplement filed with the SEC on December 16, 2011, in connection with a takedown from the Company's effective shelf registration statement. The gross proceeds to the Company from the sale of the common stock totaled approximately $16.3 million. After deducting the underwriters' discounts and commissions and other offering expenses payable by the Company, net proceeds were approximately $15 million. This offering closed on December 21, 2011.

On June 15, 2012, the Company entered into a sales agreement (the "Sales Agreement") with Cowen and Company, LLC ("Cowen") to sell shares of its common stock with aggregate gross proceeds of up to $20 million, from time to time, through an "at-the-market" equity offering program ("ATM Program") under which Cowen acts as sales agent. The common stock was offered and sold pursuant to the Company's Prospectus dated June 1, 2010 and the Company's Prospectus Supplement filed with the SEC on June 15, 2012, in connection with a takedown from the Company's effective shelf registration statement. During the term of the ATM Program, the Company sold a total of approximately 6.6 million shares for aggregate gross and net proceeds of approximately $14.4 million and $13.8 million, respectively.

On February 12, 2013, the Company entered into an underwriting agreement, relating to the public offering of 6,100,000 shares of the Company's common stock, at a price to the public of $1.30 per share less underwriting discounts and commissions. The gross proceeds to the Company from the sale of the common stock totaled $7.9 million. After deducting the underwriters' discounts and commissions and other estimated offering expenses payable by the Company, net proceeds were approximately $7.3 million. The offering closed on February 15, 2013. The common stock was offered and sold pursuant to the Company's Prospectus dated June 1, 2010 and the Company's Prospectus Supplement filed with the SEC on February 11, 2013, in connection with a takedown from the Company's effective shelf registration statement.

At March 31, 2013, the Company had $19.9 million available under its shelf registration including $5.6 million previously allocated to the ATM Program and remaining unused upon termination of the ATM Program.

As of March 31, 2013, the Company had 45,000,000 shares of $0.001 par value common stock authorized and 43,037,144 shares issued and outstanding; and had 10,000,000 shares of $0.10 par value preferred stock authorized with 0 preferred shares issued and outstanding. On April 25, 2013, at the Company's 2013 Annual Meeting of Stockholders, the Company's stockholders voted to approve an increase in the number of authorized shares of the Company's common stock to 95,000,000 shares.

11. WARRANTS

In connection with the Company's private placement in August 2007, the Company issued warrants to purchase up to 500,041 shares of the Company's common stock. At March 31, 2012, 346,781 of the 2007 warrants were outstanding. The 346,781 outstanding warrants issued in 2007 expired in August of 2012.

In connection with a public offering of the Company's common stock in May 2009, the Company issued a 5-year warrant to Kingsbridge Capital to purchase up to 200,000 shares of the Company's common stock at an exercise price of $11.35 per share. These 200,000 warrants are outstanding at March 31, 2013.

As discussed in detail in Note 1, on March 15, 2013 the Company executed definitive loan documents finalizing a $10 million loan with a venture capital lender. In connection with the loan, the Lender received a warrant to purchase 693,202 shares of the Company's common stock at an exercise price of $1.118 per share. This warrant was issued April 26, 2013 and expires five years from the date of issuance.

No warrants were exercised during the three months ended March 31, 2013 and March 31, 2012, respectively.

12. RELATED PARTY CONSULTING AGREEMENTS

The Company made no payments under consulting agreements with related parties.

13. OTHER INCOME

During April 2005, the Company discontinued all operations associated with its DIFOTI® product in order to focus its resources and attention on the development and commercialization of MelaFind®. During December 2006, the Company entered into a sale and exclusive licensing agreement with KaVo Dental GmbH ("KaVo"), a leading dental equipment manufacturer, which provides for KaVo to further develop and commercialize DIFOTI®. Beginning in July 2008, KaVo is required to pay to the Company a royalty

stream based upon the worldwide aggregate net sales of the licensed product, as defined in the license agreement, or a set minimum. During the three months ended March 31, 2013 and March 31, 2012, the Company earned $5 as the pro-rated portion of the minimum annual royalty.

14. FAIR VALUE OF FINANCIAL INSTRUMENTS

Authoritative guidance defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value hierarchy consists of three broad levels as described below:

- Level 1 – Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.
- Level 2 – Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3 – Inputs that are both significant to the fair value measurement and unobservable.

As discussed in detail in Note 1, the Company's warrant obligation was valued based on Level 3 inputs. The Company had no other fair value measurements during the period ended March 31, 2013 and 2012.

15. SUBSEQUENT EVENTS

As discussed elsewhere herein, on April 25, 2013, at the Company's 2013 Annual Meeting of Stockholders, the Company's stockholders voted to approve an increase in the number of authorized shares of the Company's common stock from 45,000,000 to 95,000,000. Also at that meeting, the stockholders voted to approve the Company's 2013 Stock Incentive Plan which allows for the issuance of up to 3,500,000 shares of the Company's common stock pursuant to awards made thereunder. On April 26, 2013, the Company issued a five year warrant to a Lender whereby the Lender can acquire up to 693,202 shares of common stock at an exercise price of $1.118.

ITEM 2.

MELA SCIENCES, INC.
MANAGEMENT'S DISCUSSION AND ANALYSIS
OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This management's discussion and analysis of financial condition and results of operations is intended to provide information to help you better understand and evaluate our financial condition and results of operations. We recommend that you read this section in conjunction with our unaudited condensed financial statements and accompanying notes included under Part I, Item 1 of this Quarterly Report and our financial statements and accompanying notes in our Annual Report on Form 10-K for the year ended December 31, 2012.

This quarterly report on Form 10-Q, including the following discussion and analysis of financial condition and results of operations, contains forward-looking statements that you should read in conjunction with the financial statements and notes to financial statements that we have included elsewhere in this report. These statements are based on our current expectations, assumptions, estimates and projections about our business and our industry, and involve known and unknown risks, uncertainties, and other factors that may cause our or our industry's results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied in, or contemplated by, the forward-looking statements. Words such as "believe", "anticipate," "expect," "intend," "plan," "will," "may," "should," "estimate," "predict," "potential," "continue," or the negative of such terms or other similar expressions, identify forward-looking statements. Our actual results and the timing of events may differ significantly from the results discussed in the forward-looking statements, and you should not place undue reliance on these statements. Factors that might cause such a difference include those discussed below under the heading "Risk Factors," as well as those discussed elsewhere in this quarterly report on Form 10-Q. We disclaim any intent or obligation to update any forward-looking statements as a result of developments occurring after the period covered by this report or otherwise. Factors that might cause such a difference include whether MelaFind® achieves market acceptance.

Overview

We are a medical device company focused on the commercialization of our flagship product, MelaFind®, and the further design and development of MelaFind® and our technology. MelaFind® is a non-invasive, point-of-care (in the doctor's office) instrument to aid in the detection of melanoma. MelaFind® features a hand-held component that emits light of multiple wavelengths to capture digital data from clinically atypical pigmented skin lesions. The data are then analyzed utilizing sophisticated classification algorithms, 'trained' on our proprietary database of melanomas and benign lesions, to provide information to assist in the management of the patient's disease, including information useful in the decision of whether to biopsy the lesion.

We commenced operations in December 1989 as a New York corporation, re-incorporated as a Delaware corporation in September 1997, and changed our name from Electro-Optical Sciences, Inc. to MELA Sciences, Inc. on April 30, 2010. Since our inception, we have generated significant losses. As of March 31, 2013, we had an accumulated deficit of approximately $148.7 million. We expect to continue to spend significant amounts on the commercialization and further development of MelaFind® and the development of our technology.

In November 2011, the Company received written approval from the U.S. Food and Drug Administration ("FDA") for the MelaFind® Pre-Market Approval ("PMA") application and in September 2011 received Conformite Europeenne ("CE") Mark approval for MelaFind®. On March 7, 2012, the Company installed the first commercial MelaFind® systems, and proceeded with the first phase of the commercial launch of its breakthrough product for melanoma detection.

During the first quarter of 2013, the Company continued its controlled and deliberate commercial launch of MelaFind® by entering into user agreements with dermatologist customers and installing MelaFind® systems throughout the U.S. and Germany, while simultaneously commencing the second phase of the MelaFind® commercial launch by focusing on system usage and patient mobilization among its current customers. As of March 31, 2013, user agreements with 138 customers were in place and 126 MelaFind® systems were installed, with 12 installations pending scheduling and training of staff. Also during the quarter, the Company continued its Post-Approval Study evaluating the sensitivity of physicians in diagnosing melanomas and high-grade lesions and the false positive rate after using MelaFind®.

The Company anticipates that it will continue to incur net losses for the foreseeable future as it proceeds through the commercial launch phase of the Melafind® device and the conduct of a post-approval study. We believe that period-to-period comparisons of our results of operations may not be meaningful and should not be relied on as indicative of our future performance.

Liquidity and Capital Resources

In May 2009, the Company entered into a committed equity financing facility ("CEFF") with Kingsbridge Capital Limited, pursuant to which Kingsbridge committed to purchase from time to time at the Company's sole discretion, up to the lesser of $45 million or 3,327,000 shares of the Company's common stock, prior to May 25, 2012 when the CEFF was terminated. In connection with this CEFF, the Company issued a 5 year warrant to Kingsbridge to purchase up to 200,000 shares of the Company's common stock at an exercise price of $11.35 per share

The Company did not sell any stock to Kingsbridge Capital Limited under the CEFF in the three months ended March 31, 2012. As of March 31, 2012, 1,095,315 shares of common stock remained available for sale under the CEFF, exclusive of the 200,000 outstanding warrants held by Kingsbridge. Legal, accounting, and other costs associated with this agreement approximating $62 had been deferred and this remaining balance was charged to expense upon termination of the CEFF.

In May 2010, the Company filed a Form S-3 shelf registration statement for an indeterminate number of shares of common stock, warrants to purchase shares of common stock and units consisting of a combination thereof having an aggregate initial offering price not to exceed $75 million. The registration statement was declared effective by the SEC on June 1, 2010.

On December 15, 2011, the Company entered into an underwriting agreement, relating to the public offering of 5,000,000 shares of the Company's common stock, at a price to the public of $3.25 per share less underwriting discounts and commissions. The common stock was offered and sold pursuant to the Company's Prospectus dated June 1, 2010 and the Company's Prospectus Supplement filed with the Securities and Exchange Commission (the "SEC") on December 16, 2011, in connection with a takedown from the Company's effective shelf registration statement. The gross proceeds to the Company from the sale of the common stock totaled approximately $16.3 million. After deducting the underwriters' discounts and commissions and other offering expenses payable by the Company, net proceeds were approximately $15 million.

In June 2012, the Company entered into a sales agreement with Cowen and Company, LLC, to sell shares of the Company's common stock through an "at-the-market" equity offering program (the "ATM Program"), which was terminated on February 15, 2013 in conjunction with the public offering described below. During the term of the ATM Program, the Company sold a total of approximately 6.6 million shares for aggregate gross and net proceeds of approximately $14.4 million and $13.8 million, respectively.

On February 12, 2013 the Company entered into an underwriting agreement, relating to the public offering of 6,100,000 shares of the Company's common stock, at a price to the public of $1.30 per share less underwriting discounts and commissions. The gross proceeds to the Company from the sale of the common stock totaled $7.9 million. After deducting the Underwriters' discounts and commissions and other estimated offering expenses payable by the Company, net proceeds were approximately $7.3 million. The offering closed on February 15, 2013. The common stock was offered and sold pursuant to the Company's Prospectus dated June 1, 2010 and the Company's Prospectus Supplement filed with the SEC on February 12, 2013, in connection with a takedown from the Company's shelf registration statement. On February 11, 2013, a senior executive of the Company contractually agreed to not exercise 900,000 fully vested options until such time as the stockholders of the Company approve an increase in the number of authorized shares of the Company's common stock or, if earlier, the Company's written consent.

On March 15, 2013, the Company executed definitive loan documents finalizing a $10 million loan with a venture capital lender. Of the $10 million, $6 million was funded on March 15, 2013 and the Company will have the option to draw down the remaining $4 million through March 17, 2014, subject to the satisfaction of meeting certain sales and revenue targets. The loan matures 42 months from the initial closing and bears interest at a variable rate adjusted for changes in the prime rate but not less than 10.45% per year. For the period ended March 31, 2013 the interest rate was 10.45%. During the first 12 months of the loan, only interest will be paid to the lender and after that the Company will make 30 equal payments of principal and interest until maturity. The loan is secured by a general lien against all of the Company's assets, other than the Company's intellectual property assets. In addition, the lender has a security interest in the proceeds of the sale of any of the Company's intellectual property assets. The Company must also maintain various non-financial covenants including adhering to limits on incurring additional debt. In addition, the payment of dividends or distributions to stockholders is prohibited.

Upon executing the loan documents on March 15, 2013 the Company became obligated to issue to the Lender a warrant to purchase shares of the Company's common stock upon approval by the Company's stockholders of a proposal to increase the Company's number of authorized shares of common stock at its 2013 Annual Meeting of Stockholders. The number of shares that could be acquired upon exercise of the warrant and the exercise price per share, were not fixed on March 15, 2013 but would be determined when the warrant was issued based on a defined formula using trading prices of the Company's common stock during certain periods prior to the issuance of the warrant. The Company's stockholders approved the increase in the number of authorized shares of common stock on April 25, 2013 and on April 26, 2013 the warrant was issued to the Lender. The terms of the warrant were fixed on the date of issuance whereby the Lender received a warrant to purchase up to 693,202 shares of common stock at an exercise price of $1.118 per share. The warrant expires on April 26, 2018.

For financial reporting purposes, the $6 million funded by the Lender on March 15, 2013 was allocated first to the fair value of the Company's obligation to issue the warrant ("Warrant Obligation") that totaled approximately $563 and the balance was reduced further by Lender costs and fees ("Costs"), resulting in an initial carrying value of the loan of approximately $5.3 million. The Company used a level 3 Fair value measurement to determine Fair value, which has significant unobservable inputs as defined in ASC 820. The value of the Warrant Obligation value was determined using the Monte Carlo pricing model that used various assumptions that include; a stock price of $1.16 to $1.18 per share, volatility of 76.83%, time to maturity of 5 years, an exercise price of $1.15 to $1.16 and a riskless rate of return of .84%. Due to the nature of the Monte Carlo model, a 10% change in the underlying unobservable inputs would not have a significant impact on the Fair value.

The value of the Warrant Obligation combined with the Costs resulted in a loan discount of approximately $727. In addition, the Company is obligated to pay the Lender a fee of $425 at the maturity of the Loan (referred to as "Fee" or "Long-term interest payable"). The loan discount and the Fee are being amortized as additional interest expense over the life of the loan using the interest method. Prior to the terms of the warrant being fixed on April 26, 2013, the Warrant Obligation fell within the scope of Accounting Standards Codification 815 "Derivatives and Hedging" and therefore the Warrant Obligation is accounted for as a derivative reflected as a long-term liability at March 31, 2013 with changes in fair value included in operating results.

Most of our expenditures prior to commercialization in March 2012 had been for research and development activities and general and administrative expenses. Research and development expenses represented costs incurred for product development, clinical trials, activities related to regulatory filings, and manufacturing development efforts. Subsequent to the commercial launch of MelaFind®, certain costs previously classified as research and development expenses are now classified as cost of sales or general expenses.

We expense all of our research and development costs as they are incurred.

Prior to March 15, 2013, we had not borrowed (other than by issuing convertible notes, all of which have been converted into equity) or financed our operations through equipment leases, financing loans or other debt instruments.

As of March 31, 2013 we had approximately $21.6 million in cash and cash equivalents. Management believes that this cash balance and anticipated revenues will be sufficient to fund the Company's anticipated level of operations for at least the next twelve months. Should the Company experience unforeseen expenses, or if anticipated revenues are not realized, the effect could negatively impact management's estimated operating results over the next twelve months. In addition, the Company anticipates that long-term it will need substantial funds to broaden the commercialization of MelaFind®, including further development of a direct sales force and expansion of the Company's contract manufacturing capacity. The timing and amount of any additional funding the Company may require will be affected by the commercial success of the product. The funding could be in the form of either additional equity or debt financing, to the extent permitted under the loan agreement with Lender. There can be no assurances that the Company will be able to raise additional financing in the future. Additional funds may not become available on acceptable terms, and there can be no assurance that any additional funding that the Company does obtain will be sufficient to meet the Company's needs in the long term. Any additional funding that the Company may obtain in the future could be dilutive to common stockholders and could provide new investors with rights and preferences senior to common stockholders. In the event that the Company is unable to raise additional funds, the Company has the ability and intent to reduce certain discretionary expenditures.

Our cash and cash equivalents at March 31, 2013 are liquid investments in money market accounts and deposits with commercial banks, which are held in amounts that substantially exceed FDIC limits.

Cash Flows from Operating Activities (in thousands)

Net cash used in operations was $6,092 for the three months ended March 31, 2013. For the corresponding period in 2012, net cash used in operations was approximately $5,317. In both periods, cash used in operations was attributable to net losses after an adjustment for non-cash charges, principally related to depreciation/amortization and share-based compensation, and other changes in operating assets and liabilities.

Cash Flows from Investing Activities

For the three months ended March 31, 2013, there was $1,641 net cash used in our investing activities for the purchase of fixed assets, which consist mainly of MelaFind® systems. For the corresponding period in 2012, $408 net cash was used in our investing activities for the purchase of fixed assets.

Cash Flows from Financing Activities

For the three months ended March 31, 2013, there was $21,519 provided by our financing activities representing the net proceeds from our ATM public offering, the net proceeds from our public offering consummated in February 2013, net proceeds from borrowings and the proceeds from the exercise of stock options. For the three months ended March 31, 2012 there was $29 provided by our financing activities representing the net of additional costs from our December 2011 public offering and the proceeds from the exercise of stock options.

