



FORM 10-K

THIRD WAVE TECHNOLOGIES INC /WI - TWTI

Filed: March 31, 2003 (period: December 31, 2002)

Annual report which provides a comprehensive overview of the company for the past year

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EX-10.11 (A. On September 1, 2001, URPF entered into a Agreement (the "Lease Agreement") with Tenantsquare feet of space in a building located at)

EX-10.14 (EXHIBIT 10.14LICENSE AGREEMENT)

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[EX-99.2 \(Exhibits not specifically designated by another number and by investment companies\)](#)

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

FORM 10-K

(Mark One)

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2002,

OR

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

FOR THE TRANSITION PERIOD FROM TO

COMMISSION FILE NUMBER: 000-31745

THIRD WAVE TECHNOLOGIES, INC.
(Exact name of Registrant as specified in its charter)

DELAWARE
(State or other jurisdiction of
incorporation or organization)

39-1791034
(I.R.S. Employer
Identification No.)

502 S. ROSA ROAD, MADISON, WI
(Address of principal executive offices)

53719
(Zip Code)

(888) 898-2357
(Registrant's telephone number, including area code)

SECURITIES REGISTERED PURSUANT TO SECTION 12(B) OF THE EXCHANGE ACT:
NONE

SECURITIES REGISTERED PURSUANT TO SECTION 12(G) OF THE EXCHANGE ACT:

COMMON STOCK, \$.001 PAR VALUE PER SHARE
PREFERRED STOCK PURCHASE RIGHTS
(Title of Class)

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

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

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

The aggregate market value of the registrant's voting stock held by non-affiliates of the registrant (without admitting that any person whose shares are not included in such calculation is an affiliate) as of the close of business on March 27, 2003, was \$87,623,715, based on the last sale price on that date as reported by The Nasdaq Stock Market.

As of the close of business on March 27, 2003, the registrant had 39,566,774 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents (or parts thereof) are incorporated by reference into the following parts of this Form 10-K: Certain information required in Part III of this Annual Report on Form 10-K is incorporated from the Registrant's Proxy Statement for the Annual Meeting of Stockholders to be held on June 10, 2003.

THIRD WAVE TECHNOLOGIES
 FORM 10-K
 FOR THE YEAR ENDED DECEMBER 31, 2002

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FORWARD-LOOKING STATEMENTS

This Form 10-K contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. When used in this Form 10-K, the words "believe," "anticipates," "intends," "plans," "estimates," and similar expressions are forward-looking statements. Such forward-looking statements contained in this Form 10-K are based on current expectations. Forward-looking statements may address the following subjects: results of operations; customer growth and retention; development of technologies; losses or earnings; operating expenses, including, without limitation, marketing expense and technology and development expense; and revenue growth. We caution investors that there can be no assurance that actual results, outcomes or business conditions will not differ materially from those projected or suggested in such forward-looking statements as a result of various factors, including, among others, our limited operating history, unpredictability of future revenues and operating results, competitive pressures and also the potential risks and uncertainties set forth in the "Overview" section of Item 7 hereof and in the "Risk Factors" section of

Item 1 hereof.

You should also carefully consider the factors set forth in other reports or documents that we file from time to time with the Securities and Exchange Commission. Except as required by law, we undertake no obligation to update any forward-looking statements.

In this Form 10-K, we refer to information regarding our potential markets and other industry data. We believe that all such information has been obtained from reliable sources that are customarily relied upon by companies in our industry. However, we have not independently verified any such information.

In this Form 10-K, the terms "we," "us," "our," "Company" and "Third Wave" each refer to Third Wave Technologies, Inc.

In the United States, France and the United Kingdom our registered trademarks are Cleavase(TM) PowerScan(TM) and Invader(TM). Cleavase, CFLP and Invader are registered in Germany. CFLP and Invader are also registered in Japan. Trademark registration for InvaderCreator(TM) is pending in the United States, France, Germany, the United Kingdom and Japan. Trademark registration is pending in the United States for Third Wave.

PART I

ITEM 1. BUSINESS

Third Wave Technologies, Inc. is a leading genetic analysis products company. We believe that our proprietary Invader platform is easier to use, more accurate and cost-effective, and enables higher testing throughput than conventional methods based on polymerase chain reaction, or PCR. These and other advantages conferred by our platform are enabling us to continue to successfully serve select research customers, while focusing the majority of our commercial effort on the rapidly growing, high-value clinical molecular diagnostic market.

Third Wave was founded as a Wisconsin corporation in 1993. In 2000, the Company was reincorporated as a Delaware corporation. In February of 2001, the Company successfully completed its initial public offering of shares of its common stock. In December of 2001, the Company completed its two-stage acquisition of Third Wave Agbio, Inc. The Company's principal executive offices are located at 502 South Rosa Road, Madison, Wisconsin 53719.

INDUSTRY BACKGROUND

Genetic information is a valuable, fundamental source for understanding the biological function of any organism. The most notable example of the value of genetic information is our increasing understanding of how human genetic variation is associated with disease predisposition and progression, and drug response, among other medically important functions.

Research aimed at unlocking this vital information and speeding its application to patient care is continuing at a rapid pace. The sequencing of the human genome will be completed officially in April 2003. This international effort has led to the discovery of more than 2.8 million single-base genetic variations called single nucleotide polymorphisms, or SNPs, the most common form of human genetic variation.

Only a fraction of these SNPs are medically important, however. Large-scale disease association studies like the Japanese government's SNP Initiative, the largest such study in the world, have discovered important associations among these millions of SNPs with predisposition to a number of common diseases. Some of these associations have been validated and form the foundations of the molecular diagnostic tests now being used routinely in patient care.

As genomic research continues to identify and validate these associations, health care professionals and their patients increasingly will use genetic, or molecular diagnostic, tests for a wide variety of diagnostic and prognostic uses. These uses include predictive genetic testing that forms the basis of individually tailored therapies, screening and diagnosis of inherited disorders, diagnosis and monitoring of infectious diseases, and the prevention of adverse drug reactions.

Molecular diagnostic testing is accomplished through genotyping, determining whether a variation or series of variations are present in an individual, or gene expression analysis, determining the level of activity of a specific gene by quantitating the messenger RNA, or mRNA, it is producing.

We develop and market products for both genotyping and gene expression analysis that are used in genomic research and clinical molecular diagnostics. We market these products in significant and rapidly growing markets.

LIMITATIONS OF CONVENTIONAL METHODS AND THE THIRD WAVE SOLUTION

Conventional methods for analyzing genetic variations, almost all of which are based on hybridization in combination with PCR, have significant limitations. These limitations include the inability to directly analyze genomic samples, inaccuracy, and the difficulty and high cost of use.

Our proprietary Invader platform is highly sensitive and can detect and quantify genetic variations directly from unamplified genomic DNA, RNA and infectious agents. Its advantages include:

- High accuracy. The Invader platform has been found in independent, published studies to be between 99.6 percent and 100 percent accurate in identifying genomic variations in routine use. Additional independent studies have shown the Invader platform to be 99.9 percent accurate, with five-fold fewer false positive results than PCR and no false negative results in those studies compared to 29 with PCR.
- Direct detection from genomic samples. The Invader platform is sufficiently precise to analyze genomic samples directly, eliminating the requirement for PCR amplification and its inherently lower accuracy, and making it well suited to molecular diagnostic use at virtually any scale.
- Ease of Use. The Invader platform is easy to automate, allowing our customers to eliminate many of the steps in genetic testing that have traditionally required human intervention, further reducing the possibility for error.
- Lower Cost per Test Result. The elimination of the requirement for PCR amplification and the concomitant requirements for specially trained personnel and specialized, expensive equipment and facilities reduces the customer's cost per test result.

THIRD WAVE STRATEGY

Our strategy for continuing to capture the growing demand for the development and clinical application of molecular diagnostic tests and for building a breakout, growth-oriented company is to:

- Continue building a strong base of recurring revenue from the sale of high margin, clinical molecular diagnostic products. This recurring revenue base is being built on increased sales to existing customers and the expansion of our clinical customer base.
- Leverage the competitive advantages of our Invader platform and its broad product menu in higher value market opportunities, directly and through select partnerships that enable greater market penetration and expanded product distribution in the research, clinical, and plant and animal application markets.
- Further accelerate customer exposure to and market penetration of the Invader platform by providing easier, more flexible access to the platform.

INVADER PLATFORM

INVADER TECHNOLOGY

Our patented Invader platform can be differentiated from conventional genetic analysis methods in at least two significant ways. First, our technology uses a patented enzyme, known as a Cleavase enzyme, that only recognizes and cuts the specific structure formed during the Invader process. The benefits of using this structure-specific enzyme versus sequence-specific conventional technologies are enhanced assay accuracy and specificity, and ease of use. Second, our technology relies on linear amplification of the signal generated by the

Invader process rather than exponential amplification of the target sample that results from PCR. Linear amplification, which means that a single target generates a given number of signals over a given period of time, allows for easy quantification of target concentration and reduces the effects of sample contamination that may result from exponential target amplification, in which a single target generates two additional targets and each generated target generates an additional two targets and so forth.

In its most common configuration, our Invader products detect and/or quantify a target of interest through two steps. In the first step, two short synthetic segments of DNA, or probes, hybridize to the target of interest. One probe is called the Invader probe and the other is called the Primary probe. The Primary probe includes a short portion, known as a flap, that does not hybridize to the target. The hybridization of the Invader and Primary probes at a specific location on the target forms the structure recognized by the Cleavase enzyme, which then cuts the unbound flap off of the Primary probe. When the target of interest is not present, the structure is not formed and cutting does not occur. The target of interest, when present, induces the cutting of several thousand flaps per hour in a linear fashion.

In the second step, each flap generated in the first step hybridizes, or binds, to a third probe, called a FRET Cassette, forming the structure recognized by the Cleavase enzyme. The enzyme then cleaves off a portion of the FRET Cassette causing, in the most common format, the reaction to emit a detectable fluorescent signal. Consequently, each flap generated in the first step induces the generation of several thousand detectable signals per hour. In this way, an Invader assay produces tens of millions of detectable signals per target when the target is present, which can be read easily on most existing detection systems. The result is that the Invader platform produces millions of target-specific signals without copying the target sample itself.

Our Invader platform is much more precise than conventional technologies and can produce accurate results over a broad range of temperatures and solution conditions. In addition, unlike conventional approaches, the Invader platform operates at a single reaction temperature, making it easier to use by reducing the level of sophistication and training required for users of the system.

INVADER PRODUCTS

Our Invader products can be configured in a wide variety of formats and combinations depending on the user's desired applications, detection systems and other requirements. These formats may include a combination of Invader probes, Primary probes, FRET Cassettes, Cleavase enzyme, buffers and other components. All our products for a particular user are designed to use the same reaction conditions, permitting easy automation of both assay design and test performance.

INVADER PRODUCT APPLICATIONS

Clinical reference laboratories, health care providers, pharmaceutical and biotechnology companies, academic research centers and government initiatives are utilizing our products in many aspects of disease discovery, clinical trials, and patient diagnosis and treatment applications including those described below.

Clinical Product Applications

- Clinical Diagnosis. Clinical reference laboratories and health care providers can use our products to diagnose a number of diseases.
- Therapy or Treatment Selection. Medical professionals will be able to use our products to customize treatment regimens specifically to a particular patient. This could significantly reduce erroneous or ineffective prescriptions and increase the likelihood that patients receive the proper dosage of appropriate drugs. Our products can also be used by managed care systems and other healthcare providers to tailor patient drug therapy programs for maximum efficacy and avoid adverse drug reactions.
- Therapeutic Monitoring. Medical professionals may use our products to monitor response to a particular therapeutic regimen, allowing earlier modulation of treatment, if necessary. This type of

therapeutic monitoring could improve medical outcomes by reducing the time required to identify the most appropriate types and levels of treatment.

Research Product Applications

- Disease Association Studies. Pharmaceutical companies, academic research institutions and government initiatives can use our products to discover and validate the association of specific genetic variations with predisposition to a particular disease or response to a drug therapy. Once an association has been validated, the product that detects the variation may be refined and introduced as a clinical molecular diagnostic.
- Preclinical and Clinical Testing. Pharmaceutical companies will be able to use our products to test model systems, such as mice, and to correlate therapeutic and metabolic responses to known genetic variation profiles in the target or in related enzymes to better predict drug efficacy and safety. Additionally, pharmaceutical companies can use our products to select patients for clinical trials based on the presence or absence of genetic variation profiles known to be associated with drug response.
- Market Extension/Drug Revival. Pharmaceutical companies will be able to use our products in marketing programs to expand or extend markets of an existing drug to new patient groups. This may lead to label extensions, additional patent protection and longer commercial lives for existing drugs based on patient genetic profiles. Similarly, pharmaceutical companies will be able to use our products to bring back to market drugs which were previously removed due to adverse drug response or lack of therapeutic activity.

MANUFACTURING

We currently manufacture our products at our facility, located in Madison, Wisconsin. We have developed and implemented a modular manufacturing process that allows easy expansion. Each manufacturing module consists of the following coordinated stations and computer support:

- proprietary software program for automated product design;
- product tracking system;
- automated probe synthesis and processing system;
- automated probe purification station;
- automated probe quantification and dilution and fill station; and
- automated product quality control system.

We have attempted to design the manufacturing processes and area to optimize material flow and personnel movement with all the manufacturing and quality control operations.

Our clinical products are produced in environmentally controlled clean rooms and are isolated from the rest of the facility consistent with national and international registration standards. We have registered the facility used for manufacturing our clinical products with the United States Food and Drug Administration, or FDA, as a Device Manufacturer and we believe we are in compliance with FDA's quality system requirements, or QSRs.