Operating Capital and Capital Expenditure Requirements

We face certain risks and uncertainties, which are present in many emerging medical device companies. At March 31, 2013, we had an accumulated deficit of approximately $148.7 million. We anticipate that we will continue to incur net losses for the foreseeable future as we proceed through the commercial launch phase of the Melafind® device. We do not expect to generate significant product revenue until after we successfully complete a controlled product launch of MelaFind®. However, we will spend substantial funds to broaden the commercialization of MelaFind®, including development of a direct sales force and expansion of our contract manufacturing capacity. The timing and amount of any additional funding the Company may require will be affected by the commercial success of its MelaFind® product. The funding could be in the form of either additional equity or debt financing, to the extent permitted under the loan agreement with Lender, or in exchange for product rights in all or certain geographies, for example. The Company believes that the Company's available cash and cash equivalents, combined with anticipated revenues, will be sufficient to fund the Company's anticipated levels of operations for at least the next twelve months. However, should the Company experience unforeseen expenses, or if anticipated revenues are not realized, the effect could negatively impact management's estimated operating results over the next twelve months. If the Company's existing cash is insufficient to satisfy the Company's liquidity requirements, or if the Company develop additional products, we may seek to sell additional equity or debt securities or obtain a credit facility, which will be even more difficult due to the lack of available capital as a result of the ongoing effects of the recent global economic crisis. If additional funds are raised through the issuance of debt securities, these securities would have rights senior to those associated with our common stock and could contain covenants that would restrict our operations. Any additional financing may not be available in amounts or on terms acceptable to us, or at all. If we are unable to obtain this additional financing, we may be required to reduce the scope of, delay or eliminate some or all of planned product research development and commercialization activities, which could harm our business.

Because of the numerous risks and uncertainties associated with the development and commercialization of medical devices such as MelaFind® and operating our Company, we are unable to estimate the exact amounts of capital outlays and operating expenditures. Our future funding requirements will depend on many factors, including, but not limited to:

- the cost of commercialization activities, including product marketing and building a direct sales force;
- the amount of direct payments we are able to obtain from physicians utilizing MelaFind®;
- the costs of maintaining regulatory approval;
- reimbursement amounts for the use of MelaFind® that physicians are able to obtain from Medicare and third party payers;
- the success of our research and development efforts in product creation and enhancement, and meeting competitive services and technologies;
- the schedule, costs, and results of our clinical trials and studies;
- the costs of maintaining or potentially building our inventory and other manufacturing expenses;
- our ability to establish and maintain any collaborative, licensing or other arrangements, and the terms and timing of any such arrangements;
- the costs involved in defending any patent infringement actions or other litigation claims brought against us by third parties; and
- the costs of filing, prosecuting, defending and enforcing any patent claims or other rights.

Contractual Obligations (in thousands)

The following table summarizes our outstanding contractual obligations as of March 31, 2013, and the effect those obligations are expected to have on our liquidity and cash flows in future periods:

	Total	Less than 1 year	1-3 years	3-4 years
Operating leases	$1,797	$ 462	$ 955	$ 380
Debt principal and interest payments	$7,471	$ 627	$ 4,836	$ 2,008

Our long-term operating lease obligations represent a non-cancelable operating lease for our laboratory, assembly, and office space. The lease on approximately 21,700 square feet of space expires in December 2016.

Our long-term debt principal and interest obligations represent the loan agreement with a venture capital lender.

Results of Operations (in thousands)

In the first quarter of 2013, the Company continued its MelaFind® commercial launch activities in the U.S. and Germany which had commenced in March 2012. For the first two months of 2012 the Company recorded all transactions as an R&D company. Subsequent to the commercial launch of MelaFind® in March 2012, certain costs previously classified as research and development expenses are now classified as cost of sales or selling, general and administrative expenses. Sales and marketing efforts in the first quarter of 2013 were significantly increased over the first quarter a year earlier.

Three Months Ended March 31, 2013 Compared to Three Months Ended March 31, 2012

Revenue

Revenue of $144 and a change in deferred revenue of $89 were recorded in the three months ended March 31, 2013, compared to revenue of $11 and deferred revenue of $17 during the three months ended March 31, 2012. Revenue, as stated, is net of a provision for customer allowances of $10. In addition, an allowance for bad debts of $30 has been recorded to SG&A expense. In general, the Company signs a user agreement with its customers that includes an installation fee for the placement of the MelaFind® system and provides for the billing of usage based on the number of patient sessions or lesions examined, or a fixed monthly rental fee. In addition, the user agreement provides for the sale of consumables needed to operate the system. Deferred revenue primarily reflects the timed recognition of the installation fee revenue over the term of the user agreement, which is generally two years.

Cost of Revenue

Costs of $1,080 were recorded as associated with the realization of MelaFind® revenue during the three months ended March 31, 2013 compared to costs of revenue of $130 a year earlier. These costs were made up of direct costs associated with the placement of the MelaFind® system in the doctor's office, the cost of consumables, the cost of a reserve for shrinkage in consumable inventories, the cost of the electronic record cards, technical support costs and depreciation expense of the MelaFind® system placed with the customer, which remains the property of the Company. Certain product quality and manufacturing overhead costs associated with supporting the contract manufacturers of MelaFind® are allocated to costs of goods sold.

Research and Development Expense

Research and development ("R&D") expenses experienced an overall decrease of $1,173 or 48% in the three months ended March 31, 2013 versus the comparable period a year earlier. Clinical and regulatory costs are recorded to selling, general and administrative ("SG&A") expense in 2013. In the first quarter of 2012, clinical costs of $639 and regulatory costs of $435 which occurred before commercialization were recorded to R&D. The balance of the decrease in R&D costs was the reduction in R&D labor and materials at Askion in Germany of $254 offset by increases of $70 in U.S. developmental costs and $85 in software development costs.

Selling, General and Administrative Expense

Selling, general and administrative expenses experienced an overall increase of $1,070 or 33% for the three months ended March 31, 2013 versus the comparable period a year earlier. As discussed above certain clinical and regulatory expenses now recorded in SG&A were recorded in 2012 as R&D and account for $1,074 of the quarter –to-quarter variance. Exclusive of the cost reclassification, the variance is primarily due to increased marketing costs of $1,021 offset by decreased clinical costs of $530 and decreased regulatory costs of $423.

The increase in marketing costs in the first quarter of 2013 over the same period a year earlier include an increase in compensation related expenses of $540 and the increase in travel and entertainment costs of $148 as the number of employees in marketing increased to 26 from 7 a year earlier.

Interest Income

Interest income for the three months ended March 31, 2013 decreased to $2 from $13 in the comparable period of 2012. Interest income decreased as a result of the deterioration of interest rates and smaller cash balances during the period in 2013.

Interest Expense

Interest expense for the quarter ended March 31, 2013 represents the interest expense on the loan entered into in March 2013. There was no interest expense in the same period a year earlier.

Change in Fair Value of Warranty Liability

In connection with the loan agreement entered into in March 2013, the Company has a liability to issue a warrant in the future. The value of that warrant liability will vary until the warrant is issued. From the date of the loan agreement when the liability was calculated to March 31, 2013, the calculated liability associated with the warrant decreased by $15. There was no similar warranty liability in 2012.

Other Income

Other income for the three month periods ended March 31, 2013 and 2012 was the $5 royalty minimum we earn each quarter from Kavo on the sale/licensing of our DEFOTI product.

Critical Accounting Policies and Significant Judgments and Estimates

Our management's discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the U.S. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements as well as the reported revenues and expenses during the reporting periods. On an ongoing basis, we evaluate our judgments related to accounting estimates. We base our estimates on historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in Note 1 to our financial statements included in this quarterly report, we believe that the following accounting policies and significant judgments and estimates relating to revenue recognition, stock-based compensation charges, and accrued expenses are most critical to aid you in fully understanding and evaluating our reported financial results.

Revenue Recognition

The Company considers revenue to be earned when all of the following criteria are met: persuasive evidence a sales arrangement exists; delivery has occurred or services have been rendered; the price is fixed or determinable; and collectability is reasonably assured. The Company's agreements with dermatologists regarding the MelaFind® system combine the elements noted above with a future service obligation. While the Company is required to place the MelaFind® systems with dermatologists for their exclusive use, ownership of the MelaFind® systems remains with the Company.

The Company generates revenue from the sale of usage based on the number of patient sessions or lesions examined, or a fixed monthly fee. Electronic record cards activate the MelaFind® system, capture data and store the data. Additionally, the Company typically charges an initial installation fee for each MelaFind® system which covers training, delivery, supplies, maintenance and the right to use MelaFind®. In accordance with the accounting guidance regarding multiple-element arrangements, the Company allocates total contract consideration to each element based upon the relative standalone selling prices of each element, and recognizes the associated revenue for each element as delivery occurs or over the related service period, generally expected to be two years. Revenues associated with undelivered elements are deferred until delivery occurs or services are rendered.

Costs of revenue are associated with: the placement of the MelaFind® system in the doctor's office, the cost of consumables delivered at installation, the cost of the electronic record cards, technical support costs and depreciation expense of the MelaFind® system placed with the customer which remains the property of the Company. Certain product quality and manufacturing overhead costs associated with supporting the contract manufacturers of MelaFind® are allocated to costs of revenue.

Stock-Based Compensation

We account for non-employee stock-based awards in which goods or services are the consideration received for the equity instruments issued based on the fair value of the equity instruments issued in accordance with FASB ASC 505-50, "Equity Based Payments to Non-Employees."

We record compensation expense associated with stock options and other forms of equity compensation in accordance with FASB ASC 718, *Compensation-Stock Compensation*, as interpreted by SEC Staff Accounting Bulletins No. 107 and No. 110. A compensation charge is recorded, when it is probable that performance conditions will be satisfied, over the period estimated to satisfy the performance condition. The probability of vesting is updated at each reporting period and compensation is adjusted prospectively.

Accrued Expenses

As part of the process of preparing financial statements, we are required to estimate accrued expenses. This process involves identifying services that have been performed on our behalf and estimating the level of service performed and the associated cost incurred for such service where we have not been invoiced or otherwise notified of the actual cost. Examples of estimated accrued expenses include:

- professional service fees;
- contract clinical and regulatory related service fees;
- fees paid to contract manufacturers in conjunction with the production of MelaFind® components or materials; and
- fees paid to third party data collection organizations and investigators in conjunction with the clinical trials and FDA and other regulatory review.

In connection with such service fees, our estimates are most affected by our projections of the timing of services provided relative to the actual level of services provided by such service providers. The majority of our service providers invoice us monthly in arrears for services performed. In the event that we do not identify certain costs that have begun to be incurred or we under or over

estimate the level of services performed or the costs of such services, our actual expenses could differ from such estimates. The date on which certain services commence, the level of services performed on or before a given date, and the cost of such services are often subjective determinations. We make these judgments based upon the facts and circumstances known to us and accrue for such costs in accordance with accounting principles generally accepted in the U.S. This is done as of each balance sheet date in our financial statements.

Off-Balance Sheet Arrangements

We do not currently have, nor have we ever had, any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. In addition, we do not engage in trading activities involving non-exchange traded contracts. As such, we are not materially exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in these relationships.

Recent Accounting Pronouncements

The Financial Accounting Standards Board has issued a number of new accounting standards that require future adoption. Based on the Company's initial review of these new standards, none are expected to have a material impact on the Company's financial statements.

ITEM 3.

Quantitative and Qualitative Disclosures about Market Risk

Our exposure to market risk is confined to our cash, cash equivalents, and short-term investments. We invest in high-quality financial instruments, primarily money market funds, with the average effective duration of the portfolio within one year which we believe are subject to limited credit risk. We currently do not hedge interest rate exposure. Due to the short-term nature of our investments, we do not believe that we have any material exposure to interest rate risk arising from our investments. The Company is exposed to credit risks in the event of default by the financial institutions or issuers of investments in excess of FDIC insured limits. The Company performs periodic evaluations of the relative credit standing of these financial institutions and limits the amount of credit exposure with any institution.

ITEM 4.

Controls and Procedures

Evaluation of disclosure controls and procedures

Based on their evaluation as of March 31, 2013, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, were effective to ensure that the information required to be disclosed by us in this Quarterly Report on Form 10-Q was recorded, processed, summarized and reported within the time periods specified in the SEC's rules and Form l0-Q, and that such information was accumulated and communicated to management, including the Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Change in internal control over financial reporting

There were no changes in our internal control over financial reporting during the quarter ended March 31, 2013 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the effectiveness of controls

Our disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within a company have been detected.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

From time to time, we may be a party to certain legal proceedings, incidental to the normal course of our business. These may include controversies relating to contract claims and employment related matters, some of which claims may be material in which case we will make separate disclosure as required.

Item 1A. Risk Factors

Our business and operations entail a variety of serious risks and uncertainties, including those described in Item 1A of our Form 10-K for the year ended December 31, 2012. In addition, the following risk factors have materially changed during the three months ended March 31, 2013:

We have incurred losses for a number of years, and anticipate that we will incur continued losses for the foreseeable future.

Our net loss for the three months ended March 31, 2013 was approximately $6.5 million, and as of March 31, 2013, we had an accumulated deficit of approximately $148.7 million. Our research and development expenses may increase in connection with our continued development activities related to MelaFind®. We expect to incur significant sales, marketing, contract-manufacturing and inventory build-up expenses which will require additional funding. As a result, we expect to continue to incur significant and increasing operating losses for the foreseeable future. These losses, among other things, have had and will continue to have an adverse effect on our stockholders' equity.

We may be unable to continue commercialization and continue development of MelaFind® enhancements or other products without additional funding and we will not be able to achieve significant commercialization without additional funding.

As of March 31, 2013 we had approximately $21.6 million in cash and cash equivalents. Our operations have consumed substantial amounts of cash over the past several years and we expect that our cash used by operations will increase significantly in each of the next several years. We believe that our available cash and cash equivalents combined with our anticipated revenues will be sufficient to fund our anticipated levels of operations for at least the next twelve months. In the event that the Company is unable to raise additional funds, the Company has the ability and intent to reduce certain discretionary expenditures. However, we will need substantial funds to broaden the commercial expansion of MelaFind®, including further development of a direct sales force and expansion of our contract-manufacturing capacity. We also expect to continue to spend funds on research and development and product enhancements. Our business or operations may change in a manner that would consume available resources more rapidly than we anticipate. The amount of funding we will need will depend on many factors, including:

- the cost of commercialization activities, including product marketing and building a direct sales force;
- the amount of direct payments we are able to obtain from physicians utilizing MelaFind®;
- the costs of maintaining regulatory approval;

- reimbursement amounts for the use of MelaFind® that physicians are able to obtain from Medicare and third party payers;
- the success of our research and development efforts in product creation and enhancement, and meeting competitive services and technologies;
- the schedule, costs and results of our clinical trials and studies;
- the costs of maintaining inventory or potentially building our inventory and other manufacturing expenses;
- our ability to establish and maintain any collaborative, licensing or other arrangements, and the terms and timing of any such arrangements;
- the costs involved in defending any patent infringement actions or other litigation claims brought against us by third parties; and
- the costs of filing, prosecuting, defending and enforcing any patent claims and other rights.

Additional financing may not be available to us when we need it, or it may not be available on favorable terms. If we are unable to obtain adequate financing on a timely basis, we may be required to significantly curtail or cease one or more of our development and marketing programs. We also may have to reduce marketing, customer support and other resources devoted to our products. We could be required to seek funds through arrangements with collaborators or others that may require us to relinquish rights to some of our technologies, product candidates or products that we would otherwise pursue on our own, or that may require us to grant a security interest in our assets. If we raise additional funds by issuing equity securities, our then-existing stockholders will experience ownership dilution, could experience declines in our share price and the terms of any new equity securities may have preferences over our common stock.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None

Item 3. Defaults Upon Senior Securities

Not applicable

Item 4. Mine Safety Disclosures

Not applicable

Item 5. Other Information

(a) Not applicable

(b) Not applicable

Table of Contents

Item 6. Exhibits

Exhibit Number	Exhibit Title
10.1#	Loan and Security Agreement, dated as of March 15, 2013, by and between MELA Sciences, Inc. and Hercules Technology Growth Capital, Inc.
10.2#	Warrant Agreement, dated as of April 26, 2013, by and between MELA Sciences, Inc. and Hercules Technology Growth Capital, Inc.
31.1#	Certification of Chief Executive Officer Pursuant to Rule 13a-14(a) or Rule 15d-14(a) under the Securities Exchange Act of 1934, as amended.
31.2#	Certification of Chief Financial Officer Pursuant to Rule 13a-14(a) or Rule 15d-14(a) under the Securities Exchange Act of 1934, as amended.
32.1#	Certification of Chief Executive Officer and Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.1#	Interactive Data File

Filed herewith

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

MELA SCIENCES, INC.

By: /s/ Richard I. Steinhart
Richard I. Steinhart
Senior Vice President and Chief Financial Officer
(Principal Accounting and Financial Officer)

Date: April 30, 2013

EXHIBIT INDEX

Exhibit No.	Description
10.1	Loan and Security Agreement, dated as of March 15, 2013, by and between MELA Sciences, Inc. and Hercules Technology Growth Capital, Inc.
10.2	Warrant Agreement, dated as of April 26, 2013, by and between MELA Sciences, Inc. and Hercules Technology Growth Capital, Inc.
31.1	Certification by the Chief Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) under the Securities Exchange Act of 1934, as amended.
31.2	Certification by the Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) under the Securities Exchange Act of 1934, as amended.
32.1	Certification Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.1	Interactive Data File

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT is made and dated as of March 15, 2013 and is entered into by and between MELA SCIENCES, INC., a Delaware corporation, (hereinafter referred to as "Borrower"), and HERCULES TECHNOLOGY GROWTH CAPITAL, INC., a Maryland corporation ("Lender").

RECITALS

A. Borrower has requested Lender to make available to Borrower term loans in an aggregate principal amount of up to Ten Million Dollars ($10,000,000.00) in two (2) tranches (each a "Term Loan" and, collectively, the "Term Loans"); and

B. Lender is willing to make the Term Loans on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, Borrower and Lender agree as follows:

SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION

1.1 Unless otherwise defined herein, the following capitalized terms shall have the following meanings:

"Account Control Agreement(s)" means any agreement entered into by and among Lender, Borrower and a third party Bank or other institution (including a Securities Intermediary) in which Borrower maintains a Deposit Account or an account holding Investment Property and which grants Lender a perfected first priority security interest in the subject account or accounts.

"ACH Authorization" means the ACH Debit Authorization Agreement in substantially the form of Exhibit H.

"Advance(s)" means a Term Loan Advance.

"Advance Date" means the funding date of any Advance.

"Advance Request" means a request for an Advance submitted by Borrower to Lender in substantially the form of Exhibit A.

"Agreement" means this Loan and Security Agreement, as amended from time to time.

"Amortization Date" means May 1, 2014.

"Assignee" has the meaning given to it in Section 11.13.

"Borrower Products" means all products, software, service offerings, technical data or technology currently being designed, manufactured or sold by Borrower or which Borrower intends to sell, license, or distribute in the future including any products or service offerings under development, collectively, together with all products, software, service offerings, technical data or technology that have been sold, licensed or distributed by Borrower since its incorporation.

"Cash" means all cash and liquid funds.

"Certificate of Incorporation" means Borrower's Certificate of Incorporation, as amended and/or restated and in effect from time to time, as filed with the Secretary of State of the State of Delaware.

"Change in Control" means (i) any reorganization, recapitalization, consolidation or merger (or similar transaction or series of related transactions) of Borrower or any Subsidiary, sale or exchange of outstanding shares (or similar transaction or series of related transactions) of Borrower or any Subsidiary in which the holders of Borrower or Subsidiary's outstanding shares immediately before consummation of such transaction or series of related transactions do not, immediately after consummation of such transaction or series of related transactions, retain shares representing more than fifty percent (50%) of the voting power of the surviving entity of such transaction or series of related transactions (or the parent of such surviving entity if such surviving entity is wholly owned by such parent), in each case without regard to whether Borrower or Subsidiary is the surviving entity, or (ii) the sale or issuance by Borrower of equity securities to one or more purchasers, in a single transaction or series of related transactions not registered under the Securities Act of 1933, which securities represent, as of immediately following the closing (or, if there be more than one, any closing) thereof, twenty-five percent (25%) or more of the then-outstanding total combined voting power of Borrower.

"Claims" has the meaning given to it in Section 11.10.

"Closing Date" means the date of this Agreement.

"Collateral" means the property described in Section 3.

"Commitment Fee" means Thirty-Five Thousand Dollars ($35,000), which fee has been paid to Lender by Borrower, and shall be deemed fully earned on the Closing Date regardless of the early termination of this Agreement.

"Common Stock" means Borrower's common stock, $0.001 par value per share, and any class or series of Borrower's capital stock into or for which such common stock may be converted, exchanged or substituted pursuant to a reorganization, recapitalization, exchange offer or otherwise.

"Confidential Information" has the meaning given to it in Section 11.12.

"Contingent Obligation" means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (i) any indebtedness, lease, dividend, letter of credit or other obligation of another, including any such obligation directly or

indirectly guaranteed, endorsed, co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable; (ii) any obligations with respect to undrawn letters of credit, corporate credit cards or merchant services issued for the account of that Person; and (iii) all obligations arising under any interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term "Contingent Obligation" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made, unless the Contingent Obligation is expressly limited to a lesser amount by its terms in which event it shall be deemed to be lesser amount, or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

"Copyright License" means any written agreement granting any right to use any Copyright or Copyright registration, now owned or hereafter acquired by Borrower or in which Borrower now holds or hereafter acquires any interest.

"Copyrights" means all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof, or of any other country.

"Deposit Accounts" means any "deposit accounts," as such term is defined in the UCC, and includes any checking account, savings account, or certificate of deposit.

"ERISA" is the Employee Retirement Income Security Act of 1974, and its regulations.

"Event of Default" has the meaning given to it in Section 9.

"Facility Charge" means One Hundred Thousand Dollars ($100,000) (i.e., one percent (1.00%) of the Maximum Term Loan Amount).

"Financial Statements" has the meaning given to it in Section 7.1.

"GAAP" means generally accepted accounting principles in the United States of America, as in effect from time to time.

"Indebtedness" means indebtedness of any kind, including (a) all indebtedness for borrowed money or the deferred purchase price of property or services (excluding trade credit entered into in the ordinary course of business due within sixty (60) days or such longer credit terms as may be customarily extended by a vendor to the Borrower (provided that such trade credit with longer terms shall not exceed twenty-five percent (25.00%) of all trade credit at any time), including reimbursement and other obligations with respect to surety bonds and letters of credit, (b) all obligations evidenced by notes, bonds, debentures or similar instruments, (c) all capital lease obligations, and (d) all Contingent Obligations.

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

"Intellectual Property" means all of Borrower's Copyrights; Trademarks; Patents; Licenses; trade secrets and inventions; mask works; Borrower's applications therefor and reissues, extensions, or renewals thereof; and Borrower's goodwill associated with any of the foregoing, together with Borrower's rights to sue for past, present and future infringement of Intellectual Property and the goodwill associated therewith.

"Investment" means any beneficial ownership (including stock, partnership or limited liability company interests) of or in any Person, or any loan (excluding the extension of trade credit in the ordinary course of business), advance or capital contribution to any Person or the acquisition of all, or substantially all, of the assets of another Person.

"Joinder Agreements" means for each Subsidiary, a completed and executed Joinder Agreement in substantially the form attached hereto as Exhibit G.

"Lender" has the meaning given to it in the preamble to this Agreement.

"License" means any Copyright License, Patent License, Trademark License or other license of rights or interests.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, against any property, any conditional sale or other title retention agreement, and any capital lease in the nature of a security interest.

"Loan" means the Advances made under this Agreement.

"Loan Documents" means this Agreement, the Notes (if any), the ACH Authorization, the Account Control Agreements, the Joinder Agreements, all UCC Financing Statements, the Warrant and any other documents executed in connection with the Secured Obligations or the transactions contemplated hereby, as the same may from time to time be amended, modified, supplemented or restated.

"Material Adverse Effect" means a material adverse effect upon: (i) the business, operations, properties, assets, prospects or condition (financial or otherwise) of Borrower; or (ii) the ability of Borrower to perform the Secured Obligations in accordance with the terms of the Loan Documents, or the ability of Lender to enforce any of its rights or remedies with respect to the Secured Obligations; or (iii) the Collateral or Lender's Liens on the Collateral or the priority of such Liens.

"Maximum Term Loan Amount" means Ten Million Dollars ($10,000,000).

"Maximum Rate" shall have the meaning assigned to such term in Section 2.2.

"Note(s)" means a Term Note.

"Patent License" means any written agreement granting any right with respect to any invention on which a Patent is in existence or a Patent application is pending, in which agreement Borrower now holds or hereafter acquires any interest.

"Patents" means all letters patent of, or rights corresponding thereto, in the United States or in any other country, all registrations and recordings thereof, and all applications for letters patent of, or rights corresponding thereto, in the United States or any other country.

"Permitted Indebtedness" means: (i) Indebtedness of Borrower in favor of Lender arising under this Agreement or any other Loan Document; (ii) Indebtedness existing on the Closing Date which is disclosed in Schedule 1A; (iii) Indebtedness of up to $500,000 outstanding at any time secured by a Lien described in clause (vii) of the defined term "Permitted Liens," provided such Indebtedness does not exceed the lesser of the cost or fair market value of the Equipment financed with such Indebtedness; (iv) Indebtedness to trade creditors incurred in the ordinary course of business, including Indebtedness incurred in the ordinary course of business with corporate credit cards; (v) Indebtedness that also constitutes a Permitted Investment; (vi) Subordinated Indebtedness; (vii) reimbursement obligations in connection with letters of credit that are secured by cash or cash equivalents and issued on behalf of the Borrower or a Subsidiary thereof in an amount not to exceed $400,000 at any time outstanding, (viii) other Indebtedness in an amount not to exceed $200,000 at any time outstanding, and (ix) extensions, refinancings and renewals of any items of Permitted Indebtedness, provided that the principal amount is not increased or the terms modified to impose materially more burdensome terms upon Borrower or its Subsidiary, as the case may be.

"Permitted Investment" means: (i) Investments existing on the Closing Date which are disclosed in Schedule 1B; (ii) (a) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one year from the date of acquisition thereof, (b) commercial paper maturing no more than one year from the date of creation thereof and currently having a rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service, (c) certificates of deposit issued by any bank with assets of at least $500,000,000 maturing no more than one year from the date of investment therein, and (d) money market accounts; (iii) repurchases of stock from former employees, directors, or consultants of Borrower under the terms of applicable repurchase agreements at the original issuance price of such securities in an aggregate amount not to exceed $250,000 in any fiscal year, provided that no Event of Default has occurred, is continuing or would exist after giving effect to the repurchases; (iv) Investments accepted in connection with Permitted Transfers; (v) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of Borrower's business; (vi) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not affiliates, in the ordinary course of business, provided that this subparagraph (vi) shall not apply to Investments of Borrower in any Subsidiary; (vii) Investments consisting of loans not involving the net transfer on a substantially contemporaneous basis of cash proceeds to employees, officers or directors relating to the purchase of capital stock of Borrower pursuant to employee stock purchase plans or other similar

agreements approved by Borrower's Board of Directors; (viii) Investments consisting of travel or other business related advances in the ordinary course of business; (ix) Investments in newly-formed Subsidiaries organized in the United States, provided that such Subsidiaries enter into a Joinder Agreement promptly after their formation by Borrower and execute such other documents as shall be reasonably requested by Lender; (x) Investments in subsidiaries organized outside of the United States approved in advance in writing by Lender; (xi) joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of the nonexclusive licensing of technology, the development of technology or the providing of technical support, provided that any cash Investments by Borrower do not exceed $100,000 in the aggregate in any fiscal year; and (xii) additional Investments that do not exceed $250,000 in the aggregate.

"Permitted Liens" means any and all of the following: (i) Liens in favor of Lender; (ii) Liens existing on the Closing Date which are disclosed in Schedule 1C; (iii) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings; provided, that Borrower maintains adequate reserves therefor in accordance with GAAP; (iv) Liens securing claims or demands of materialmen, artisans, mechanics, carriers, warehousemen, landlords and other like Persons arising in the ordinary course of Borrower's business and imposed without action of such parties; provided, that the payment thereof is not yet required, or if due, which are being contested in good faith and properly reserved for on Borrower's financial records; (v) Liens arising from judgments, decrees or attachments in circumstances which do not constitute an Event of Default hereunder; (vi) the following deposits, to the extent made in the ordinary course of business: deposits under worker's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations (other than liens arising under ERISA or environmental liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds; (vii) Liens on Equipment or software or other intellectual property constituting purchase money liens and liens in connection with capital leases securing Indebtedness permitted in clause (iii) of "Permitted Indebtedness"; (viii) Liens incurred in connection with Subordinated Indebtedness; (ix) leasehold interests in leases or subleases and licenses granted in the ordinary course of business and not interfering in any material respect with the business of the licensor; (x) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties that are promptly paid on or before the date they become due; (xi) Liens on insurance proceeds securing the payment of financed insurance premiums that are promptly paid on or before the date they become due (provided that such Liens extend only to such insurance proceeds and not to any other property or assets); (xii) statutory and common law rights of set-off and other similar rights as to deposits of cash and securities in favor of banks, other depository institutions and brokerage firms; (xiii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business so long as they do not materially impair the value or marketability of the related property; (xiv) Liens on cash or cash equivalents securing obligations permitted under clause (vii) of the definition of Permitted Indebtedness; and (xv) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (i) through (xi) above; provided, that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced (as may have been reduced by any payment thereon) does not increase.

"Permitted Transfers" means (i) sales of Inventory in the normal course of business, (ii) licenses and similar arrangements for the use of Intellectual Property in the ordinary course of business that could not result in a legal transfer of title of the licensed property, or (iii) dispositions of worn-out, obsolete or surplus Equipment at fair market value in the ordinary course of business, (v) physical transfer of Melafind system equipment to a customer's premises in arm's length transactions in the ordinary course of business with the use of the equipment granted to customer but with the title to the equipment being retained by the Borrower, and (v) other Transfers of assets having a fair market value of not more than $500,000 in the aggregate in any fiscal year.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, other entity or government.

"Prepayment Charge" shall have the meaning assigned to such term in Section 2.4.

"Prime Rate" means the "prime rate" as reported in *The Wall Street Journal*, and if not reported, then the prime rate most recently reported in *The Wall Street Journal*.

"Receivables" means (i) all of Borrower's Accounts, Instruments, Documents, Chattel Paper, Supporting Obligations, letters of credit naming Borrower as the beneficiary thereof and all proceeds of any such letters of credit, and Letter of Credit Rights, and (ii) all customer lists, software, and business records related thereto.

"Required Financing" means the closing of any Borrower financing which becomes effective during the period commencing on January 1, 2013 through and including the Closing Date and results in aggregate proceeds to Borrower of at least $12,500,000.

"Second Tranche Draw Conditions" means satisfaction of both of the following conditions: (i) Borrower's commercial placement in arm's length transactions in the ordinary course of business of at least 300 MelaFind systems with Persons not directly affiliated with Borrower, and (ii) receipt by Borrower as of the last day of any month of commercial patient card revenue in the trailing three-months ending on such day in an amount equal to or greater than $3,000,000; for the avoidance of doubt, the Second Tranche Draw Conditions will not be deemed to have been satisfied if an Event of Default has occurred and is continuing on the date that the foregoing conditions are otherwise satisfied.

"Second Tranche Draw Period" means the period commencing on the occurrence of the Second Tranche Draw Conditions and ending on the earliest to occur of (i) thirty (30) days thereafter, (ii) the existence of an Event of Default on the date of the occurrence of the Second Tranche Draw Conditions or thereafter, and (iii) March 17, 2014.

"Secured Obligations" means Borrower's obligations under this Agreement and any Loan Document, including any obligation to pay any amount now owing or later arising.

"Subordinated Indebtedness" means Indebtedness subordinated to the Secured Obligations in amounts and on terms and conditions satisfactory to Lender in its sole discretion.

"Subsidiary" means an entity, whether corporate, partnership, limited liability company, joint venture or otherwise, in which Borrower owns or controls 50% or more of the outstanding voting securities, including each entity listed on Schedule 1 hereto.

"Term Loan Advance" means any Term Loan funds advanced under this Agreement.

"Term Loan Interest Rate" means for any day, a floating rate per annum equal to the greater of (i) ten and 45 one hundredths percent (10.45%), or (ii) the sum of (A) ten and 45 one hundredths percent (10.45%), plus (B) the Prime Rate minus three and one quarter of one percent (3.25%). The Term Loan Interest Rate will change from time to time on the day the Prime Rate changes.

"Term Loan Maturity Date" means November 1, 2016.

"Term Note" means a Promissory Note in substantially the form of Exhibit B-1.

"Trademark License" means any written agreement granting any right to use any Trademark or Trademark registration, now owned or hereafter acquired by Borrower or in which Borrower now holds or hereafter acquires any interest.

"Trademarks" means all trademarks (registered, common law or otherwise) and any applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof.

"UCC" means the Uniform Commercial Code as the same is, from time to time, in effect in the State of California; provided, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, Lender's Lien on any Collateral is governed by the Uniform Commercial Code as the same is, from time to time, in effect in a jurisdiction other than the State of California, then the term "UCC" shall mean the Uniform Commercial Code as in effect, from time to time, in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

"VWAP" has the meaning given in Section 7.4(b) hereof.

"Warrant" shall have the meaning given in Section 7.4(a) hereof.

Unless otherwise specified, all references in this Agreement or any Annex or Schedule hereto to a "Section," "subsection," "Exhibit," "Annex," or "Schedule" shall refer to the corresponding Section, subsection, Exhibit, Annex, or Schedule in or to this Agreement. Unless otherwise specifically provided herein, any accounting term used in this Agreement or the other Loan Documents shall have the meaning customarily given such term in accordance with GAAP, and all financial computations hereunder shall be computed in accordance with GAAP,

consistently applied. Unless otherwise defined herein or in the other Loan Documents, terms that are used herein or in the other Loan Documents and defined in the UCC shall have the meanings given to them in the UCC.

SECTION 2. THE TERM LOANS

2.1 [Reserved].

2.2 Term Loan.

(a) Advances. Subject to the terms and conditions of this Agreement, Lender will make, and Borrower agrees to draw, an initial Term Loan Advance of Six Million Dollars ($6,000,000) on the Closing Date. During the Second Tranche Draw Period, Borrower may request one (1) additional Term Loan Advance in an amount of up to Four Million Dollars ($4,000,000). The aggregate outstanding principal amount of the Term Loan Advances shall not exceed the Maximum Term Loan Amount. Proceeds of any Advance, to the extent not disbursed on the applicable Advance Date pursuant to funding instructions approved by Lender, shall be deposited in an account that is subject to a perfected security interest in favor of Lender.

(b) Advance Request. To obtain a Term Loan Advance, Borrower shall complete, sign and deliver to Lender an Advance Request (at least five business days before the Advance Date). Lender shall fund the Term Loan Advance in the manner requested by the Advance Request provided that each of the conditions precedent to such Term Loan Advance is satisfied as of the requested Advance Date.

(c) Interest. The principal balance of each Term Loan Advance shall bear interest thereon from such Advance Date at the Term Loan Interest Rate based on a year consisting of 360 days, with interest computed daily based on the actual number of days elapsed. The Term Loan Interest Rate will float and change on the day the Prime Rate changes from time to time.

(d) Payment. Borrower will pay interest on each Term Loan Advance on the first day of each month, beginning the month after the Advance Date. Borrower shall repay the aggregate Term Loan principal balance of the Term Loans that are then outstanding on the Amortization Date in equal monthly installments of principal and interest beginning on the Amortization Date and continuing on the first business day of each month thereafter. The entire then outstanding principal balance of the Term Loans and all accrued but unpaid interest hereunder, shall be due and payable on Term Loan Maturity Date. Borrower shall make all payments under this Agreement without setoff, recoupment or deduction and regardless of any counterclaim or defense. Lender will initiate debit entries to the Borrower's account as authorized on the ACH Authorization on each payment date of all periodic obligations payable to Lender under each Term Note or Term Advance. Once repaid, a Term Loan or any portion thereof may not be reborrowed.

(e) Maximum Interest. Notwithstanding any provision in this Agreement or any other Loan Document, it is the parties' intent not to contract for, charge or receive

interest at a rate that is greater than the maximum rate permissible by law that a court of competent jurisdiction shall deem applicable hereto (which under the laws of the State of California shall be deemed to be the laws relating to permissible rates of interest on commercial loans) (the "Maximum Rate"). If a court of competent jurisdiction shall finally determine that Borrower has actually paid to Lender an amount of interest in excess of the amount that would have been payable if all of the Secured Obligations had at all times borne interest at the Maximum Rate, then such excess interest actually paid by Borrower shall be applied as follows: first, to the payment of the Secured Obligations consisting of the outstanding principal of the Term Loans; second, after all principal is repaid, to the payment of Lender's accrued interest, costs, expenses, professional fees and any other Secured Obligations; and third, after all Secured Obligations are repaid, the excess (if any) shall be refunded to Borrower.