Commencing in December 2002, we have outsourced some of our oligonucleotide probe manufacturing needs. We will work with our vendors of these probes to optimize the manufacturing process, monitor quality control and ensure compliance with our product specifications.

MARKETING AND SALES

We currently market and sell our products through a combination of direct sales personnel, who are focused primarily on the clinical market, and through collaborative relationships. Our clinical sales force is currently comprised of nine individuals, and we plan to increase this sales force as market demand requires.

The clinical sales force targets high volume clinical and reference laboratories that meet the criteria for highly-complex laboratories under the Clinical Laboratory Improvement Amendments of 1988.

Our products for the research market are sold primarily through collaborative relationships with pharmaceutical companies and research institutions focused on life sciences in humans, plants, and animals. Our business development group targets leading pharmaceutical companies and research and academic institutions with the objective of entering into agreements for the supply of genetic testing products. We also appear at industry trade shows and advertise in trade publications in connection with our marketing efforts.

During 2002, the majority of our product sales were to international end customers, primarily in Japan. We intend to continue to pursue domestic and international market opportunities through a combination of distribution arrangements and collaborative relationships. In 2002, we established Third Wave-Japan LLC, a wholly-owned subsidiary, for the purpose of working more directly with our customers, collaborators, and distributors in the Japanese market. We have one direct employee based in Japan. We may also establish direct international sales organizations in other selected major markets.

For a description of our industry segment and our product revenues by geographic area, see Note 14 of the Notes to the Consolidated Financial Statements included under Item 8 of this Form 10-K.

The Company's business is generally not considered seasonal.

COLLABORATIVE RELATIONSHIPS

Our business involves collaborations with clinical laboratory companies, instrument companies, pharmaceutical companies and academic institutions. Many of these entities have proven and renowned capabilities in gene-based product discovery and commercialization. We have entered into a number of collaboration agreements and are presently in late stage discussions with a select number of other groups to establish additional relationships for the supply, distribution and development of our products. The following is a summary of our principal collaborative relationships.

BML

In December 2000, we entered into a development and commercialization agreement with BML, Inc., one of the two largest clinical reference laboratories in Japan. Under this agreement, we will develop assays in accordance with a mutually agreed development program for use in clinical applications by BML and BML will pay us for the development.

Under the agreement, BML paid us \$3.0 million as reimbursement for past development expenses. In calendar year 2002, BML paid us \$1.7 million in development program funding and product purchase. Additionally, the agreement includes minimum funding for the development program by BML of \$2.0 million for calendar year 2001 and \$1.0 million for each of calendar years 2002 and 2003.

Under the agreement, we agree to supply BML with its requirements of the developed assays for use in its clinical applications at preferential prices. Additionally, we will have the right to commercialize the developed assays worldwide; however, we agree not to commercialize these assays to third parties for use in Japan for a period between six and 24 months depending on whether the assay is covered by patents owned by BML. We have also agreed, upon BML's request, to negotiate the terms and conditions under which BML would have the right to distribute the developed assays in Japan. Also, BML granted us a license under all patent rights they own which cover the exploitation of the developed assays, for which we have agreed to pay them a royalty.

The term of the agreement is until December 31, 2007. The agreement may be terminated by BML on six months written notice given on or after June 30, 2003. Additionally, either party may terminate the agreement on 60 days notice in the event the other party materially breaches the agreement.

OTSUKA PHARMACEUTICAL COMPANY, LTD.

We entered into a marketing and distribution agreement with Otsuka Pharmaceutical Company, Ltd. in October 2001. Under the agreement, we appointed Otsuka as our exclusive distributor for Invader research products in Japan and other countries in the Far East, Southeast Asia and the Middle East that together comprise approximately 25 percent of the world market for genome research tools.

Otsuka is a leading provider of pharmaceuticals, medical devices, genome research products and other healthcare products. Otsuka is a prominent member of the Pharma SNP Consortium, created by the Japanese pharmaceutical industry to fund pharmacogenomic research in close collaboration with Japan's Millennium Project.

The partnership of Third Wave with Otsuka will further accelerate our market penetration in Japan, which is emerging as the largest and most robust market for SNP analysis products through its world leadership in SNP-disease association studies.

Otsuka will market, distribute and provide technical support for both existing catalog and new custom-order Invader products for genotyping and gene expression analysis.

ACLARA BIOSCIENCES, INC.

In October 2002, Third Wave and Aclara announced that they have entered into license and supply agreements under which Aclara will have nonexclusive rights to incorporate our proprietary Invader technology and Cleavase enzyme with Aclara's eTag(TM) technology platform for multiplexed gene expression applications for the research market. In addition to the nonexclusive license grant, we have entered into a supply agreement with Aclara under which we will supply Aclara with our proprietary Cleavase enzyme. Finally, the parties have entered into an agreement which will provide Aclara access to our Invader Creator software product for the design of Invader assays consistent with the terms of the license agreement.

In exchange for the license, Aclara has made up front payments and will make royalty payments based on sales of the Aclara product. In addition, Aclara will purchase Cleavase enzyme from us. The license, supply and Invader Creator software access agreements supercede the research, development and collaboration agreement between the parties which was announced and executed in October 2001.

The combination of the ACLARA and Third Wave technologies will enable customers to profile many genes simultaneously in a single reaction directly from crude cell lysates, without the need for sample prep or polymerase chain reaction (PCR). We believe that this integration of complementary technologies will provide a level of throughput and multiplexing that is unprecedented among DNA and RNA detection or quantitation products.

In October 2001, we entered a development and commercialization agreement with ACLARA BioSciences, Inc. ("Aclara") focused on multiplexed gene expression research products. These research products couple the high-multiplexing capabilities of ACLARA's eTag sequence-labeling technology with the unique performance and ease-of-use characteristics of Third Wave's Invader platform.

INTELLECTUAL PROPERTY

We have implemented an aggressive patent strategy designed to provide us with freedom to operate and facilitate commercialization of our current and future products. We currently own 27 issued patents and exclusively licensed two issued patents in the United States, and own five issued patents in Australia and one issued patent in Canada. We have received notices of allowance for four additional United States patent applications and two Australian applications. We have 67 additional United States patent applications pending. In addition, we have licensed rights to patent applications pending in the United States, Japan and other major industrialized nations, covering genetic variations associated with drug metabolism. In addition, we have licensed rights to patents and/or patent applications covering genetic variations associated with certain diseases for which we have designed clinical diagnostic products. Reflecting our international business strategy, we have foreign filings in major industrialized nations corresponding to each major technology area represented in our United States patent and application claims.

The issued, allowed and pending patents distinguish us from competitors by claiming proprietary methods and compositions for analysis of DNA and RNA, either genomic or amplified, using structure-specific cleavage processes and compositions. Issued and pending claims are included for assay design methods and compositions, as well as for use of the technology in various read-out formats such as fluorescence resonance energy transfer, mass spectrometry or in conjunction with solid supports such as micro latex beads or chips. We also have issued and pending claims covering oligonucleotide design production systems and methods. These methods also allow multiplexing or analysis of more than one sample in a single reaction, allowing the system to be easily amenable to a wide range of automated and non-automated detection methods.

Generally, United States patents have a term of 17 years from the date of issue for patents issued from applications filed with the United States Patent Office prior to June 8, 1995, and 20 years from the application filing date or earlier claimed priority date in the case of patents issued from applications filed on or after June 8, 1995. For applications filed after May 29, 2000, the term is 20 years from the date of filing. A minimum term of 17 years is assured, provided that there are no applicant-caused delays during prosecution. Patents in most other countries have a term of 20 years from the date of filing the patent application. Our issued United States patents will expire between 2012 and 2016. Our success depends to a significant degree on our ability to develop proprietary products and technologies. We intend to continue to file patent applications as we develop new products, technologies and patentable enhancements. Prosecution practices have been implemented to avoid any applicant delays that could compromise the guaranteed minimum patent term. There can be no guarantee that such procedures will prevent the loss of a potential patent term.

Complex legal and factual determinations and evolving laws make patent protection uncertain. As a result, we cannot be certain that patents will be issued from any of our pending patent applications or from applications licensed to us or that any issued patents will have sufficient breadth to offer meaningful protection. In addition, our issued patents or patents licensed to us may be successfully challenged, invalidated, circumvented or unenforceable so that our patent rights would not create an effective competitive barrier. Moreover, the laws of some foreign countries may not protect our proprietary rights to the same extent as do United States patent laws.

In addition to patent protection, we rely on copyright and trade secret protection of our intellectual property. We attempt to protect our trade secrets by entering into confidentiality agreements with third parties, employees and consultants. Our employees and consultants are required to sign agreements to assign to us their interests in discoveries, inventions, patents and copyrights arising from their work for us. They are also required to maintain the confidentiality of our intellectual property, and refrain from unfair competition with us during their employment and for a period of time after their employment with us, which includes solicitation of our employees and customers. We cannot be certain that these agreements will not be breached or invalidated. In addition, we cannot assure you that third parties will not independently discover or invent competing technologies or reverse engineer our trade secrets or other technologies.

In October 2000, we settled a dispute with ID Biomedical Corporation in which ID Biomedical had claimed that our products and processes infringed their patents. In the ID Biomedical settlement, we paid \$4.0 million in cash and issued 545,454 shares of common stock and, in exchange, ID Biomedical dismissed its lawsuit against us and agreed not to sue us, our affiliates, our customers and certain others for infringement of patents held by ID Biomedical. In December 2000, we entered into a licensing arrangement with Dade Behring in order to resolve an intellectual property dispute between us and Dade Behring.

In September 2002, we filed a patent infringement suit against Eragen Biosciences, Inc. The complaint in this suit alleges that Eragen Biosciences, Inc. infringes certain claims of two Company patents. Eragen has asserted a counterclaim seeking a declaratory judgment that it has not infringed any valid claim of the Company patents at issue.

In the future, we may become involved in lawsuits in which third parties file claims asserting that our technologies or products infringe on their intellectual property. We cannot predict whether third parties will assert such claims against us or against the licensors of technologies licensed to us, or whether those claims will harm our business. We may be forced to defend against such claims, whether they are with or without any merit or whether they are resolved in favor of or against us or our licensors, and may face costly litigation and

diversion of management's attention and resources. As a result of such disputes, we may have to develop costly non-infringing technologies, or enter into licensing agreements. These agreements, if necessary, may be unavailable on terms acceptable to us, or at all, which could seriously harm our business and financial condition.

COMPETITION

The markets for our technologies and products are very competitive, and we expect the intensity of competition to increase. Currently, we compete primarily with other companies that are pursuing technologies and products that provide alternatives to our technologies and products. Many of our competitors have greater financial, operational, sales and marketing resources, and more experience in research and development than we have. Moreover, competitors may have greater name recognition than we do, and may offer discounts as a competitive tactic. These competitors and other companies may have developed or could in the future develop new technologies that compete with our products or render our products obsolete.

In the research market, we compete with several companies offering alternative technologies which differ from the Invader product platform. These companies include, among others: Affymetrix, Inc., Amersham Pharmacia Biotech Inc., Nuvelo, Inc., Illumina, Inc., Luminex Corporation, Molecular Devices Corporation, Nanogen, Inc., Applera Corporation, Pyrosequencing Incorporated, Qiagen, N.V., Sequenom, Inc. and Bayer Diagnostics.

In the clinical market, we also potentially compete with several companies offering alternative technologies which differ from the Invader product platform. These companies include, among others: Abbott Laboratories, Bayer Corporation, Becton, Dickinson and Company, BioRad Laboratories, Inc., Chiron Corporation, Dade Behring Inc., Digene Corp., Hoffman-La Roche Ltd., Gen-Probe, Luminex Corporation, Beckman Coulter, Inc., Sequenom, Inc., Nanogen, Applied Biosystems, and Innogenetics, Inc.

GOVERNMENT REGULATION

We do not anticipate that our products that will be labeled for research use only, or RUO, or those products used in drug discovery or genomics will be subject to significant government regulation. The manufacture, labeling, distribution and marketing of our products labeled as analyte specific reagents, or ASRs, or labeled for clinical use will be regulated as medical devices by the FDA and in certain other countries. We believe our products currently marketed pursuant to FDA regulations as ASRs, as well as those products we intend to market in the future as ASRs, are exempt from the 510(k) premarket notification and premarket approval requirements. However, certain of our products or their applications may require that we obtain, or we may choose to obtain, regulatory clearances or approvals. These products would include, for example, clinical products that we choose to market as in vitro diagnostic products rather than as ASRs. We expect that we will apply for FDA clearances or approvals for some of our future products, and anticipate filing the first of such applications in calendar year 2003.

The Food, Drug and Cosmetic Act requires that medical devices introduced to the United States market, unless exempted by regulation, be the subject of either a premarket notification clearance, known as a 510(k), or a premarket approval, known as a PMA. Some of our clinical products may require a PMA, others may require a 510(k). Other products, like ASRs, may be exempt from regulatory clearance or approval.

With respect to devices reviewed through the 510(k) process, we may not market a device until an order is issued by the FDA finding our product to be substantially equivalent to a legally marketed device known as a predicate device. A 510(k) submission may involve the presentation of a substantial volume of data, including clinical data, and may require a substantial review. The FDA may agree that the product is substantially equivalent to a predicate device and allow the product to be marketed in the United States. The FDA, however, may determine that the device is not substantially equivalent and require a PMA, or require further information, such as additional test data, including data from clinical studies, before it is able to make a determination regarding substantial equivalence. By requesting additional information, the FDA can further delay market introduction of our products.