2.3 Default Interest. In the event any regular monthly payment (but not an accelerated payment) is not paid on the scheduled payment date, an amount equal to two percent (2%) of the past due amount shall be payable on demand. In addition, upon the occurrence and during the continuation of an Event of Default hereunder, all Secured Obligations, including principal, interest, compounded interest, and professional fees, shall bear interest at a rate per annum equal to the rate set forth in Section 2.2(c), plus three percent (3%) per annum. In the event any interest is not paid when due hereunder, delinquent interest shall be added to principal and shall bear interest on interest, compounded at the rate set forth in Section 2.2(c).

2.4 Prepayment. At its option upon at least seven (7) business days prior notice to Lender, Borrower may prepay all, but not less than all, of the outstanding Advances by paying the entire principal balance, all accrued and unpaid interest thereon, all unpaid Lender's fees and expenses accrued to the date of the prepayment (including the end of term charge),together with a prepayment charge equal to the following percentage of the Advance amount being prepaid: if such Advance amounts are prepaid in any of the first twelve (12) months following the Closing Date, 3.00%; after twelve (12) months but prior to twenty four (24) months, 2.00%; and thereafter but prior to fifteen (15) days prior to the Term Loan Maturity Date, 1.00% (each, a "Prepayment Charge"). Borrower agrees that the Prepayment Charge is a reasonable calculation of Lender's lost profits in view of the difficulties and impracticality of determining actual damages resulting from an early repayment of the Advances. Borrower shall prepay the outstanding amount of all principal and accrued interest through the prepayment date, all unpaid Lender's fees and expenses accrued to the date of the prepayment (including the end of term charge) and the Prepayment Charge upon the occurrence of a Change in Control.

2.5 End of Term Charge. On the earliest to occur of (i) the Term Loan Maturity Date, (ii) the date that Borrower prepays the entire outstanding Secured Obligations, or (iii) the date that the Secured Obligations become due and payable, Borrower shall pay Lender a charge of $425,000; provided, however, that in the event Borrower fails to deliver the Warrant on or before April 30, 2013, the end of term charge shall increase by $100,000 on May 1, 2013 and by an additional $100,000 on the first day of each month thereafter until the earlier to occur of (x) delivery to Lender of the Warrant, and (y) payment to Lender of the Warrant Value (as defined in Section 7.4(e)) pursuant to and in accordance with Section 7.4(e). Notwithstanding the required payment date of such charge, it shall be deemed earned by Lender as of the Closing Date.

2.6 Notes. If so requested by Lender by written notice to Borrower, then Borrower shall execute and deliver to Lender (and/or, if applicable and if so specified in such notice, to any person who is an assignee of Lender pursuant to Section 11.13) (promptly after the Borrower's receipt of such notice) a Note or Notes to evidence Lender's Loans.

SECTION 3. SECURITY INTEREST

3.1 As security for the prompt, complete and indefeasible payment when due (whether on the payment dates or otherwise) of all the Secured Obligations, Borrower grants to Lender a security interest in all of Borrower's right, title, and interest in and to the following personal property whether now owned or hereafter acquired (collectively, the "Collateral"): (a) Receivables; (b) Equipment; (c) Fixtures; (d) General Intangibles (other than Intellectual Property); (e) Inventory; (f) Investment Property (but excluding thirty-five percent (35%) of the capital stock of any foreign Subsidiary that constitutes a Permitted Investment); (g) Deposit Accounts; (h) Cash; (i) Goods; and all other tangible and intangible personal property of Borrower whether now or hereafter owned or existing, leased, consigned by or to, or acquired by, Borrower and wherever located, and any of Borrower's property in the possession or under the control of Lender; and, to the extent not otherwise included, all Proceeds of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of each of the foregoing; provided, however, the security interest grant hereunder shall not extend to, and the term "Collateral" shall not include, the Intellectual Property; provided, further, that notwithstanding the foregoing, (x) the Collateral shall include all Accounts and General Intangibles that consist of rights to payment and proceeds from the sale, licensing or disposition of all or any part, or rights in, the Intellectual Property (the "Rights to Payment"), and (y) if a court of competent jurisdiction (including a U.S. Bankruptcy Court) holds that it is necessary to have a security interest in the Intellectual Property out of which such Rights to Payment arise in order to have a security interest in such Rights to Payment, then the Collateral shall automatically, and effective as of the date of this Agreement, include that portion of the Intellectual Property to the extent necessary to permit perfection of Lender's security interest in such Rights to Payment.

SECTION 4. CONDITIONS PRECEDENT TO LOAN

The obligation of Lender to make the Term Loan Advances hereunder is subject to the satisfaction by Borrower of the following conditions:

4.1 Initial Advance. On or prior to the Closing Date, Borrower shall have delivered to Lender the following:

(a) executed originals of the Loan Documents, Account Control Agreements, a legal opinion of Borrower's counsel, and all other documents and instruments reasonably required by Lender to effectuate the transactions contemplated hereby or to create and perfect the Liens of Lender with respect to all Collateral, in all cases in form and substance reasonably acceptable to Lender;

(b) certified copy of resolutions of Borrower's board of directors evidencing approval of (i) the Loan and other transactions evidenced by the Loan Documents; and (ii) the Warrant and transactions evidenced thereby;

(c) certified copies of the Certificate of Incorporation and the Bylaws, as amended through the Closing Date, of Borrower;

(d) a certificate of good standing for Borrower from its state of incorporation and similar certificates from all other jurisdictions in which it does business and where the failure to be qualified would have a Material Adverse Effect;

(e) payment of the Facility Charge and reimbursement of Lender's current expenses reimbursable pursuant to this Agreement, which amounts may be deducted from the initial Advance;

(f) evidence of the occurrence of the Required Financing; and

(g) such other documents as Lender may reasonably request.

4.2 All Advances. On each Advance Date:

(a) Lender shall have received (i) an Advance Request for the relevant Advance as required by Section 2.2(b), each duly executed by Borrower's Chief Executive Officer or Chief Financial Officer on behalf of the Borrower, and (ii) any other documents Lender may reasonably request.

(b) The representations and warranties set forth in this Agreement and in Section 5 and in the Warrant shall be true and correct in all material respects on and as of the Advance Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date.

(c) Borrower shall, in all material respects, be in compliance with all the terms and provisions set forth herein and in each other Loan Document on its part to be observed or performed, and at the time of and immediately after such Advance no Event of Default shall have occurred and be continuing.

(d) Each Advance Request shall be deemed to constitute a representation and warranty by Borrower on the relevant Advance Date as to the matters specified in paragraphs (b) and (c) of this Section 4.2 and as to the matters set forth in the Advance Request.

4.3 No Default. As of the Closing Date and each Advance Date, (i) no fact or condition exists that would (or would, with the passage of time, the giving of notice, or both) constitute an Event of Default and (ii) no event that has had or could reasonably be expected to have a Material Adverse Effect has occurred and is continuing.

4.4 Second Tranche Draw Periods. In addition to the conditions set forth in the foregoing Sections 4.1 and 4.2, on the Advance Date, if any, during the Second Tranche Draw Period, Borrower shall have satisfied the Second Tranche Draw Conditions.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF BORROWER

Borrower represents and warrants that:

5.1 Corporate Status. Borrower is a corporation duly organized, legally existing and in good standing under the laws of the State of Delaware, and is duly qualified as a foreign corporation in all jurisdictions in which the nature of its business or location of its properties require such qualifications except where the failure to be qualified could reasonably be expected to have a Material Adverse Effect. Borrower's present name, former names (if any), locations, state of incorporation, tax identification number, organizational identification number and other information are correctly set forth in Exhibit C, as may be updated by Borrower in a written notice (including any Compliance Certificate) provided to Lender after the Closing Date.

5.2 Collateral. Borrower owns the Collateral and the Intellectual Property, free of all Liens, except for Permitted Liens. Borrower has the power and authority to grant to Lender a Lien in the Collateral as security for the Secured Obligations .

5.3 Consents. Borrower's execution, delivery and performance of this Agreement and all other Loan Documents, and Borrower's execution of the Warrant, (i) have been duly authorized by all necessary corporate action of Borrower, (ii) will not result in the creation or imposition of any Lien upon the Collateral, other than Permitted Liens and the Liens created by this Agreement and the other Loan Documents, (iii) do not violate any provisions of Borrower's Certificate or Articles of Incorporation (as applicable), bylaws, or any, law, regulation, order, injunction, judgment, decree or writ to which Borrower is subject and (iv) except as described on Schedule 5.3, do not violate any contract or agreement to which Borrower is a party or require the consent or approval of any other Person, other than those consents or approvals which have been obtained. The Borrower's officer or officers executing the Loan Documents and the Warrant on Borrower's behalf are duly authorized to do so.

5.4 Material Adverse Effect. No event that has had or could reasonably be expected to have a Material Adverse Effect has occurred and is continuing. Borrower is not aware of any event likely to occur that is reasonably expected to result in a Material Adverse Effect.

5.5 Actions Before Governmental Authorities. Except as described on Schedule 5.5, there are no actions, suits or proceedings at law or in equity or by or before any governmental authority now pending or, to the knowledge of Borrower, threatened against or affecting Borrower or its property.

5.6 Laws. Borrower is not in violation of any law, rule or regulation, or in default with respect to any judgment, writ, injunction or decree of any governmental

authority, where such violation or default is reasonably expected to result in a Material Adverse Effect. Borrower is not in default in any manner under any provision of any agreement or instrument evidencing indebtedness, or any other material agreement to which it is a party or by which it is bound.

5.7 Information Correct and Current. No information, report, Advance Request, financial statement, exhibit or schedule furnished, by or on behalf of Borrower to Lender in connection with any Loan Document or included therein or delivered pursuant thereto contained, contains or will contain any material misstatement of fact or omitted, omits or will omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were, are or will be made, not misleading at the time such statement was made or deemed made. Additionally, any and all financial or business projections provided by Borrower to Lender shall be (i) provided in good faith and based on the most current data and information available to Borrower, and (ii) the most current of such projections provided to Borrower's Board of Directors.

5.8 Tax Matters. Except as described on Schedule 5.8, (a) Borrower has filed all federal, state and local tax returns that it is required to file, (b) Borrower has duly paid or fully reserved for all taxes or installments thereof (including any interest or penalties) as and when due, which have or may become due pursuant to such returns, and (c) Borrower has paid or fully reserved for any tax assessment received by Borrower for the three (3) years preceding the Closing Date, if any (including any taxes being contested in good faith and by appropriate proceedings).

5.9 Intellectual Property Claims. Borrower is the sole owner of, or otherwise has the right to use, the Intellectual Property. Except as described on Schedule 5.9,(i) each of the material Copyrights, Trademarks and Patents is valid and enforceable, (ii) no material part of the Intellectual Property has been judged invalid or unenforceable, in whole or in part, and (iii) no claim has been made to Borrower that any material part of the Intellectual Property violates the rights of any third party. Exhibit D is a true, correct and complete list of each of Borrower's Patents, registered Trademarks, registered Copyrights, and material agreements under which Borrower licenses Intellectual Property from third parties (other than shrink-wrap software licenses), together with application or registration numbers, as applicable, owned by Borrower or any Subsidiary, in each case as of the Closing Date. Borrower is not in material breach of, nor has Borrower failed to perform any material obligations under, any of the foregoing contracts, licenses or agreements and, to Borrower's knowledge, no third party to any such contract, license or agreement is in material breach thereof or has failed to perform any material obligations thereunder.

5.10 Intellectual Property. Except as described on Schedule 5.10, Borrower has, or in the case of any proposed business, will have, all material rights with respect to Intellectual Property necessary in the operation or conduct of Borrower's business as currently conducted and proposed to be conducted by Borrower. Without limiting the generality of the foregoing, and in the case of Licenses, except for restrictions that are unenforceable under Division 9 of the UCC, Borrower has the right, to the extent required to operate Borrower's business, to freely transfer, license or assign Intellectual Property without condition, restriction or payment of any kind (other than license payments in the

ordinary course of business) to any third party, and Borrower owns or has the right to use, pursuant to valid licenses, all software development tools, library functions, compilers and all other third-party software and other items that are used and are necessary in the design, development, promotion, sale, license, manufacture, import, export, use or distribution of Borrower Products.

5.11 Borrower Products. Except as described on Schedule 5.11, no Intellectual Property owned by Borrower or Borrower Product has been or is subject to any actual or, to the knowledge of Borrower, threatened litigation, proceeding (including any proceeding in the United States Patent and Trademark Office or any corresponding foreign office or agency) or outstanding decree, order, judgment, settlement agreement or stipulation that restricts in any manner Borrower's use, transfer or licensing thereof or that may affect the validity, use or enforceability thereof. There is no decree, order, judgment, agreement, stipulation, arbitral award or other provision entered into in connection with any litigation or proceeding that obligates Borrower to grant licenses or ownership interest in any future Intellectual Property related to the operation or conduct of the business of Borrower or Borrower Products. Borrower has not received any written notice or claim, or, to the knowledge of Borrower, oral notice or claim, challenging or questioning Borrower's ownership in any Intellectual Property (or written notice of any claim challenging or questioning the ownership in any licensed Intellectual Property of the owner thereof) or suggesting that any third party has any claim of legal or beneficial ownership with respect thereto nor, to Borrower's knowledge, is there a reasonable basis for any such claim. Neither Borrower's use of its Intellectual Property nor the production and sale of Borrower Products infringes the Intellectual Property or other rights of others.

5.12 Financial Accounts. Exhibit E, as may be updated by the Borrower in a written notice provided to Lender after the Closing Date, is a true, correct and complete list of (a) all banks and other financial institutions at which Borrower or any Subsidiary maintains Deposit Accounts and (b) all institutions at which Borrower or any Subsidiary maintains an account holding Investment Property, and such exhibit correctly identifies the name, address and telephone number of each bank or other institution, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

5.13 Employee Loans. Borrower has no outstanding loans (other than as described under clause (viii) of the definition of Permitted Investments) to any employee, officer or director of the Borrower nor has Borrower guaranteed the payment of any loan made to an employee, officer or director of the Borrower by a third party.

5.14 Capitalization and Subsidiaries. Borrower's capitalization as of the Closing Date is set forth on Schedule 5.14 annexed hereto. Borrower does not own any stock, partnership interest or other securities of any Person, except for Permitted Investments. Attached as Schedule 5.14, as may be updated by Borrower in a written notice provided after the Closing Date, is a true, correct and complete list of each Subsidiary.

SECTION 6. INSURANCE; INDEMNIFICATION

6.1 Coverage. Borrower shall cause to be carried and maintained commercial general liability insurance, on an occurrence form, against risks customarily insured against in Borrower's line of business. Such risks shall include the risks of bodily injury, including death, property damage, personal injury, advertising injury, and contractual liability per the terms of the indemnification agreement found in Section 6.3. Borrower must maintain a minimum of $2,000,000 of commercial general liability insurance for each occurrence. Borrower has and agrees to maintain a minimum of $2,000,000 of directors and officers' insurance for each occurrence and $5,000,000 in the aggregate. So long as there are any Secured Obligations outstanding, Borrower shall also cause to be carried and maintained insurance upon the Collateral, insuring against all risks of physical loss or damage howsoever caused, in an amount not less than the full replacement cost of the Collateral, provided that such insurance may be subject to standard exceptions and deductibles. Borrower shall also carry and maintain a fidelity insurance policy in an amount not less than $100,000.

6.2 Certificates. Borrower shall deliver to Lender certificates of insurance that evidence Borrower's compliance with its insurance obligations in Section 6.1 and the obligations contained in this Section 6.2. Borrower's insurance certificate shall state Lender is an additional insured for commercial general liability, a loss payee for all risk property damage insurance, subject to the insurer's approval, a loss payee for fidelity insurance, and a loss payee for property insurance and additional insured for liability insurance for any future insurance that Borrower may acquire from such insurer. Attached to the certificates of insurance will be additional insured endorsements for liability and lender's loss payable endorsements for all risk property damage insurance and fidelity. All certificates of insurance will provide for the insurance company to "endeavor" to provide a minimum of thirty (30) days advance written notice to Lender of cancellation or any other change adverse to Lender's interests. Any failure of Lender to scrutinize such insurance certificates for compliance is not a waiver of any of Lender's rights, all of which are reserved.

6.3 Indemnity. Borrower agrees to indemnify and hold Lender and its officers, directors, employees, agents, in-house attorneys, representatives and shareholders harmless from and against any and all claims, costs, expenses, damages and liabilities (including such claims, costs, expenses, damages and liabilities based on liability in tort, including strict liability in tort), including reasonable attorneys' fees and disbursements and other costs of investigation or defense (including those incurred upon any appeal), that may be instituted or asserted against or incurred by Lender or any such Person as the result of credit having been extended, suspended or terminated under this Agreement and the other Loan Documents or the administration of such credit, or in connection with or arising out of the transactions contemplated hereunder and thereunder, or any actions or failures to act in connection therewith, or arising out of the disposition or utilization of the Collateral, excluding in all cases claims resulting solely from Lender's gross negligence or willful misconduct. Borrower agrees to pay, and to save Lender harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all excise, sales or other similar taxes (excluding taxes imposed on or measured by the net income of Lender) that may be payable or determined to be payable with respect to any of the Collateral or this Agreement.