If the FDA indicates that a PMA is required for any of our clinical products, the application will require extensive clinical studies, manufacturing information and likely review by a panel of experts outside the FDA. Clinical studies to support either a 510(k) submission or a PMA application would need to be conducted in accordance with FDA requirements. Failure to comply with FDA requirements could result in the FDA's refusal to accept the data or the imposition of regulatory sanctions. There can be no assurance that we will be able to meet the FDA's requirements or receive any necessary approval or clearance.

Once granted, a 510(k) clearance or PMA approval may place substantial restrictions on how our device is marketed or to whom it may be sold. Even in the case of devices like ASRs, many of which are exempt from 510(k) clearance or PMA approval requirements, the FDA may impose restrictions on marketing. Our ASR products may be sold only to clinical laboratories certified under Clinical Laboratory Improvement Amendments of 1988, or CLIA, to perform high complexity testing. In addition to requiring approval or clearance for new products, the FDA may require approval or clearance prior to marketing products that are modifications of existing products. We cannot assure you that any necessary 510(k) clearance or PMA approval will be granted on a timely basis, or at all. Delays in receipt of or failure to receive any necessary 510(k) clearance or PMA approval, or the imposition of stringent restrictions on the labeling and sales of our products could have a material adverse effect on us. As a medical device manufacturer, we are also required to register and list our products with the FDA. In addition, we are required to comply with the FDA's quality systems regulations, or QSRs which require that our devices be manufactured and records be maintained in a prescribed manner with respect to manufacturing, testing and control activities. Further, we are required to comply with FDA requirements for labeling and promotion. For example, the FDA prohibits cleared or approved devices from being promoted for uncleared or unapproved uses. In addition, the medical device reporting regulation requires that we provide information to the FDA whenever there is evidence to reasonably suggest that one of our devices may have caused or contributed to a death or serious injury, or that there has occurred a malfunction that would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.

Our manufacturing facility is subject to periodic and unannounced inspections by the FDA and state agencies for compliance with quality system regulations. Additionally, the FDA will conduct a preapproval inspection for all PMA devices and in some cases for 510(k) devices. Although we believe we are in compliance with the FDA's quality system regulations for ASRs, we have never been inspected by the FDA and cannot assure you that we will be able to maintain compliance in the future. If the FDA believes that we are not in compliance with applicable laws or regulations, it can issue a warning letter, detain or seize our products, issue a recall notice, enjoin future violations and assess civil and criminal penalties against us. In addition, approvals or clearances could be withdrawn in appropriate circumstances. Failure to comply with regulatory requirements or any adverse regulatory action could have a material adverse effect on us.

Any customers using our products for clinical use in the United States may be regulated under CLIA. CLIA is intended to ensure the quality and reliability of clinical laboratories in the United States by mandating specific standards in the areas of personnel qualifications, administration, participation in proficiency testing, patient test management, quality control, quality assurance and inspections. The regulations promulgated under CLIA establish three levels of diagnostic tests, namely, waived, moderately complex and highly complex, and the standards applicable to a clinical laboratory depend on the level of the tests it performs. We cannot assure you that the CLIA regulations and future administrative interpretations of CLIA will not have a material adverse impact on us by limiting the potential market for our products.

Medical device laws and regulations are also in effect in many of the countries in which we may do business outside the United States. These range from comprehensive device approval requirements for some or all of our medical device products, to requests for product data or certifications. The number and scope of these requirements are increasing. Medical device laws and regulations are also in effect in some states in which we do business. There can be no assurance that we will obtain regulatory approvals in such countries or that we will not incur significant costs in obtaining or maintaining foreign regulatory approvals. In addition, export of certain of our products which have not yet been cleared or approved for domestic commercial distribution may be subject to FDA export restrictions.

We are also subject to numerous environmental and safety laws and regulations, including those governing the use and disposal of hazardous materials. Any violation of, and the cost of compliance with, these regulations could have a material adverse effect on our business.

EMPLOYEES

As of December 31, 2002, we employed 168 persons, of whom 31 hold doctorate degrees and 116 hold other advanced degrees. Approximately 59 employees are engaged in research and development, 28 in business development, sales and marketing, 44 in operations and manufacturing and 37 in intellectual property, finance and other administrative functions. Our success will depend in large part on our ability to attract and retain qualified employees. We face competition in this regard from other companies, research and academic institutions, government entities and other organizations. We believe that we maintain good relations with our employees.

SCIENTIFIC ADVISORY BOARD

We have established a scientific advisory board made up of leading scholars in the fields of genetic analysis, enzymology, mass spectrometry, microfluidics, microarrays, proteomics and molecular medicine. Members of our scientific advisory board consult with us on matters relating to the development of our products described elsewhere in this Form 10-K. Members of our scientific advisory board are reimbursed for the reasonable expenses of such consultations or attending meetings of the scientific advisory board. All of the members hold shares of our common stock or have received options to purchase shares of our common stock. The members of the scientific advisory board are as follows:

James E. Dahlberg, Ph.D., Frederick Sanger Professor of Biomolecular Chemistry, University of Wisconsin-Madison. Chair of the Scientific Advisory Board.

Lloyd M. Smith, Ph.D., Kellett Professor of Chemistry at the University of Wisconsin-Madison.

John Todd, Ph.D., Professor of Medical Genetics, Cambridge Institute for Medical Research, Cambridge University, Cambridge, UK.

Olke Uhlenbeck, Ph.D., Professor of Chemistry & Biochemistry, University of Colorado.

Edwin Ullman, Ph.D., former Vice President and Director of Research at Behring Diagnostics.

Kenneth Welsh, Ph.D., Director of the Imperial College/Royal Brompton & Harefield National Health Service Genomics Center and Chairman of the Quality Control Scheme for Histocompatibility and Immunogenetics for the United Kingdom.

AVAILABLE INFORMATION

The Company maintains an Internet website at <http://www.twt.com> that includes a hypertext link to a website maintained by a third-party where the Company's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and all amendments to those reports are available without charge as soon as reasonably practicable following the time that they are filed with or furnished to the Securities and Exchange Commission. The information on our website is not a part of this Form 10-K.

RISK FACTORS

RISKS RELATED TO OUR BUSINESS

WE HAD AN ACCUMULATED DEFICIT OF \$125.7 MILLION AT DECEMBER 31, 2002, AND EXPECT TO CONTINUE TO INCUR SUBSTANTIAL OPERATING LOSSES FOR THE FORESEEABLE FUTURE.

We have had substantial operating losses since our inception in 1993, and we expect our operating losses to continue over the foreseeable future. We experienced net losses of \$25.6 million in 2000, \$36.8 million in 2001, and \$40.9 million in 2002. In order to further develop our products and technologies for the detection of genetic variations, including development of new products for the clinical market, we will need to incur

significant expenses in connection with our internal research and development and commercialization programs. As a result, we expect to incur operating losses for the foreseeable future. In addition, there is no assurance that we will ever become profitable or that we will sustain profitability if we do become profitable. Should we experience protracted or unforeseen operating losses, our capital requirements would increase and our stock price would likely decline.

FLUCTUATIONS IN OUR QUARTERLY REVENUES AND OPERATING RESULTS MAY NEGATIVELY IMPACT OUR STOCK PRICE.