SECTION 7. COVENANTS OF BORROWER

Borrower agrees as follows:

7.1 Financial Reports. Borrower shall furnish to Lender the financial statements and reports listed hereinafter (the "Financial Statements"):

(a) as soon as practicable (and in any event within thirty (30) days) after the end of each month, unaudited interim and year-to-date financial statements as of the end of such month (prepared on a consolidated and consolidating basis, if applicable), including balance sheet and related statements of income and cash flows accompanied by a report detailing any material contingencies (including the commencement of any material litigation by or against Borrower) or any other occurrence that would reasonably be expected to have a Material Adverse Effect, all certified by Borrower's Chief Executive Officer or Chief Financial Officer to the effect that they have been prepared in accordance with GAAP, except (i) for the absence of footnotes, (ii) that they are subject to normal year end adjustments, and (iii) they do not contain certain non-cash items that are customarily included in quarterly and annual financial statements;

(b) as soon as practicable (and in any event within forty-five (45) days) after the end of each calendar quarter, unaudited interim and year-to-date financial statements as of the end of such calendar quarter (prepared on a consolidated and consolidating basis, if applicable), including balance sheet and related statements of income and cash flows accompanied by a report detailing any material contingencies (including the commencement of any material litigation by or against Borrower) or any other occurrence that would reasonably be expected to have a Material Adverse Effect, certified on behalf of Borrower by Borrower's Chief Executive Officer or Chief Financial Officer to the effect that they have been prepared in accordance with GAAP, except (i) for the absence of footnotes, and (ii) that they are subject to normal year end adjustments; as well as the most recent capitalization table for Borrower, including the weighted average exercise price of employee stock options;

(c) as soon as practicable (and in any event within one hundred twenty (120) days) after the end of each fiscal year, unqualified audited financial statements as of the end of such year (prepared on a consolidated and consolidating basis, if applicable), including balance sheet and related statements of income and cash flows, and setting forth in comparative form the corresponding figures for the preceding fiscal year, certified by EisnerAmper LLP or another firm of independent certified public accountants selected by Borrower and reasonably acceptable to Lender, accompanied by any management report from such accountants;

(d) as soon as practicable (and in any event within thirty (30) days) after the end of each month, a Compliance Certificate in the form of Exhibit F;

(e) as soon as practicable (and in any event within ten (10) days) after the end of each month, a report showing agings of accounts receivable and accounts payable;

(f) promptly after the sending or filing thereof, as the case may be, copies of any proxy statements, financial statements or reports that Borrower has made available to holders of its capital stock and copies of any regular, periodic and special reports or registration statements that Borrower files with the Securities and Exchange Commission or any governmental authority that may be substituted therefor, or any national securities exchange;

(g) at the same time and in the same manner as it gives to its directors, copies of all notices, minutes, consents and other materials that Borrower provides to its directors in connection with meetings of the Board of Directors, and within 30 days after each such meeting, minutes of such meeting; and

(h) financial and business projections promptly following their approval by Borrower's Board of Directors, as well as budgets, operating plans and other financial information reasonably requested by Lender.

Borrower shall not make any change in its (a) accounting policies or reporting practices except as may be required by GAAP or the Securities and Exchange Commission, or (b) fiscal years or fiscal quarters. The fiscal year of Borrower shall end on December 31.

The executed Compliance Certificate may be sent via facsimile to Lender at (650) 473-9194 or via e-mail to bjadot @herculestech.com. All Financial Statements required to be delivered pursuant to clauses (a), (b) and (c) shall be sent via e-mail to financialstatements@herculestech.com with a copy to bjadot@herculestech.com provided, that if e-mail is not available or sending such Financial Statements via e-mail is not possible, they shall be sent via facsimile to Lender at: (866) 468-8916, attention Chief Credit Officer.

7.2 Management Rights. Borrower shall permit any representative that Lender authorizes, including its attorneys and accountants, to inspect the Collateral and examine and make copies and abstracts of the books of account and records of Borrower at reasonable times and upon reasonable notice during normal business hours. In addition, any such representative shall have the right to meet with senior management and senior officers of Borrower to discuss such books of account and records. In addition, Lender shall be entitled at reasonable times and intervals to consult with and advise the senior management and senior officers of Borrower concerning significant business issues affecting Borrower. Such consultations shall not unreasonably interfere with Borrower's business operations. The parties intend that the rights granted Lender shall constitute "management rights" within the meaning of 29 C.F.R Section 2510.3-101(d)(3)(ii), but that any advice, recommendations or participation by Lender with respect to any business issues shall not be deemed to give Lender, nor be deemed an exercise by Lender of, control over Borrower's management or policies.

7.3 Further Assurances. Borrower shall from time to time execute, deliver and file, alone or with Lender, any financing statements, security agreements, collateral assignments, notices, control agreements, or other documents to perfect or give the highest

priority to Lender's Lien on the Collateral. Borrower shall from time to time procure any instruments or documents as may be requested by Lender, and take all further action that may be necessary or desirable, or that Lender may reasonably request, to perfect and protect the Liens granted hereby and thereby. In addition, and for such purposes only, Borrower hereby authorizes Lender to execute and deliver on behalf of Borrower and to file such financing statements, collateral assignments, notices, control agreements, security agreements and other documents without the signature of Borrower either in Lender's name or in the name of Lender as agent and attorney-in-fact for Borrower. Borrower shall protect and defend Borrower's title to the Collateral and Lender's Lien thereon against all Persons claiming any interest adverse to Borrower or Lender other than Permitted Liens.

7.4 Issuance of Warrant.

(a) Borrower agrees to execute, deliver and issue to Lender, or to an affiliate of Lender designated in writing by Lender, a Warrant Agreement evidencing the right to purchase shares of Borrower's Common Stock in the form attached as Exhibit I hereto (the "Warrant"), on the earliest to occur of: (i) within five (5) Business Days following Borrower's receipt of the vote, consent or approval of its stockholders necessary to amend Borrower's Certificate of Incorporation to increase the authorized Common Stock of Borrower by an amount sufficient to provide for the issuance of all shares issuable upon exercise in full of the Warrant, (ii) as of immediately prior to the closing of an Acquisition (as defined below), and (iii) in addition to, and not in lieu of, Borrower's obligations under Section 2.5 above, the payment or prepayment in full of all Advances and other obligations of Borrower under this Agreement.

(b) The Exercise Price (as defined in the Warrant) initially, upon issuance of the Warrant, shall be the lowest of (i) $1.71, (ii) the closing price of a share of Common Stock as reported on NASDAQ-CM on the date hereof, and (iii) the lowest VWAP of a share of Common Stock as reported on NASDAQ-CM in any consecutive three (3) trading days during the thirty (30) consecutive trading day period immediately prior to the date hereof or the thirty (30) consecutive trading day period immediately prior to the date of issuance of the Warrant; provided, that in the case of the issuance of this Warrant pursuant to clause (ii) or (iii) of Section 7.4(a), the Exercise Price shall be determined without reference to the VWAP of a share of Common Stock within the thirty (30) consecutive trading day period immediately prior to the date of issuance of the Warrant, but otherwise in accordance with this Section 7.4. The number of shares of Common Stock for which the Warrant shall initially, upon issuance, be exercisable shall equal (x) $775,000, divided by (y) the initial Exercise Price as determined in accordance with this Section 7.4.

(c) As used herein, "VWAP" means volume-weighted average price and shall equal, for any period, (i) the sum of (x) the price of each individual trade during such period, multiplied by (y) the volume of such individual trade, divided by (ii) the sum of the volume of each such individual trade during such period, excluding all cross trades and basket cross trades during such period. In formula form:

$$P_{\mathrm{VWAP}} = \frac{\sum_j P_j \cdot Q_j}{\sum_j Q_j}$$

Where:

P_{VWAP} = volume-weighted average price

P_j = price of trade j

Q_j = quantity of trade j

j = each individual trade that takes place over the applicable period, excluding cross trades and basket cross trades.

(d) Not later than three (3) Business Days prior to the issuance of the Warrant by Borrower, Borrower shall provide Lender in writing with a copy of Borrower's calculation of the lowest VWAP for the periods described in Section 7.4(b). If Lender objects to such Borrower calculation, Lender shall so notify Borrower in writing not later than two (2) Business Days following its receipt of such Borrower calculation, whereupon the parties shall negotiate in good faith a resolution of such disputed calculation.

(e) Notwithstanding Sections 7.4(a)(ii) and (iii), in the event the Borrower, at the time (if any) that it is required to issue the Warrant pursuant to either such Section above, shall not have sufficient authorized and unissued shares of Common Stock for issuance upon exercise in full of such Warrant, then in any such event, the Borrower shall, in lieu of issuing such Warrant, pay to the Lender an amount (the "Warrant Value") equal to (i) (x) the Share Value (as defined below), minus (y) the Exercise Price that initially would have been in effect had the Warrant been issued, as determined pursuant to this Section 7.4, multiplied by (ii) the number of shares of Common Stock that would have been represented by the Warrant had the Warrant been issued, as calculated under the formula for such purpose set forth in this Section 7.4. Payment by the Borrower of the Warrant Value shall be made in a single installment in cash by certified or bank cashier's check or by wire transfer of immediately available funds to Lender's designated account, and shall be made (1) if by reason of an Acquisition, on and at the initial closing thereof, or (2) if by reason of payment or prepayment in full of all Advances and other obligations of Borrower under this Agreement, concurrently with such payment or prepayment. The Borrower's obligation to pay the Warrant Value pursuant to this Section 7.4(e) shall be in addition to, and not in lieu of, any and all amounts the Borrower is obligated to pay in respect of deferred or delayed Warrant issuance under Section 2.5 above. As used herein:

> "Acquisition" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Borrower; (ii) any merger or

consolidation of the Borrower into or with another person or entity (other than a merger or consolidation effected exclusively to change the Borrower's domicile), or any other corporate reorganization, in which Borrower's stockholders in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Borrower's (or the surviving or successor entity's) outstanding voting equity securities immediately after such merger, consolidation or reorganization (or, if such Borrower stockholders beneficially own a majority of the outstanding voting equity securities of the surviving or successor entity as of immediately after such merger, consolidation or reorganization, such surviving or successor entity is not the Borrower); or (iii) any sale or other transfer by the stockholders of the Borrower of shares representing at least a majority of the Company's then-total outstanding combined voting equity securities, whether pursuant to a tender offer or otherwise; and

"Share Value" shall mean: (x) in the case of an Acquisition, the maximum aggregate consideration payable under the executed transaction documents per outstanding share of Common Stock, assuming the release in full to Borrower's stockholders of the entire amount (if any) of the portion of the purchase price held back and/or deposited into escrow at closing and the receipt by the Borrower's stockholders of the maximum aggregate possible deferred payments (whether in the nature of milestone payments, earn-out payments or otherwise), if any, and also shall be inclusive of all amounts, if any, paid to or deposited with any representative of the Borrower's stockholders to cover the expenses of such representative; provided, that if payment of the purchase price in such Acquisition is made in securities or property other than cash, then the dollar value thereof for purposes of determining the Share Value shall be determined in accordance with the final definitive transaction documents executed and delivered in connection with the Acquisition; and (y) in the case of the payment or prepayment in full of all Advances and other obligations of Borrower under this Agreement, the higher of (1) the highest closing price of a share of Common Stock as reported on NASDAQ-CM for the ten (10) trading days ending on the trading day immediately preceding the date of such payment or prepayment, and (2) the highest VWAP of a share of Common Stock as reported on NASDAQ-CM in any consecutive three (3) trading days during the thirty (30) consecutive trading day period ending on the trading day immediately preceding the date of such payment or prepayment.

7.5 Indebtedness. Borrower shall not create, incur, assume, guarantee or be or remain liable with respect to any Indebtedness, or permit any Subsidiary so to do, other than Permitted Indebtedness, or prepay any Indebtedness or take any actions which impose on Borrower an obligation to prepay any Indebtedness, except for the conversion of Indebtedness into equity securities and the payment of cash in lieu of fractional shares in connection with such conversion.

7.6 Collateral. Borrower shall at all times keep the Collateral, the Intellectual Property and all other property and assets used in Borrower's business or in which Borrower now or hereafter holds any interest free and clear from any legal process or Liens whatsoever (except for Permitted Liens), and shall give Lender prompt written notice of any legal process which in any adverse manner affects the Collateral, the Intellectual Property, such other property and assets, or any Liens thereon. Borrower shall cause its Subsidiaries to protect and defend such Subsidiary's title to its assets from and against all Persons claiming any interest adverse to such Subsidiary, and Borrower shall cause its Subsidiaries at all times to keep such Subsidiary's property and assets free and clear from any legal process or Liens whatsoever (except for Permitted Liens), and shall give Lender prompt written notice of any legal process which in any adverse manner affects such Subsidiary's assets. Borrower shall not agree with any Person other than Lender not to encumber its property.

7.7 Investments. Borrower shall not directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments.

7.8 Distributions. Other than Permitted Investments, Borrower shall not, and shall not allow any Subsidiary to, (a) repurchase or redeem any class of stock or other equity interest other than pursuant to employee, director or consultant repurchase plans or other similar agreements, provided, however, in each case the repurchase or redemption price does not exceed the original consideration paid for such stock or equity interest, or (b) declare or pay any cash dividend or make a cash distribution on any class of stock or other equity interest, except that a Subsidiary may pay dividends or make distributions to Borrower, or (c) lend money to any employees, officers or directors or guarantee the payment of any such loans granted by a third party in excess of $200,000 in the aggregate at any time outstanding, or (d) waive, release or forgive any indebtedness owed by any employees, officers or directors in excess of $100,000 in the aggregate.

7.9 Transfers. Except for Permitted Transfers, Borrower shall not voluntarily or involuntarily transfer, sell, lease, license, lend or in any other manner convey any equitable, beneficial or legal interest in any material portion of their assets.

7.10 Mergers or Acquisitions. Borrower shall not merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with or into any other business organization (other than mergers or consolidations of a Subsidiary into another Subsidiary or into Borrower), or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person.

7.11 Taxes. Borrower and its Subsidiaries shall pay when due all taxes, fees or other charges of any nature whatsoever (together with any related interest or penalties) now or hereafter imposed or assessed against Borrower, Lender or the Collateral or upon Borrower's ownership, possession, use, operation or disposition thereof or upon

Borrower's rents, receipts or earnings arising therefrom. Borrower shall file on or before the due date therefor all personal property tax returns in respect of the Collateral. Notwithstanding the foregoing, Borrower may contest, in good faith and by appropriate proceedings, taxes for which Borrower maintains adequate reserves therefor in accordance with GAAP.

7.12 Corporate Changes. Neither Borrower nor any Subsidiary shall change its corporate name, legal form or jurisdiction of formation without at least twenty (20) days' prior written notice to Lender. Neither Borrower nor any Subsidiary shall relocate its chief executive office or its principal place of business unless: (i) it has provided prior written notice to Lender; and (ii) such relocation shall be within the continental United States. Other than relocations of Melafind systems Equipment to customer offices in the ordinary course of business, neither Borrower nor any Subsidiary shall relocate any item of Collateral (other than (x) sales of Inventory in the ordinary course of business, (y) transfer of Equipment other than Melafind systems Equipment having an aggregate value of up to $150,000 in any fiscal year, and (z) relocations of Collateral from a location described on Exhibit C to another location described on Exhibit C) unless (i) it has provided prompt written notice to Lender, (ii) such relocation is within the continental United States and, (iii) if such relocation is to a third party bailee, it has delivered a bailee agreement in form and substance reasonably acceptable to Lender.

7.13 Deposit Accounts. Neither Borrower nor any Subsidiary shall maintain any Deposit Accounts (other than payroll, petty cash accounts, or other accounts in which less than Fifty Thousand Dollars ($50,000) in the aggregate in the United States is on deposit at all times), or accounts holding Investment Property having a value in excess of Fifty Thousand Dollars ($50,000) in the aggregate, except with respect to which Lender has an Account Control Agreement.

7.14 Borrower shall notify Lender of each Subsidiary formed subsequent to the Closing Date and, within 15 days of formation, shall cause any such Subsidiary organized under the laws of any State within the United States to execute and deliver to Lender a Joinder Agreement.

SECTION 8. [RESERVED].

SECTION 9. EVENTS OF DEFAULT

The occurrence of any one or more of the following events shall be an Event of Default:

9.1 Payments. Borrower fails to pay any amount due under this Agreement or any of the other Loan Documents on the due date; or

9.2 Covenants. Borrower breaches or defaults in the performance of any covenant or Secured Obligation under this Agreement, or any of the other Loan Documents, and (a) with respect to a default under any covenant under this Agreement (other than under Sections 6, 7.5, 7.6, 7.7, 7.8, 7.9 or 7.10) such default continues for more than ten (10) days after the earlier of the date on which (i) Lender has given notice of such default to Borrower and (ii) Borrower has actual knowledge of such default or (b) with respect to a default under any of Sections 6, 7.5, 7.6, 7.7, 7.8, 7.9 or 7.10, the occurrence of such default; or

9.3 Material Adverse Effect. A circumstance has occurred that has had or would reasonably be expected to have a Material Adverse Effect; or

9.4 Other Loan Documents. The occurrence of any default under any Loan Document or any other agreement between Borrower and Lender and such default continues for more than ten (10) days after the earlier of (a) Lender has given notice of such default to Borrower, or (b) Borrower has actual knowledge of such default; or

9.5 Representations. Any representation or warranty made by Borrower in any Loan Document or in the Warrant shall have been false or misleading in any material respect when made; or

9.6 Insolvency. Borrower (A) (i) shall make an assignment for the benefit of creditors; or (ii) shall be unable to pay its debts as they become due, or be unable to pay or perform under the Loan Documents, or shall become insolvent; or (iii) shall file a voluntary petition in bankruptcy; or (iv) shall file any petition, answer, or document seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation pertinent to such circumstances; or (v) shall seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of Borrower or of all or any substantial part (i.e., 33-1/3% or more) of the assets or property of Borrower; or (vi) shall cease operations of its business as its business has normally been conducted, or terminate substantially all of its employees without making adequate provisions for the hiring of replacements; or (vii) Borrower or its directors or majority shareholders shall take any action initiating any of the foregoing actions described in clauses (i) through (vi); or (B) either (i) forty-five (45) days shall have expired after the commencement of an involuntary action against Borrower seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, without such action being dismissed or all orders or proceedings thereunder affecting the operations or the business of Borrower being stayed; or (ii) a stay of any such order or proceedings shall thereafter be set aside and the action setting it aside shall not be timely appealed; or (iii) Borrower shall file any answer admitting or not contesting the material allegations of a petition filed against Borrower in any such proceedings; or (iv) the court in which such proceedings are pending shall enter a decree or order granting the relief sought in any such proceedings; or (v) thirty (30) days shall have expired after the appointment, without the consent or acquiescence of Borrower, of any trustee, receiver or liquidator of Borrower or of all or any substantial part of the properties of Borrower without such appointment being vacated; or

9.7 Attachments; Judgments. Any portion of Borrower's assets is attached or seized, or a levy is filed against any such assets, or a judgment or judgments is/are entered for the payment of money, individually or in the aggregate, of at least $200,000, or Borrower is enjoined or in any way prevented by court order from conducting any part of its business, and any of the foregoing are not dismissed, discontinued, or stayed (as the case may be) within ten (10) days of the occurrence thereof; or

9.8 Other Obligations. The occurrence of any default under any agreement or obligation of Borrower involving any Indebtedness in excess of $100,000, or the occurrence of any default under any agreement or obligation of Borrower that could reasonably be expected to have a Material Adverse Effect.