Our revenues and results of operations have fluctuated significantly in the past and we expect significant fluctuations to continue in the future due to a variety of factors, many of which are outside of our control. These factors include:

- the volume and timing of orders for our products;
- changes in the mix of our products offered;
- the timing of payments we receive under collaborative agreements, as well as our ability to recognize these payments as revenues;
- the number, timing and significance of new products and technologies introduced by our competitors;
- our ability to develop, obtain regulatory clearance, market and introduce new and enhanced products on a timely basis;
- changes in the cost, quality and availability of equipment, reagents and components required to manufacture or use our products;
- availability of commercial and government funding to researchers who use our products and services; and
- availability of third-party reimbursement to users of our clinical products.

Research and development costs associated with our products and technologies, as well as facilities costs, personnel costs, marketing programs and overhead account for a substantial portion of our operating expenses. Research and development expenses for the years ended December 31, 2002, 2001 and 2000 were \$13.9 million, \$16.2 million and \$7.3 million, respectively. We cannot adjust these expenses quickly in the short term. If our revenues decline or do not grow as anticipated, we may not be able to reduce our operating expenses accordingly. Failure to achieve anticipated levels of revenues could significantly harm our operating results for one or more fiscal periods. Due to the possibility of fluctuations in our revenues and expenses, we believe that quarter-to-quarter comparisons of our operating results are not a good indication of our future performance. In addition, our operating results in a future fiscal quarter may not meet the expectations of stock market analysts and investors. In that case, our stock price would likely decline and investors would experience a decline in the value of their investment.

OUR TECHNOLOGIES AND INITIAL COMMERCIAL PRODUCTS MAY NOT BE COMMERCIALY VIABLE OR SUCCESSFUL, WHICH COULD ADVERSELY AFFECT OUR REVENUES.

We are currently developing and commercializing only a limited number of products based on our technologies. We plan to develop additional products, including products for clinical applications. We cannot assure you that we will be able to complete development of our products that are currently under development or that we will be able to develop additional new products. In addition, some of the genetic variations for which we develop our products may not be useful in assisting therapeutic or diagnostic product development. In this event, our sales or products for these genetic variations would diminish significantly or cease, and we would not be able to recoup our investment in developing these products. Accordingly, if we fail to successfully further develop our products and technologies, and if our technologies and products are not useful in the development of commercially successful products, we may not achieve a competitive position in the market. If we fail to do so, our revenues will be seriously harmed and it is unlikely that we will ever achieve profitability. In this event, our stock price would likely decline.

WE HAVE LIMITED MANUFACTURING EXPERIENCE AND MAY NEED TO MODIFY, EXPAND OR ESTABLISH NEW MANUFACTURING FACILITIES AS WE COMMERCIALIZE OUR PRODUCTS.

We have limited experience manufacturing our products, and have limited experience manufacturing our products in the volumes that will be necessary for us to achieve significant commercial sales. We may need to establish new manufacturing processes or facilities, modify existing facilities and processes, or outsource product component manufacturing. Facilities expansion and development, process improvements, and outsourcing manufacturing can be delayed by unforeseen circumstances, including inability to obtain needed manufacturing equipment on a timely basis, difficulties with facility construction and completion of improvements and difficulties incorporating new processes and vendor supply issues associated with component outsourcing. If we fail to meet our manufacturing needs, we may not be able to provide our customers with the quantity of products they require, which would damage customer relations and result in reduced revenues. Additionally, some of our products must be manufactured in accordance with FDA's quality system regulations, known as QSRs. We have limited experience in manufacturing our products in compliance with QSRs.

WE HAVE LIMITED SALES AND MARKETING EXPERIENCE, AND AS A RESULT, MAY BE UNABLE TO COMPETE SUCCESSFULLY WITH OUR COMPETITORS IN COMMERCIALIZING OUR POTENTIAL PRODUCTS.

We currently have a small sales force, consisting of nine individuals focused on the clinical market, and will need to increase the size of our sales force as we further commercialize our products. In particular, as we introduce new clinical products, we will need to increase our clinical applications sales force. We are not currently able to estimate the number of new sales personnel we will require. However, this number could be significant and we may not be able to recruit, hire and train a sufficient number of sales personnel in a short time frame. We also intend to market our products through collaborations and distribution agreements with biopharmaceutical and life science companies. We cannot assure you that we will be able to establish a successful sales force or to establish collaboration or distribution arrangements to market our products. If we are unable to implement an effective marketing and sales strategy, we will be unable to grow our revenues and execute our business plan. This would harm our financial condition and our stock price would likely decline.

WE MAY REQUIRE ADDITIONAL FUNDING FOR OUR FUTURE OPERATING PLANS. THESE FUNDS MAY NOT BE AVAILABLE ON ACCEPTABLE TERMS, IF AT ALL.

We anticipate that our existing capital resources together with cash from product sales will be sufficient to fund our operating and capital requirements for at least the next 12 months. We may need to raise additional capital. We expect our capital and operating expenses to be significant and continue in the calendar year 2003 and possibly beyond. We have expended significant resources and expect to continue to expend significant resources to improve production processes and in our research and product development and commercialization activities. The amount of additional capital we will need to raise will depend on many factors, including:

- our progress with our research and development programs;
- our level of success in selling our products and technologies;
- our ability to establish and maintain successful collaborations;
- the costs we incur in enforcing and defending our patent claims and other intellectual property rights; and
- the timing of purchases of additional capital.

In addition, we may require additional financing in less than 12 months if we:

- decide to expand faster than planned;
- develop new or enhanced products ahead of schedule;
- need to respond to competitive pressures; or

- decide to acquire complementary products, businesses or technologies.

If we raise additional funds through the sale of equity, convertible debt or other equity-linked securities, your percentage ownership in the Company will be reduced. In addition, these transactions may dilute the value of our outstanding stock. We may issue securities that have rights, preferences and privileges senior to our common stock. If we raise additional funds through collaborations or licensing arrangements, we may relinquish rights to certain of our technologies or products, or grant licenses to third parties on terms that are unfavorable to us. If future financing is not available to us or is not available on terms acceptable to us, we may not be able to fund our future needs which would have a material adverse effect on our results of operations and financial condition.

COMMERCIALIZATION OF OUR TECHNOLOGIES DEPENDS ON STRATEGIC PARTNERSHIPS AND COLLABORATIONS WITH OTHER COMPANIES, AND IF OUR CURRENT OR FUTURE PARTNERSHIPS AND COLLABORATIONS ARE NOT SUCCESSFUL, WE MAY EXPERIENCE DIFFICULTY COMMERCIALIZING OUR TECHNOLOGIES AND PRODUCTS.

In order to augment our internal sales and marketing efforts and to reach additional product and geographic markets, we have entered into strategic partnerships and collaborations for marketing of our products. We intend to enter into additional arrangements in the future. These agreements provide us, in some instances, with access to products and technologies that are complementary to ours and funding for development of our products. We may also be dependent on collaborators for regulatory approvals and clearances, and manufacturing in particular geographic and product markets. If our strategic partnerships and collaborations are not successful, we may not be able to develop or successfully commercialize the products that are the subject of the collaborations on a timely basis, if at all. In addition, if we do not enter into additional partnership agreements, or if these agreements are not successful, our ability to develop and commercialize new products will be negatively affected which will harm our future operating results.

We have no control over the resources that any partner or collaborator may devote to our products. Any of our present or future partners or collaborators may not perform their obligations as expected. These partners or collaborators may breach or terminate their agreements with us or otherwise fail to meet their obligations or perform their collaborative activities successfully and in a timely manner. Further, any of our partners or collaborators may elect not to develop products arising out of our partnerships or collaborations or devote sufficient resources to the development, manufacture or commercialization of these products. If any of these events occur, we may not be able to develop our products and technologies and our ability to generate revenues will decrease.

OUR STRATEGY FOR DEVELOPING AND COMMERCIALIZING PRODUCTS DEPENDS IN PART ON OUR ABILITY TO FORM RESEARCH COLLABORATIONS AND LICENSING ARRANGEMENTS. IF WE ARE NOT ABLE TO ENTER INTO THESE COLLABORATIONS AND ARRANGEMENTS ON ACCEPTABLE TERMS OUR RESULTS WILL SUFFER.

Our strategy involves the formation of research collaborations with academic institutions and pharmaceutical companies involved in developing genetic variation analysis for use in disease association studies and personalized treatment approaches to medicine. Under these arrangements, we intend to offer our products and technologies at a reduced cost in exchange for rights to commercialize discoveries made using our technologies. As a result, we may be dependent on our research collaborators as a source of new products and technologies. If these research collaborations are not successful, and do not provide us with new products and technologies, our results of operations would suffer and our future prospects and revenue growth would be impaired.

In addition, we have historically maintained relationships with consultants and scientific advisors at academic and other institutions who have conducted research on our behalf critical to the development of our products and technologies. The majority of these individuals have commitments to other entities and have limited time available for us. Some of the entities for which these consultants provide services may also compete with us. We will need to establish additional relationships with consultants and scientific advisors related to our business. We will have little, if any, control over the activities of any new consultants and scientific advisors and can expect only limited amounts of their time to be dedicated to our activities. Our

ability to identify and develop new products and technologies may depend in part on continued collaborations with researchers at academic and other institutions. We cannot be certain that any of our existing relationships with scientific advisors will be successful. Further, we may not be able to negotiate acceptable collaborations in the future with additional consultants or scientific advisors at academic and other institutions.

THE EARLY TERMINATION OF ANY OF OUR LICENSES, OUR RESEARCH OR STRATEGIC COLLABORATIONS, OR CUSTOMER SUPPLY AGREEMENTS COULD SERIOUSLY HARM OUR BUSINESS AND FINANCIAL CONDITION.

Certain of our strategic, research collaboration, customer supply agreements may be terminated with little or no notice. In particular, the supply of products to Japanese customers may be terminated upon specified notice at any time. These customers will likely account for a significant portion of our revenues for 2003. Accordingly, early termination of these relationships and supply agreements would seriously harm our revenues, and in turn our business and financial condition. In addition, we intend to seek additional strategic and research collaborations and licenses with third parties, who may negotiate provisions with us that allow them to terminate their agreements with us prior to the expiration of the negotiated term. It is likely that, as a result of the prevalence of such provisions in collaboration agreements involving biotechnology companies, we will enter into agreements that give either or both parties the right to terminate prior to expiration of the stated term of the agreement.

If a third party strategic or research collaborator or licensee were to unexpectedly terminate its agreement with us or otherwise fail to perform its obligations under our collaboration agreement or to complete them in a timely manner, we could lose significant revenues. In particular, early termination of any of our strategic collaborations or partnerships could harm our financial condition and operating results because we rely on these agreements for product sales, development funding and access to new product applications. In addition, unexpected termination of collaborations could also result in our loss of important intellectual property or other rights which we had intended to obtain under these agreements. If any of these events were to occur, our business and our financial condition could be seriously harmed.

WE RELY ON A SINGLE CUSTOMER FOR A MAJORITY OF OUR BUSINESS AND THE LOSS OF THAT CUSTOMER, OR A REDUCTION OR CANCELLATION OF A SIGNIFICANT ORDER, COULD HARM OUR FINANCIAL CONDITION.

Approximately \$16.6 million, or 51%, of our revenue in fiscal year 2002 was derived from sales to a major Japanese research institute, for use by several end-users. Sales to that research institute accounted for 76% and 67% of our revenue in fiscal years 2001 and 2000, respectively. If we lose this customer, or if it significantly reduces purchases of our product, our financial condition could be harmed.

WE ARE IN A HIGHLY COMPETITIVE INDUSTRY AND MARKETPLACE. COMPETITIVE DEVELOPMENTS, INCLUDING NEW TECHNOLOGIES THAT RENDER OURS LESS COMPETITIVE OR OBSOLETE, COULD SERIOUSLY HARM OUR BUSINESS.

The biotechnology and life sciences industries generally and the genetic analysis market specifically are highly competitive, and we expect the intensity of competition to increase. We compete with organizations in the United States and abroad that develop and manufacture products and provide services for the analysis of genetic information for research and/or clinical applications. These organizations include:

- biotechnology, pharmaceutical, chemical and other companies;
- academic and scientific institutions;
- governmental agencies; and
- public and private research organizations.

Many of our competitors have greater financial, technical, research, marketing, sales, distribution, service and other resources than we do. Moreover, our competitors may offer broader product lines and have greater name recognition than we do, and may offer discounts as a competitive tactic. In addition, several development stage companies are currently making or developing technologies, products or services that compete with or are being designed to compete with our technologies and products. Our competitors may

develop or market technologies, products or services that are more effective or commercially attractive than our current or future products, or that may render our technologies or products less competitive or obsolete. Competitors may make rapid technological developments which may result in our technologies and products becoming obsolete before we recover the expenses incurred to develop them or before they generate significant revenue or market acceptance. Accordingly, if competitors introduce superior technologies or products and we cannot make enhancements to our technologies and products necessary for them to remain competitive, our competitive position, and in turn our business, revenues and financial condition, will be seriously harmed. This, in turn, would likely cause our stock price to decline.

IF WE ARE UNABLE TO PROTECT OUR PROPRIETARY METHODS AND TECHNOLOGIES, WE MAY NOT BE ABLE TO COMMERCIALIZE PRODUCTS.

Our commercial success will depend, in large part, on our ability to obtain patent protection on many aspects of our business, including the products, methods and services we develop. Patents issued to us may not provide us with substantial protection or be commercially beneficial to us. The issuance of a patent is not conclusive as to its validity or its enforceability.

In addition, our patent applications or those we have licensed, may not result in issued patents. If our patent applications do not result in issued patents, our competitors may obtain rights to commercialize our discoveries which would harm our competitive position.