SECTION 10. REMEDIES

10.1 General. Upon and during the continuance of any one or more Events of Default, (i) Lender may, at its option, accelerate and demand payment of all or any part of the Secured Obligations together with a Prepayment Charge and declare them to be immediately due and payable (provided, that upon the occurrence of an Event of Default of the type described in Section 9.6, all of the Secured Obligations shall automatically be accelerated and made due and payable, in each case without any further notice or act), (ii) Lender may terminate any commitment of Lender to make any further Advances hereunder, and (iii) Lender may notify any of Borrower's account debtors to make payment directly to Lender, compromise the amount of any such account on Borrower's behalf and endorse Lender's name without recourse on any such payment for deposit directly to Lender's account. Lender may exercise all rights and remedies with respect to the Collateral under the Loan Documents or otherwise available to it under the UCC and other applicable law, including the right to release, hold, sell, lease, liquidate, collect, realize upon, or otherwise dispose of all or any part of the Collateral and the right to occupy, utilize, process and commingle the Collateral. All Lender's rights and remedies shall be cumulative and not exclusive.

10.2 Collection; Foreclosure. Upon the occurrence and during the continuance of any Event of Default, Lender may, at any time or from time to time, apply, collect, liquidate, sell in one or more sales, lease or otherwise dispose of, any or all of the Collateral, in its then condition or following any commercially reasonable preparation or processing, in such order as Lender may elect. Any such sale may be made either at public or private sale at its place of business or elsewhere. Borrower agrees that any such public or private sale may occur upon ten (10) calendar days' prior written notice to Borrower. Lender may require Borrower to assemble the Collateral and make it available to Lender at a place designated by Lender that is reasonably convenient to Lender and Borrower. The proceeds of any sale, disposition or other realization upon all or any part of the Collateral shall be applied by Lender in the following order of priorities:

First, to Lender in an amount sufficient to pay in full Lender's costs and professionals' and advisors' fees and expenses as described in Section 11.11;

Second, to Lender in an amount equal to the then unpaid amount of the Secured Obligations (including principal, interest, and the Default Rate interest), in such order and priority as Lender may choose in its sole discretion; and

Finally, after the full, final, and indefeasible payment in Cash of all of the Secured Obligations, to any creditor holding a junior Lien on the Collateral, or to Borrower or its representatives or as a court of competent jurisdiction may direct.

Lender shall be deemed to have acted reasonably in the custody, preservation and disposition of any of the Collateral if it complies with the obligations of a secured party under the UCC.

10.3 No Waiver. Lender shall be under no obligation to marshal any of the Collateral for the benefit of Borrower or any other Person, and Borrower expressly waives all rights, if any, to require Lender to marshal any Collateral.

10.4 Cumulative Remedies. The rights, powers and remedies of Lender hereunder shall be in addition to all rights, powers and remedies given by statute or rule of law and are cumulative. The exercise of any one or more of the rights, powers and remedies provided herein shall not be construed as a waiver of or election of remedies with respect to any other rights, powers and remedies of Lender.

SECTION 11. MISCELLANEOUS

11.1 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent and duration of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

11.2 Notice. Except as otherwise provided herein, any notice, demand, request, consent, approval, declaration, service of process or other communication (including the delivery of Financial Statements) that is required, contemplated, or permitted under the Loan Documents or with respect to the subject matter hereof shall be in writing, and shall be deemed to have been validly served, given, delivered, and received upon the earlier of: (i) the day of transmission by facsimile or hand delivery or delivery by an overnight express service or overnight mail delivery service; or (ii) the fifth calendar day after deposit in the United States mails, with proper first class postage prepaid, in each case addressed to the party to be notified as follows:

(a) If to Lender:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.
Legal Department
Attention: Chief Legal Officer and Mr. Bryan Jadot
400 Hamilton Avenue, Suite 310
Palo Alto, California 94301
Facsimile: 650-473-9194
Telephone: 650-289-3060

(b) If to Borrower:

MELA SCIENCES, INC.
Attention: Mr. Richard Steinhart, CFO
50 Buckhout Street
Irvington, New York 10533
Facsimile: 914-591-3701
Telephone: 914-591-3783

with a copy to:

GOLENBOCK EISEMAN ASSOR BELL & PESKOE LLP
Attention: Valerie Price, Esquire
437 Madison Avenue
New York, New York 10022
Facsimile: 212-754-0330
Telephone: 212-907-7335

or to such other address as each party may designate for itself by like notice.

11.3 Entire Agreement; Amendments. This Agreement and the other Loan Documents constitute the entire agreement and understanding of the parties hereto in respect of the subject matter hereof and thereof, and supersede and replace in their entirety any prior proposals, term sheets, non-disclosure or confidentiality agreements, letters, negotiations or other documents or agreements, whether written or oral, with respect to the subject matter hereof or thereof (including Lender's proposal letter dated February 5, 2013). None of the terms of this Agreement or any of the other Loan Documents may be amended except by an instrument executed by each of the parties hereto.

11.4 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

11.5 No Waiver. The powers conferred upon Lender by this Agreement are solely to protect its rights hereunder and under the other Loan Documents and its interest in the Collateral and shall not impose any duty upon Lender to exercise any such powers. No omission or delay by Lender at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms, covenants or provisions hereof by Borrower at any time designated, shall be a waiver of any such right or remedy to which Lender is entitled, nor shall it in any way affect the right of Lender to enforce such provisions thereafter.

11.6 Survival. All agreements, representations and warranties of Borrower contained in this Agreement and the other Loan Documents or in any document delivered pursuant hereto or thereto shall be for the benefit of Lender and shall survive the execution and delivery of this Agreement and the expiration or other termination of this Agreement.

11.7 Successors and Assigns. The provisions of this Agreement and the other Loan Documents shall inure to the benefit of and be binding on Borrower and its permitted assigns (if any). Borrower shall not assign its obligations under this Agreement or any of the other Loan Documents without Lender's express prior written consent, and any such attempted assignment shall be void and of no effect. Lender may assign, transfer, or endorse its rights hereunder and under the other Loan Documents without prior notice to Borrower, and all of such rights shall inure to the benefit of Lender's successors and assigns.

11.8 Governing Law. This Agreement and the other Loan Documents have been negotiated and delivered to Lender in the State of California, and shall have been accepted by Lender in the State of California. Payment to Lender by Borrower of the Secured Obligations is due in the State of California. This Agreement and the other Loan Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

11.9 Consent to Jurisdiction and Venue. All judicial proceedings (to the extent that the reference requirement of Section 11.10 is not applicable) arising in or under or related to this Agreement or any of the other Loan Documents may be brought in any state or federal court located in the State of California. By execution and delivery of this Agreement, each party hereto generally and unconditionally: (a) consents to nonexclusive personal jurisdiction in Santa Clara County, State of California; (b) waives any objection as to jurisdiction or venue in Santa Clara County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement or the other Loan Documents. Service of process on any party hereto in any action arising out of or relating to this Agreement shall be effective if given in accordance with the requirements for notice set forth in Section 11.2, and shall be deemed effective and received as set forth in Section 11.2. Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of either party to bring proceedings in the courts of any other jurisdiction.

11.10 Mutual Waiver of Jury Trial / Judicial Reference.

(a) Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and the parties wish applicable state and federal laws to apply (rather than arbitration rules), the parties desire that their disputes be resolved by a judge applying such applicable laws. EACH OF BORROWER AND LENDER SPECIFICALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, "CLAIMS") ASSERTED BY BORROWER AGAINST LENDER OR ITS ASSIGNEE OR BY LENDER OR ITS ASSIGNEE AGAINST BORROWER. This waiver extends to all such Claims, including Claims that involve Persons other than Borrower and Lender; Claims that arise out of or are in any way connected to the relationship between Borrower and Lender; and any Claims for damages, breach of contract, tort, specific performance, or any equitable or legal relief of any kind, arising out of this Agreement, any other Loan Document.

(b) If the waiver of jury trial set forth in Section 11.10(a) is ineffective or unenforceable, the parties agree that all Claims shall be resolved by reference to a private judge sitting without a jury, pursuant to Code of Civil Procedure Section 638, before a mutually acceptable referee or, if the parties cannot agree, a referee selected by the Presiding Judge of the Santa Clara County, California. Such proceeding shall be conducted in Santa Clara County, California, with California rules of evidence and discovery applicable to such proceeding, but nothing herein shall be deemed to be a waiver of the right of appeal or judicial review by courts of appropriate jurisdiction.

(c) In the event Claims are to be resolved by judicial reference, either party may seek from a court identified in Section 11.9, any prejudgment order, writ or other relief and have such prejudgment order, writ or other relief enforced to the fullest extent permitted by law notwithstanding that all Claims are otherwise subject to resolution by judicial reference.

11.11 Professional Fees. Borrower promises to pay Lender's fees and expenses necessary to finalize the loan documentation, including but not limited to reasonable attorneys fees, UCC searches, filing costs, and other miscellaneous expenses. In addition, Borrower promises to pay any and all reasonable attorneys' and other professionals' fees and expenses (including fees and expenses of in-house counsel) incurred by Lender after the Closing Date in connection with or related to: (a) the Loan; (b) the administration, collection, or enforcement of the Loan; (c) the amendment or modification of the Loan Documents; (d) any waiver, consent, release, or termination under the Loan Documents; (e) the protection, preservation, sale, lease, liquidation, or disposition of Collateral or the exercise of remedies with respect to the Collateral; (f) any legal, litigation, administrative, arbitration, or out of court proceeding in connection with or related to Borrower or the Collateral, and any appeal or review thereof; and (g) any bankruptcy, restructuring, reorganization, assignment for the benefit of creditors, workout, foreclosure, or other action related to Borrower, the Collateral, the Loan Documents, including representing Lender in any adversary proceeding or contested matter commenced or continued by or on behalf of Borrower's estate, and any appeal or review thereof.

11.12 Confidentiality. Lender acknowledges that certain items of Collateral and information provided to Lender by Borrower are confidential and proprietary information of Borrower, if and to the extent such information either (x) is marked as confidential by Borrower at the time of disclosure, or (y) should reasonably be understood to be confidential (the "Confidential Information"). Accordingly, Lender agrees that any Confidential Information it may obtain in the course of acquiring, administering, or perfecting Lender's security interest in the Collateral or the Loan generally shall not be disclosed to any other person or entity in any manner whatsoever, in whole or in part, without the prior written consent of Borrower, except that Lender may disclose any such information: (a) to its own directors, officers, employees, accountants, counsel and other professional advisors and to its affiliates if Lender in its sole discretion determines that any such party should have access to such information in connection with such party's responsibilities in connection with the Loan or this Agreement and, provided that such recipient of such Confidential Information either (i) agrees to be bound by the confidentiality provisions of this paragraph or (ii) is otherwise subject to confidentiality restrictions that reasonably protect against the disclosure of Confidential Information; (b) if such information is generally available to the public; (c) if required or appropriate in any report, statement or testimony submitted to any governmental authority having or claiming to have jurisdiction over Lender; (d) if required or appropriate in response to any summons or subpoena or in connection with any litigation, to the extent permitted or deemed advisable by Lender's counsel; provided that in such an event Lender shall, to the extent it

does not violate such summons or subpoena, notify Borrower of same so that Borrower might have an opportunity to apply to limit or narrow the scope of the disclosure of confidential information; (e) to comply with any legal requirement or law applicable to Lender; (f) to the extent reasonably necessary in connection with the exercise of any right or remedy under any Loan Document, including Lender's sale, lease, or other disposition of Collateral after default; (g) to any participant or assignee of Lender or any prospective participant or assignee; provided, that such participant or assignee or prospective participant or assignee agrees in writing to be bound by this Section prior to disclosure; or (h) otherwise with the prior consent of Borrower; provided, that any disclosure made in violation of this Agreement shall not affect the obligations of Borrower or any of its affiliates or any guarantor under this Agreement or the other Loan Documents.

11.13 Assignment of Rights. Borrower acknowledges and understands that Lender may sell and assign all or part of its interest hereunder and under the Loan Documents to any person or entity (an "Assignee"). After such assignment the term "Lender" as used in the Loan Documents shall mean and include such Assignee, and such Assignee shall be vested with all rights, powers and remedies of Lender hereunder with respect to the interest so assigned; but with respect to any such interest not so transferred, Lender shall retain all rights, powers and remedies hereby given; provided, however, that so long as there does not exist an Event of Default, Borrower shall not be responsible for any duplication costs for the administration of the Loan by reason of any such assignment. No such assignment by Lender shall relieve Borrower of any of its obligations hereunder. Lender agrees that in the event of any transfer by it of the Note(s)(if any), it will endorse thereon a notation as to the portion of the principal of the Note(s), which shall have been paid at the time of such transfer and as to the date to which interest shall have been last paid thereon.

11.14 Revival of Secured Obligations. This Agreement and the Loan Documents shall remain in full force and effect and continue to be effective if any petition is filed by or against Borrower for liquidation or reorganization, if Borrower becomes insolvent or makes an assignment for the benefit of creditors, if a receiver or trustee is appointed for all or any significant part of Borrower's assets, or if any payment or transfer of Collateral is recovered from Lender. The Loan Documents and the Secured Obligations and Collateral security shall continue to be effective, or shall be revived or reinstated, as the case may be, if at any time payment and performance of the Secured Obligations or any transfer of Collateral to Lender, or any part thereof is rescinded, avoided or avoidable, reduced in amount, or must otherwise be restored or returned by, or is recovered from, Lender or by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment, performance, or transfer of Collateral had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, avoided, avoidable, restored, returned, or recovered, the Loan Documents and the Secured Obligations shall be deemed, without any further action or documentation, to have been revived and reinstated except to the extent of the full, final, and indefeasible payment to Lender in Cash.

11.15 Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so delivered shall be deemed an original, but all of which counterparts shall constitute but one and the same instrument.

11.16 No Third Party Beneficiaries. No provisions of the Loan Documents are intended, nor will be interpreted, to provide or create any third-party beneficiary rights or any other rights of any kind in any person other than Lender and Borrower unless specifically provided otherwise herein, and, except as otherwise so provided, all provisions of the Loan Documents will be personal and solely between Lender and Borrower.

11.17 Publicity. (a) Borrower consents to the publication and use by Lender and any of its member businesses and affiliates of (i) Borrower's name (including a brief description of the relationship between Borrower and Lender) and logo and a hyperlink to Borrower's web site, separately or together, in written and oral presentations, advertising, promotional and marketing materials, client lists, public relations materials or on its web site (together, the "Lender Publicity Materials"); (ii) the names of officers of Borrower in the Lender Publicity Materials; and (iii) Borrower's name, trademarks or servicemarks in any news release concerning Lender.

(b) Neither Borrower nor any of its member businesses and affiliates shall, without Lender's consent, publicize or use (i) Lender's name (including a brief description of the relationship between Borrower and Lender), logo or hyperlink to Lender's web site, separately or together, in written and oral presentations, advertising, promotional and marketing materials, client lists, public relations materials or on its web site (together, the "Borrower Publicity Materials"); (ii) the names of officers of Lender in the Borrower Publicity Materials; and (iii) Lender's name, trademarks, servicemarks in any news release concerning Borrower.

(SIGNATURES TO FOLLOW)

IN WITNESS WHEREOF, Borrower and Lender have duly executed and delivered this Loan and Security Agreement as of the day and year first above written.

BORROWER:

MELA SCIENCES, INC.

Signature: /s/ Richard I. Steinhart

Print Name: Richard I. Steinhart

Title: Sr. VP & CFO

Accepted in Palo Alto, California:

LENDER:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

Signature: /s/ Ben Bang

Print Name: Ben Bang

Title: Senior Counsel

EXHIBIT A

ADVANCE REQUEST

To: Lender: Date: , 20

Hercules Technology Growth Capital, Inc.
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301
Facsimile: 650-473-9194
Attn:

MELA SCIENCES, INC., a Delaware corporation ("Borrower") hereby requests from Hercules Technology Growth Capital, Inc. ("Lender") an Advance in the amount of Dollars ($) on , (the "Advance Date") pursuant to the Loan and Security Agreement between Borrower and Lender (the "Agreement"). Capitalized words and other terms used but not otherwise defined herein are used with the same meanings as defined in the Agreement.

Please:

(a) Issue a check payable to Borrower _____

or

(b) Wire Funds to Borrower's account _____

Bank: _____
Address: _____

_____

ABA Number: _____
Account Number: _____
Account Name: _____

Borrower represents that the conditions precedent to the Advance set forth in the Agreement are satisfied and shall be satisfied upon the making of such Advance, including but not limited to: (i) that no event that has had or could reasonably be expected to have a Material Adverse Effect has occurred and is continuing; (ii) that the representations and warranties set forth in the Agreement and in the Warrant are and shall be true and correct in all material respects on and as of the Advance Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date; (iii) that Borrower is in compliance with all the terms and provisions set forth in each Loan Document on its part to be observed or performed; and (iv) that as of the Advance Date, no fact or condition exists that would (or would, with the passage of time, the giving of notice, or both) constitute an Event of Default under the Loan Documents. Borrower understands and acknowledges that Lender has the right to review the conditions precedent to the Advance

requested and, based upon such review if in its reasonable discretion determines that the conditions precedent have not been complied with, Lender may decline to fund the requested Advance.

Borrower hereby represents that Borrower's corporate status and locations have not changed since the date of the Agreement or, if the Attachment to this Advance Request is completed, are as set forth in the Attachment to this Advance Request.

Borrower agrees to notify Lender promptly before the funding of the Loan if any of the matters which have been represented above shall not be true and correct on the Advance Date and if Lender has received no such notice before the Advance Date then the statements set forth above shall be deemed to have been made and shall be deemed to be true and correct as of the Advance Date.

Executed as of [ ], 20[ ].

BORROWER: MELA SCIENCES, INC.

SIGNATURE: _____

TITLE: _____

PRINT NAME: _____

ATTACHMENT TO ADVANCE REQUEST

Dated:

Borrower hereby represents and warrants to Lender that Borrower's current name and organizational status is as follows:

Name:	MELA SCIENCES, INC.
Type of organization:	Corporation
State of organization:	Delaware
Organization file number:	2778666

Borrower hereby represents and warrants to Lender that the street addresses, cities, states and postal codes of its current locations are as follows:

EXHIBIT B

SECURED TERM PROMISSORY NOTE

$[ ],000,000 Advance Date: , 20[ ]

Maturity Date: , 20[ ]

FOR VALUE RECEIVED, MELA SCIENCES, INC., a Delaware corporation, for itself and each of its Subsidiaries (the "Borrower") hereby promises to pay to the order of Hercules Technology Growth Capital, Inc., a Maryland corporation or the holder of this Note (the "Lender") at 400 Hamilton Avenue, Suite 310, Palo Alto, CA 94301 or such other place of payment as the holder of this Secured Term Promissory Note (this "Promissory Note") may specify from time to time in writing, in lawful money of the United States of America, the principal amount of [ ] Million Dollars ($[ ],000,000) or such other principal amount as Lender has advanced to Borrower and is outstanding, together with interest at a floating rate equal to a floating rate per annum equal to the greater of (i) ten and 45 one hundredths percent (10.45%), or (ii) the sum of (A) ten and 45 one hundredths percent (10.45%), plus (B) the Prime Rate minus three and one quarter of one percent (3.25%), based upon a year consisting of 360 days, with interest computed daily based on the actual number of days in each month.

This Promissory Note is the Note referred to in, and is executed and delivered in connection with, that certain Loan and Security Agreement dated March 15, 2013, by and between Borrower and Lender (as the same may from time to time be amended, modified or supplemented in accordance with its terms, the "Loan Agreement"), and is entitled to the benefit and security of the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement), to which reference is made for a statement of all of the terms and conditions thereof. All payments shall be made in accordance with the Loan Agreement. All terms defined in the Loan Agreement shall have the same definitions when used herein, unless otherwise defined herein. An Event of Default under the Loan Agreement shall constitute a default under this Promissory Note.

Borrower waives presentment and demand for payment, notice of dishonor, protest and notice of protest under the UCC or any applicable law. Borrower agrees to make all payments under this Promissory Note without setoff, recoupment or deduction and regardless of any counterclaim or defense. This Promissory Note has been negotiated and delivered to Lender and is payable in the State of California. This Promissory Note shall be governed by and construed and enforced in accordance with, the laws of the State of California, excluding any conflicts of law rules or principles that would cause the application of the laws of any other jurisdiction.

BORROWER

MELA SCIENCES, INC.

By:
Title:

EXHIBIT C

NAME, LOCATIONS, AND OTHER INFORMATION FOR BORROWER

1. Borrower represents and warrants to Lender that Borrower's current name and organizational status as of the Closing Date is as follows:

Name:	MELA SCIENCES, INC.
Type of organization:	Corporation
State of organization:	Delaware
Organization file number:	2778666

2. Borrower represents and warrants to Lender that for five (5) years prior to the Closing Date, Borrower did not do business under any other name or organization or form except the following:

Name:
Used during dates of:
Type of Organization:
State of organization:
Organization file Number: 2778666
Borrower's fiscal year ends on December 31
Borrower's federal employer tax identification number is: 113-3986004

3. Borrower represents and warrants to Lender that its chief executive office is located at 50 Buckhout Street, Irvington, New York 10533.

EXHIBIT D

BORROWER'S PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES

EXHIBIT E

BORROWER'S DEPOSIT ACCOUNTS AND INVESTMENT ACCOUNTS

EXHIBIT F

COMPLIANCE CERTIFICATE

Hercules Technology Growth Capital, Inc.
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301

Reference is made to that certain Loan and Security Agreement dated March 15, 2013 and all ancillary documents entered into in connection with such Loan and Security Agreement all as may be amended from time to time, (hereinafter referred to collectively as the "Loan Agreement") between Hercules Technology Growth Capital, Inc. ("Lender") as Lender and MELA SCIENCES, INC., a Delaware corporation, as Borrower ("Borrower"). All capitalized terms not defined herein shall have the same meaning as defined in the Loan Agreement.

The undersigned is an Officer of Borrower, knowledgeable of all of Borrower's financial matters, and is authorized to provide certification of information regarding Borrower; hereby certifies on behalf of Borrower that in accordance with the terms and conditions of the Loan Agreement, Borrower is in compliance for the period ending of all covenants, conditions and terms and hereby reaffirms that all representations and warranties contained therein are true and correct on and as of the date of this Compliance Certificate with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, after giving effect in all cases to any standard(s) of materiality contained in the Loan Agreement as to such representations and warranties. Attached are the required documents supporting the above certification. The undersigned further certifies on behalf of Borrower that these are prepared in accordance with GAAP (except for the absence of footnotes with respect to unaudited financial statement and subject to normal year end adjustments) and are consistent from one period to the next except as explained below.

REPORTING REQUIREMENT	REQUIRED	CHECK IF ATTACHED
Interim Financial Statements	Monthly within 30 days	
Interim Financial Statements	Quarterly within 30 days	
Audited Financial Statements	FYE within 120 days	

Very Truly Yours,

MELA SCIENCES, INC.

By: _____

Name: _____

Its: _____

EXHIBIT G

FORM OF JOINDER AGREEMENT

This Joinder Agreement (the "Joinder Agreement") is made and dated as of [ ], 20[ ], and is entered into by and between , a corporation ("Subsidiary"), and HERCULES TECHNOLOGY GROWTH CAPITAL, INC., a Maryland corporation, as a Lender.

RECITALS

A. Subsidiary's Affiliate, MELA SCIENCES, INC., a Delaware corporation ("Borrower"), [has entered/desires to enter] into that certain Loan and Security Agreement dated March 15, 2013, with Lender, as such agreement may be amended (the "Loan Agreement"), together with the other agreements executed and delivered in connection therewith;

B. Subsidiary acknowledges and agrees that it will benefit both directly and indirectly from Borrower's execution of the Loan Agreement and the other agreements executed and delivered in connection therewith;

AGREEMENT

NOW THEREFORE, Subsidiary and Lender agree as follows:

1. The recitals set forth above are incorporated into and made part of this Joinder Agreement. Capitalized terms not defined herein shall have the meaning provided in the Loan Agreement.

2. By signing this Joinder Agreement, Subsidiary shall be bound by the terms and conditions of the Loan Agreement the same as if it were the Borrower (as defined in the Loan Agreement) under the Loan Agreement, mutatis mutandis, provided however, that Lender shall have no duties, responsibilities or obligations to Subsidiary arising under or related to the Loan Agreement or the other agreements executed and delivered in connection therewith. Rather, to the extent that Lender has any duties, responsibilities or obligations arising under or related to the Loan Agreement or the other agreements executed and delivered in connection therewith, those duties, responsibilities or obligations shall flow only to Borrower and not to Subsidiary or any other person or entity. By way of example (and not an exclusive list): (a) Lender's providing notice to Borrower in accordance with the Loan Agreement or as otherwise agreed between Borrower and Lender shall be deemed provided to Subsidiary; (b) a Lender's providing an Advance to Borrower shall be deemed an Advance to Subsidiary; and (c) Subsidiary shall have no right to request an Advance or make any other demand on Lender.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE TO JOINDER AGREEMENT]

SUBSIDIARY:

_____ .

By:
Name:
Title:

Address:

Telephone:
Facsimile:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

By: _____
Name: _____
Title: _____

Address:
400 Hamilton Ave., Suite 310
Palo Alto, CA 94301
Facsimile: 650-473-9194
Telephone: 650-289-3060

EXHIBIT H

ACH DEBIT AUTHORIZATION AGREEMENT

Hercules Technology Growth Capital, Inc.
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301

Re: Loan and Security Agreement dated March 15, 2013 between MELA SCIENCES, INC., a Delaware corporation ("Borrower") and Hercules Technology Growth Capital, Inc. ("Lender") (the "Agreement")

In connection with the above referenced Agreement, Borrower hereby authorizes Lender to initiate debit entries for the periodic payments due under the Agreement to the Borrower's account indicated below. Borrower authorizes the depository institution named below to debit to such account.

DEPOSITORY NAME	BRANCH
CITY	STATE AND ZIP CODE
TRANSIT/ABA NUMBER	ACCOUNT NUMBER

This authority will remain in full force and effect so long as any amounts are due under the Agreement.

(Borrower)(Please Print)

By: _____

Date: _____

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL (WHICH MAY BE COMPANY COUNSEL) REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS.

WARRANT AGREEMENT

To Purchase Shares of the Common Stock of

MELA Sciences, Inc.

Dated as of April 26, 2013 (the "Effective Date")

WHEREAS, MELA Sciences, Inc., a Delaware corporation (the "Company"), has entered into a Loan and Security Agreement dated March 15, 2013 (as amended and in effect from time to time, the "Loan Agreement") with Hercules Technology Growth Capital, Inc., a Maryland corporation (the "Warrantholder");

WHEREAS, pursuant to the Loan Agreement and as additional consideration to the Warrantholder for, among other things, its agreements in the Loan Agreement, the Company has agreed to issue to the Warrantholder this Warrant Agreement, evidencing the right to purchase shares of the Company's Common Stock (this "Warrant" or this "Agreement");

NOW, THEREFORE, in consideration of the Warrantholder having executed and delivered the Loan Agreement and provided the financial accommodations contemplated therein, and in consideration of the mutual covenants and agreements contained herein, the Company and Warrantholder agree as follows:

SECTION 1. GRANT OF THE RIGHT TO PURCHASE COMMON STOCK.

(a) For value received, the Company hereby grants to the Warrantholder, and the Warrantholder is entitled, upon the terms and subject to the conditions hereinafter set forth, to subscribe for and purchase, from the Company, up to 693,202 shares of Common Stock (as defined below), at a purchase per share equal to the Exercise Price (as defined below). The number and Exercise Price of such shares are subject to adjustment as provided in Section 8. As used herein, the following terms shall have the following meanings:

"Act" means the Securities Act of 1933, as amended.

"Charter" means the Company's Certificate of Incorporation or other constitutional document, as may be amended and in effect from time to time.

"Common Stock" means the Company's common stock, $0.001 par value per share, as presently constituted under the Charter, and any class and/or series of Company capital stock for or into which such common stock may be converted or exchanged in a reorganization, recapitalization or similar transaction.

"Exercise Price" means $1.118 subject to adjustment from time to time in accordance with the provisions of this Warrant.

"Merger Event" means any sale, lease or other transfer of all or substantially all assets of the Company, or any merger or consolidation involving the Company in which the Company is not the surviving entity or in which the outstanding shares of the Company's capital stock are otherwise converted into or exchanged for shares of preferred stock, other securities or property of another entity, or any sale by holders of the outstanding voting equity securities of the Company in a single transaction or series of related transactions of shares constituting a majority of the outstanding combined voting power of the Company.

"Purchase Price" means, with respect to any exercise of this Warrant, an amount equal to the then-effective Exercise Price multiplied by the number of shares of Common Stock as to which this Warrant is then exercised.

SECTION 2. TERM OF THE AGREEMENT.

Except as otherwise provided for herein, the term of this Agreement and the right to purchase Common Stock as granted herein shall commence on the Effective Date and shall be exercisable for a period ending upon the fifth (5th) anniversary of the Effective Date.

SECTION 3. EXERCISE OF THE PURCHASE RIGHTS.

(a) Exercise. The purchase rights set forth in this Agreement are exercisable by the Warrantholder, in whole or in part, at any time, or from time to time, prior to the expiration of the term set forth in Section 2, by tendering to the Company at its principal office a notice of exercise in the form attached hereto as Exhibit I (the "Notice of Exercise"), duly completed and executed. Promptly upon receipt of the Notice of Exercise and the payment of the Purchase Price in accordance with the terms set forth below, and in no event later than five (5) business days thereafter, the Company shall issue to the Warrantholder a certificate for the number of shares of Common Stock purchased and shall execute the acknowledgment of exercise in the form attached hereto as Exhibit II (the "Acknowledgment of Exercise") indicating the number of shares which remain subject to future purchases, if any.

The Purchase Price may be paid at the Warrantholder's election either (i) by cash or check, or (ii) by surrender of all or a portion of the Warrant for shares of Common Stock to be exercised under this Agreement and, if applicable, an amended or replacement Agreement of like tenor representing the remaining number of shares purchasable hereunder, as determined below ("Net Issuance"). If the Warrantholder elects the Net Issuance method, the Company will issue shares of Common Stock in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where: X = the number of shares of Common Stock to be issued to the Warrantholder.

Y = the number of shares of Common Stock requested to be exercised under this Agreement.

A = the then-current fair market value of one (1) share of Common Stock at the time of exercise.

B = the Exercise Price.

For purposes of the above calculation, current fair market value of shares of Common Stock shall mean with respect to each share of Common Stock:

(i) at all times when the Common Stock shall be traded on a national securities exchange, inter-dealer quotation system or over-the-counter bulletin board service, the average of the closing prices over a five (5) day period ending three days before the day the current fair market value of the securities is being determined;

(ii) if the exercise is in connection with a Merger Event, the fair market value of a share of Common Stock shall be deemed to be the per share value received by the holders of the outstanding shares of Common Stock pursuant to such Merger Event as determined in accordance with the definitive transaction documents executed among the parties in connection therewith; or

(iii) in cases other than as described in the foregoing clauses (i) and (ii), the current fair market value of a share of Common Stock shall be determined in good faith by the Company's Board of Directors.

Upon partial exercise by either cash or Net Issuance, prior to the expiration or earlier termination hereof, the Company shall promptly issue an amended Agreement representing the remaining number of shares purchasable hereunder. All other terms and conditions of such amended Agreement shall be identical to those contained herein, including, but not limited to the Effective Date hereof.

(b) Exercise Prior to Expiration. To the extent this Warrant is not previously exercised as to all shares subject hereto, and if the fair market value of one share of Common Stock is greater than the Exercise Price then in effect, this Agreement shall be deemed automatically exercised on a Net Issuance basis pursuant to Section 3(a) (even if not surrendered) as of immediately before its expiration. For purposes of such automatic exercise, the fair market value of one share of Common Stock upon such expiration shall be determined pursuant to Section 3(a). To the extent this Warrant or any portion hereof is deemed automatically exercised pursuant to this Section 3(b), the Company agrees to promptly notify the Warrantholder of the number of shares of Common Stock if any, the Warrantholder is to receive by reason of such automatic exercise, and to issue a certificate to Warrantholder evidencing such shares.

SECTION 4. [RESERVED]

SECTION 5. NO FRACTIONAL SHARES OR SCRIP.

No fractional share or scrip representing a fractional share shall be issued upon the exercise of this Agreement, but in lieu of any such fractional share the Company shall make a cash payment therefor upon the basis of the fair market value then in effect.

SECTION 6. NO RIGHTS AS SHAREHOLDER/STOCKHOLDER.

Without limitation of any provision hereof, Warrantholder agrees that this Agreement does not entitle the Warrantholder to any voting rights or other rights as a shareholder/stockholder of the Company prior to the exercise of any of the purchase rights set forth in this Agreement.

SECTION 7. WARRANTHOLDER REGISTRY.

The Company shall maintain a registry showing the name and address of the registered holder of this Agreement. Warrantholder's initial address, for purposes of such registry, is set forth in Section 12(g) below. Warrantholder may change such address by giving written notice of such changed address to the Company.

SECTION 8. ADJUSTMENT RIGHTS.

The Exercise Price and the number of shares of Common Stock purchasable hereunder are subject to adjustment from time to time, as follows:

(a) Merger Event. If at any time there shall be Merger Event, then, as a part of such Merger Event, lawful provision shall be made so that the Warrantholder shall thereafter be entitled to receive, upon exercise of this Agreement, the number of shares of preferred stock or other securities or property (collectively, "Reference Property") that the Warrantholder would have received in connection with such Merger Event if Warrantholder had exercised this Agreement immediately prior to the Merger Event. In any such case, appropriate adjustment (as determined in good faith by the Company's Board of Directors) shall be made in the application of the provisions of this Agreement with respect to the rights and interests of the Warrantholder after the Merger Event to the end that the provisions of this Agreement (including adjustments of the Exercise Price and adjustments to ensure that the provisions of this Section 8 shall thereafter be applicable, as nearly as possible, to the purchase rights under this Agreement in relation to any Reference Property thereafter acquirable upon exercise of such purchase rights) shall continue to be applicable in their entirety, and to the greatest extent possible. Without limiting the foregoing, in connection with any Merger Event in which the consideration received or to be received by the Company's stockholders consists of other than cash and/or readily tradeable securities, upon the closing thereof, the successor or surviving entity shall assume the obligations of this Agreement; provided that if the Reference Property includes shares of stock or other securities and assets of an entity other than the successor or purchasing company, as the case may be, in such Merger Event, then such other entity shall assume the obligations under this Agreement and any such assumption shall contain such additional provisions to protect the interests of the Warrantholder as reasonably necessary by reason of the foreogoing (as determined in good faith by the Company's Board of Directors) . In connection with a Merger Event and upon Warrantholder's written election to the Company, the Company shall cause this Warrant Agreement to be exchanged for the consideration that Warrantholder would have received if Warrantholder had chosen to exercise its right to have shares issued pursuant to the Net Issuance provisions of this Warrant Agreement without actually exercising such right, acquiring such shares and exchanging such shares for such consideration. The provisions of this Section 8(a) shall similarly apply to successive Merger Events.

(b) Reclassification of Shares. Except for Merger Events subject to Section 8(a), if the Company at any time shall, by combination, reclassification, exchange or subdivision of securities or otherwise, change any of the securities as to which purchase rights under this Agreement exist into the same or a different number of securities of any other class or classes, this Agreement shall thereafter represent the right to acquire such number and kind of securities as would have been issuable as the result of such change with respect to the securities which were subject to the purchase rights under this Agreement immediately prior to such combination, reclassification, exchange, subdivision or other change. The provisions of this Section 8(b) shall similarly apply to successive combination, reclassification, exchange, subdivision or other change.

(c) Subdivision or Combination of Shares. If the Company at any time shall combine or subdivide its Common Stock, (i) in the case of a subdivision, the Exercise Price shall be proportionately decreased and the number of shares for which this Warrant is exercisable shall be proportionately increased, or (ii) in the case of a combination, the Exercise Price shall be proportionately increased and the number of shares for which this Warrant is exercisable shall be proportionately decreased.

(d) Stock Dividends. If the Company at any time while this Agreement is outstanding and unexpired shall:

(i) pay a dividend with respect to the outstanding shares of Common Stock payable in additional shares of Common Stock, then the Exercise Price shall be adjusted, to that price determined by multiplying the Exercise Price in effect immediately prior to such date of determination by a fraction (A) the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to such dividend or distribution, and (B) the denominator of which shall be the total number of shares of Common Stock outstanding immediately after such dividend or distribution, and the number of shares of Common Stock for which this Warrant is exercisable shall be proportionately increased; or

(ii) make any other distribution with respect to Common Stock that is not provided for in any other clause of this Section 8, then, in each such case, provision shall be made by the Company such that the Warrantholder shall receive upon exercise or conversion of this Warrant a proportionate share of any such distribution as though it were the holder of the Common Stock (or other stock for which the Common Stock is convertible) as of the record date fixed for the determination of the shareholders of the Company entitled to receive such distribution.

(e) Notice of Adjustments. If: (i) the Company shall declare any dividend or distribution upon its outstanding Common Stock, payable in stock, cash, property or other securities (assuming Warrantholder, in its capacity as lender under the Loan Agreement at all times when the Loan Agreement is in force and effect, consents to such dividend); (ii) the Company shall offer for subscription pro rata to the holders of its Common Stock any additional shares of stock of any class or other rights; (iii) there shall be any Merger Event; or (iv) there shall be any voluntary dissolution, liquidation or winding up of the Company; then, in connection with each such event, the Company shall give the Warrantholder notice thereof at the same time and in the same manner as it gives notice thereof to the holders of Common Stock.

SECTION 9. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY.

(a) Reservation of Common Stock. The Company covenants and agrees that all shares of Common Stock that may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be validly issued and outstanding, fully paid and non-assessable. The Company further covenants and agrees that the Company will, at all times during the term hereof, have authorized and reserved, free from preemptive rights, a sufficient number of shares of Common Stock to provide for the exercise of the rights represented by this Warrant. If at any time during the term hereof the number of authorized but unissued shares of Common Stock shall not be sufficient to permit exercise of this Warrant in full, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

(b) Due Authority. The execution and delivery by the Company of this Agreement and the performance of all obligations of the Company hereunder, including the issuance to Warrantholder of the right to acquire the shares of Common Stock, have been duly authorized by all necessary corporate action on the part of the Company. This Agreement: (1) does not violate the Company's Charter or current bylaws; (2) does not contravene any law or governmental rule, regulation or order applicable to it; and (3) does not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which it is a party or by which it is bound. This Agreement constitutes a legal, valid and binding agreement of the Company, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding at law or in equity.

(c) Consents and Approvals. No consent or approval of, giving of notice to, registration with, or taking of any other action in respect of any state, federal or other governmental authority or agency is required with respect to the execution, delivery and performance by the Company of its obligations under this Agreement, except for the filing of notices pursuant to Regulation D under the Act, any filing required by applicable state securities law and any filing which may be required by NASDAQ, which filings will be effective by the time required thereby.

(d) Exempt Transaction. Subject to the accuracy of the Warrantholder's representations in Section 10, the issuance of the Common Stock upon exercise of this Agreement will constitute a transaction exempt from (i) the registration requirements of Section 5 of the Act, in reliance upon Section 4(2) thereof, and (ii) the qualification requirements of the applicable state securities laws.

(e) Registration Rights. The Company covenants and agrees with Warrantholder that if the Company, at any time and from time to time on or after the Effective Date and on or before the expiration or earlier termination of this Warrant, proposes to register under the Act any shares of Common Stock held by one or more stockholders of the Company for resale by such stockholders, whether on a Form S-3 registration statement or otherwise, the Company shall give written notice thereof to Warrantholder and permit Warrantholder to include any or all of the shares of Common Stock issuable upon exercise of this Warrant (and any or all shares previously issued to Warrantholder upon any prior exercise(s) hereof) in such registration on a *pari passu* basis with such other stockholder(s) and on the same terms and conditions applicable to such other stockholder(s).

(f) Information Rights. At all times (if any) during the term of this Warrant when (i) the Company shall not be required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), and/or (ii) the Common Stock is not traded on a national securities exchange, inter-dealer quotation system or over-the-counter bulletin board service, Warrantholder shall be entitled to the information rights contained in Section 7.1 of the Loan Agreement, and in any such event Section 7.1 of the Loan Agreement is hereby incorporated into this Agreement by this reference as though fully set forth herein, provided, however, that the Company shall not be required to deliver a Compliance Certificate or the reports required under Section 7.1(a) of the Loan Agreement once all Indebtedness (as defined in the Loan Agreement) owed by the Company to Warrantholder has been repaid.

(g) Rule 144 Compliance. The Company shall at all times prior to later to occur of (i) expiration hereof, and (ii) the sale or other disposition by Warrantholder in full of this Warrant or all shares of Common Stock issued on exercise in full of this Warrant timely file all reports required under the 1934 Act and otherwise timely take all actions necessary to permit the Warrantholder to sell or otherwise dispose of this Warrant and the shares of Common Stock

issued on exercise hereof pursuant to Rule 144 promulgated under the Act as amended and in effect from time to time. If the Warrantholder proposes to sell Common Stock issuable upon the exercise of this Agreement in compliance with Rule 144, then, upon Warrantholder's written request to the Company, the Company shall furnish to the Warrantholder, within five (5) days after receipt of such request, a written statement confirming the Company's compliance with the filing and other requirements of such Rule.

SECTION 10. REPRESENTATIONS AND COVENANTS OF THE WARRANTHOLDER.

This Agreement has been entered into by the Company in reliance upon the following representations and covenants of the Warrantholder:

(a) Investment Purpose. This Warrant and the shares issued on exercise hereof will be acquired for investment and not with a view to the sale or distribution of any part thereof in violation of applicable federal and state securities laws, and the Warrantholder has no present intention of selling or engaging in any public distribution of the same except pursuant to a registration or exemption.

(b) Private Issue. The Warrantholder understands (i) that the Common Stock issuable upon exercise of this Agreement is not, as of the Effective Date, registered under the Act or qualified under applicable state securities laws, and (ii) that the Company's reliance on exemption from such registration is predicated on the representations set forth in this Section 10.

(c) Financial Risk. The Warrantholder has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment, and has the ability to bear the economic risks of its investment.

(d) Accredited Investor. Warrantholder is an "accredited investor" within the meaning of the Securities and Exchange Rule 501 of Regulation D, as presently in effect.

(e) No Short Sales. Warrantholder has not at any time on or prior to the Effective Date engaged in any short sales or equivalent transactions in the Common Stock. Warrantholder agrees that at all times from and after the Effective Date and on or before the expiration or earlier termination of this Warrant, it shall not engage in any short sales or equivalent transactions in the Common Stock.

SECTION 11. TRANSFERS.

Subject to compliance with applicable federal and state securities laws, this Agreement and all rights hereunder are transferable, in whole or in part, without charge to the holder hereof (except for transfer taxes) upon surrender of this Agreement properly endorsed. Each taker and holder of this Agreement, by taking or holding the same, consents and agrees that this Agreement, when endorsed in blank, shall be deemed negotiable, and that the holder hereof, when this Agreement shall have been so endorsed and its transfer recorded on the Company's books, shall be treated by the Company and all other persons dealing with this Agreement as the absolute owner hereof for any purpose and as the person entitled to exercise the rights represented by this Agreement. The transfer of this Agreement shall be recorded on the books of the Company upon receipt by the Company of a notice of transfer in the form attached hereto as Exhibit III (the "Transfer Notice"), at its principal offices and the payment to the Company of all transfer taxes and other governmental charges imposed on such transfer. Until the Company receives such Transfer Notice, the Company may treat the registered owner hereof as the owner for all purposes.

SECTION 12. MISCELLANEOUS.

(a) Effective Date. The provisions of this Agreement shall be construed and shall be given effect in all respects as if it had been executed and delivered by the Company on the date hereof. This Agreement shall be binding upon any successors or assigns of the Company.

(b) Remedies. In the event of any default hereunder, the non-defaulting party may proceed to protect and enforce its rights either by suit in equity and/or by action at law, including but not limited to an action for damages as a result of any such default, and/or an action for specific performance for any default where Warrantholder will not have an adequate remedy at law and where damages will not be readily ascertainable.

(c) No Impairment of Rights. The Company will not, by amendment of its Charter or through any other means, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the Warrantholder against impairment.

(d) [Intentionally Omitted]

(e) Attorney's Fees. In any litigation, arbitration or court proceeding between the Company and the Warrantholder relating hereto, the prevailing party shall be entitled to reasonable attorneys' fees and expenses and all costs of proceedings incurred in enforcing this Agreement. For the purposes of this Section 12(e), attorneys' fees shall include without limitation fees incurred in connection with the following: (i) contempt proceedings; (ii) discovery; (iii) any motion, proceeding or other activity of any kind in connection with an insolvency proceeding; (iv) garnishment, levy, and debtor and third party examinations; and (v) post-judgment motions and proceedings of any kind, including without limitation any activity taken to collect or enforce any judgment.

(f) Severability. In the event any one or more of the provisions of this Agreement shall for any reason be held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable valid, legal and enforceable provision, which comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

(g) Notices. Except as otherwise provided herein, any notice, demand, request, consent, approval, declaration, service of process or other communication that is required, contemplated, or permitted under this Agreement or with respect to the subject matter hereof shall be in writing, and shall be deemed to have been validly served, given, delivered, and received upon the earlier of: (a) personal delivery to the party to be notified, (b) when sent by confirmed telex, electronic transmission or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt, and shall be addressed to the party to be notified as follows:

If to Warrantholder:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.
Legal Department
Attention: Chief Legal Officer and Manuel Henriquez
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301
Facsimile: 650-473-9194
Telephone: 650-289-3060

If to the Company:

MELA SCIENCES, INC.
Attention: Chief Financial Officer
50 South Buckhout Street, Suite 1
Irvington, NY 10533
Facsimile: 914-591-3701
Telephone: 914-591-3783

With a copy to:

Valerie Price, Esq.
Golenbock Eiseman Assor Bell & Peskoe LLP
437 Madison Avenue
New York, NY 10022
Facsimile: 212-754-0330
Telephone: 212-907-7335

or to such other address as each party may designate for itself by like notice.

(h) Entire Agreement; Amendments. This Agreement constitutes the entire agreement and understanding of the parties hereto in respect of the subject matter hereof, and supersedes and replaces in their entirety any prior proposals, term sheets, letters, negotiations or other documents or agreements, whether written or oral, with respect to the subject matter hereof. None of the terms of this Agreement may be amended except by an instrument executed by each of the parties hereto.

(i) Headings. The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provisions hereof.

(j) Advice of Counsel. Each of the parties represents to each other party hereto that it has discussed (or had an opportunity to discuss) with its counsel this Agreement and, specifically, the provisions of Sections 12(n), 12(o), 12(p), 12(q) and 12(r).

(k) No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

(l) No Waiver. No omission or delay by Warrantholder at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms, covenants or provisions

hereof by the Company at any time designated, shall be a waiver of any such right or remedy to which Warrantholder is entitled, nor shall it in any way affect the right of Warrantholder to enforce such provisions thereafter.

(m) Survival. All agreements, representations and warranties contained in this Agreement or in any document delivered pursuant hereto shall be for the benefit of Warrantholder and shall survive the execution and delivery of this Agreement and the expiration or other termination of this Agreement.

(n) Governing Law. This Agreement has been negotiated and delivered to Warrantholder in the State of California, and shall have been accepted by Warrantholder in the State of California. Delivery of Common Stock to Warrantholder by the Company under this Agreement is due in the State of California. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

(o) Consent to Jurisdiction and Venue. All judicial proceedings arising in or under or related to this Agreement may be brought in any state or federal court of competent jurisdiction located in the State of California. By execution and delivery of this Agreement, each party hereto generally and unconditionally: (a) consents to personal jurisdiction in Santa Clara County, State of California; (b) waives any objection as to jurisdiction or venue in Santa Clara County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. Service of process on any party hereto in any action arising out of or relating to this Agreement shall be effective if given in accordance with the requirements for notice set forth in Section 12(g), and shall be deemed effective and received as set forth in Section 12(g). Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of either party to bring proceedings in the courts of any other jurisdiction.

(p) Mutual Waiver of Jury Trial. Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and the parties wish applicable state and federal laws to apply (rather than arbitration rules), the parties desire that their disputes be resolved by a judge applying such applicable laws. EACH OF THE COMPANY AND WARRANTHOLDER SPECIFICALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, "CLAIMS") ASSERTED BY THE COMPANY AGAINST WARRANTHOLDER OR ITS ASSIGNEE OR BY WARRANTHOLDER OR ITS ASSIGNEE AGAINST THE COMPANY. This waiver extends to all such Claims, including Claims that involve persons or entities other the Company and Warrantholder; Claims that arise out of or are in any way connected to the relationship between the Company and Warrantholder; and any Claims for damages, breach of contract, specific performance, or any equitable or legal relief of any kind, arising out of this Agreement.

(q) Arbitration. If the Mutual Waiver of Jury Trial set forth in Section 12(p) is ineffective or unenforceable, the parties agree that all Claims shall be submitted to binding arbitration in accordance with the commercial arbitration rules of JAMS (the "Rules"), such arbitration to occur before one arbitrator, which arbitrator shall be a retired Delaware state judge or a retired Federal court judge. Such proceeding shall be conducted in Suffolk or Middlesex County, Commonwealth of Massachusetts, with Massachusetts rules of evidence and discovery applicable to such arbitration. The decision of the arbitrator shall be binding on the parties, and shall be final and nonappealable to the maximum extent permitted by law. Any judgment rendered by the arbitrator may be entered in a court of competent jurisdiction and enforced by the prevailing party as a final judgment of such court.

(r) Pre-arbitration Relief. In the event Claims are to be resolved by arbitration, either party may seek from a court of competent jurisdiction identified in Section 12(o), any prejudgment order, writ or other relief and have such prejudgment order, writ or other relief enforced to the fullest extent permitted by law notwithstanding that all Claims are otherwise subject to resolution by binding arbitration.

(s) Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so delivered shall be deemed an original, but all of which counterparts shall constitute but one and the same instrument.

(t) Specific Performance. The parties hereto hereby declare that it is impossible to measure in money the damages which will accrue to Warrantholder by reason of the Company's failure to perform any of the obligations under this Agreement and agree that the terms of this Agreement shall be specifically enforceable by Warrrantholder. If Warrantholder institutes any action or proceeding to specifically enforce the provisions hereof, any person against whom such action or proceeding is brought hereby waives the claim or defense therein that Warrantholder has an adequate remedy at law, and such person shall not offer in any such action or proceeding the claim or defense that such remedy at law exists.

(u) Lost, Stolen, Mutilated or Destroyed Warrant. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as this Warrant so lost, stolen, mutilated or destroyed. Any such new Warrant shall constitute an original contractual obligation of the Company, whether or not the allegedly lost, stolen, mutilated or destroyed Warrant shall be at any time enforceable by anyone.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Agreement to be executed by its officers thereunto duly authorized as of the Effective Date.

COMPANY: MELA SCIENCES, INC.

By: _____
Name: _____
Title: _____

WARRANTHOLDER: HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

By: _____
Name: _____
Title: _____

EXHIBIT I

NOTICE OF EXERCISE

To: [ ]

(1) The undersigned Warrantholder hereby elects to purchase [ ] shares of the Common Stock of [ ], pursuant to the terms of the Agreement dated the [ ] day of [,] (the "Agreement") between [ ] and the Warrantholder, and tenders herewith payment of the Purchase Price in full, together with all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below.

_____

(Name)

_____

(Address)

WARRANTHOLDER:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

By: _____

Name: _____

Title: _____

EXHIBIT II

1. ACKNOWLEDGMENT OF EXERCISE

The undersigned [ ], hereby acknowledge receipt of the "Notice of Exercise" from Hercules Technology Growth Capital, Inc., to purchase [ ] shares of the Common Stock of [ ], pursuant to the terms of the Agreement, and further acknowledges that [ ] shares remain subject to purchase under the terms of the Agreement.

COMPANY: [ ]

By: _____

Title: _____

Date: _____

EXHIBIT III

TRANSFER NOTICE

(To transfer or assign the foregoing Agreement execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Agreement and all rights evidenced thereby are hereby transferred and assigned to

_____

(Please Print)

whose address is _____

Dated: _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Transfer Notice must correspond with the name as it appears on the face of the Agreement, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Agreement.

Exhibit 31.1

CERTIFICATION BY THE CHIEF EXECUTIVE OFFICER PURSUANT TO RULE 13A-14(A) or RULE 15D-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

I, Joseph V. Gulfo, certify that:

1. I have reviewed this report on Form 10-Q of MELA Sciences, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the financial statements for external purposes in accordance with generally accepted accounting principles;
    c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):
    a) all significant deficiencies and material weaknesses in the design or operations of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b) any fraud whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 30, 2013

/s/ Joseph V. Gulfo, M.D.
Joseph V. Gulfo, M.D.
Chairman, President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION BY THE CHIEF FINANCIAL OFFICER PURSUANT TO RULE 13A-14(A) or RULE 15D-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

I, Richard I. Steinhart, certify that:

1. I have reviewed this report on Form 10-Q of MELA Sciences, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the financial statements for external purposes in accordance with generally accepted accounting principles;
    c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):
    a) all significant deficiencies and material weaknesses in the design or operations of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b) any fraud whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 30, 2013

/s/ Richard I. Steinhart
Richard I. Steinhart
Senior Vice President and Chief Financial Officer
(Principal Accounting and Financial Officer)

Exhibit 32.1

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

Each of the undersigned officers of MELA Sciences, Inc. (the "Company") hereby certifies to his knowledge that the Company's quarterly report on Form 10-Q for the period ended March 31, 2013 (the "Report"), as filed with the Securities and Exchange Commission on the date hereof, fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended, and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Joseph V. Gulfo
Joseph V. Gulfo
Chairman, President and Chief Executive Officer
(Principal Executive Officer)
April 30, 2013

/s/ Richard I. Steinhart
Richard I. Steinhart
Senior Vice President & Chief Financial Officer
(Principal Accounting and Financial Officer)
April 30, 2013

* A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to MELA Sciences, Inc. and will be retained by MELA Sciences, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. This written statement accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission, and will not be incorporated by reference into any filing of MELA Sciences, Inc. under the Securities Act of 1933 or the Securities Exchange Act of 1934, irrespective of any general incorporation language contained in such filing.