We also may apply for patent protection on novel genetic variations in known genes and their uses, as well as novel uses for previously identified genetic variations discovered by third parties. In the latter cases, we may need a license from the holder of the patent with respect to such genetic variations in order to make, use or sell any related products. We may not be able to acquire such licenses on terms acceptable to us, if at all.

Certain parties are attempting to rapidly identify and characterize genes and genetic variations through the use of sequencing and other technologies. To the extent any patents are issued to other parties on such partial or full-length genes or genetic variations or uses for such genes or genetic variations, the risk increases that the sale of products developed by us or our collaborators may give rise to claims of patent infringement against us. Others may have filed and, in the future, are likely to file patent applications covering many genetic variations and their uses. Any such patent application may have priority over our patent applications and could further require us to obtain rights to previously issued patents covering genetic variations. We cannot assure you that any license that we may require under any such patent will be made available to us on commercially acceptable terms, if at all.

We may be sued for infringing on the intellectual property rights of others. We could also become involved in interference proceedings in the United States Patent and Trademark Office to determine the relative priority of our patents or patent applications and those of the other parties involved in the interference proceeding. Intellectual property proceedings are costly, and could affect our results of operations. These proceedings can also divert the attention of managerial and technical personnel. If we do not prevail in any intellectual property proceeding, in addition to any damages we might have to pay, we could be required to stop the infringing activity, or obtain a license to or design around the intellectual property in question. In interference proceedings, our patent rights could be invalidated and the scope of our patents could be limited. If we are unable to obtain licenses to intellectual property rights that we need to conduct our business, or are unable to design around any third party patent, we may be unable to sell some of our products, which will result in reduced revenue.

We have in the past and may in the future become a party to litigation involving patents and intellectual property rights. In October 2000, we settled a dispute with ID Biomedical Corporation in which ID Biomedical had claimed that our products and processes infringed their patents. In the ID Biomedical settlement, we paid \$4.0 million in cash and issued 545,454 shares of common stock and, in exchange, ID Biomedical dismissed its lawsuit against us and agreed not to sue us, our affiliates, our customers and certain others for infringement of patents held by ID Biomedical. In December 2000, we entered into a licensing arrangement with Dade Behring in order to resolve an intellectual property dispute between us and Dade Behring. In September 2002, we filed a patent infringement suit against Eragen Biosciences, Inc. alleging that

certain activities and products of the defendant infringes upon US Patents issued to the Company. Eragen has asserted a counterclaim seeking a declaratory judgment that it has not infringed any valid claims of the Company patents at issue.

We may in the future receive claims of infringement of intellectual property rights from other parties. If we do not prevail in any future legal proceedings, we may be required to pay significant monetary damages. In addition, we could also be enjoined from use of certain processes or prevented from selling certain configurations of our products that were found to be within the scope of the patent claims. In the event we did not prevail in any future proceeding, we would either have to obtain licenses from the other party, avoid certain product configurations or modify some of our products and processes to design around the patents. Licenses could be costly or unavailable on commercially reasonable terms. Designing around patents or focusing efforts on different configurations could be time consuming, and we would have to remove some of our products from the market while we were completing redesigns. Accordingly, if we are unable to settle future intellectual property disputes through licensing or similar arrangements, or if any such future disputes are determined adversely to us, our ability to market and sell our products could be seriously harmed. This would in turn harm our business, financial condition and results of operations.

In addition, in order to protect or enforce our patent rights or to protect our ability to operate our business, we may need to initiate other patent litigation against third parties. These lawsuits could be expensive, take significant time, and could divert management's attention from other business concerns. These lawsuits could result in the invalidation or limitation in the scope of our patents or forfeiture of the rights associated with our patents. We cannot assure you that we would prevail in any such proceedings or that a court will not find damages or award other remedies in favor of our opposing party in any of these suits. During the course of any future proceedings, there may be public announcements of the results of hearings, motions and other interim proceedings or developments in the litigation. Securities analysts or investors may perceive these announcements to be negative, which could cause the market price of our stock to decline.

OTHER RIGHTS AND MEASURES THAT WE RELY UPON TO PROTECT OUR INTELLECTUAL PROPERTY MAY NOT BE ADEQUATE TO PROTECT OUR PRODUCTS AND COULD REDUCE OUR ABILITY TO COMPETE IN THE MARKET.

In addition to patents, we rely on a combination of trade secrets, copyright and trademark laws, nondisclosure agreements and other contractual provisions and technical measures to protect our intellectual property rights. While we require employees, collaborators, consultants and other third parties to enter into confidentiality and/or non-disclosure agreements where appropriate, any of the following could still occur:

- the agreements may be breached;
- we may have inadequate remedies for any breach;
- proprietary information could be disclosed to our competitors; or
- others may independently develop substantially equivalent proprietary information and techniques or otherwise gain access to our trade secrets or disclose such technologies.

If for any of the above reasons our intellectual property is disclosed, invalidated or misappropriated, it would harm our ability to protect our rights and our competitive position.

IF WE FAIL TO RETAIN OUR KEY PERSONNEL AND HIRE, TRAIN AND RETAIN QUALIFIED EMPLOYEES, WE MAY NOT BE ABLE TO COMPETE EFFECTIVELY, WHICH COULD RESULT IN REDUCED REVENUES.

Our future success will depend on the continued services and on the performance of our senior management, in particular the services of Lance Fors, Ph.D., our Chief Executive Officer and Chairman of the Board.

If a competitor hired Dr. Fors away from us, or if for any reason he could not continue to work for us, we would have difficulty hiring officers with equivalent skills in general and financial management. We do not currently carry "key person" life insurance, so the loss of the services of Dr. Fors could seriously impair our ability to operate in our industry.

In addition, our researchers, scientists and technicians have significant experience in research and development related to the analysis of genetic variations. If we were to lose these employees to our competitors, we could spend a significant amount of time and resources to replace them, which could impair our research and development efforts. Further, in order to scale up our commercialization activity and to further our research and development efforts, we will need to hire, train and retain additional sales, marketing, research, scientific, and technical personnel. If we are unable to hire, train and retain the personnel we need, we may experience delays in the research, development and commercialization of our technologies and products. This would result in reduced revenues and would harm our results of operations.

WE PLAN TO CONTINUE TO INTRODUCE PRODUCTS FOR THE CLINICAL MARKET, AND WE MAY NEED TO OBTAIN FDA CLEARANCES AND APPROVALS AND COMPLY WITH FDA QUALITY SYSTEM REGULATIONS AND OTHER REGULATIONS RELATING TO THE MANUFACTURING, MARKETING AND SALE OF CLINICAL PRODUCTS.

We anticipate that the manufacturing, labeling, distribution and marketing of a number of our clinical diagnostic products will be subject to extensive regulation in the United States and in certain other countries.

In the United States, the Food and Drug Administration, or the FDA, regulates, as medical devices, most diagnostic tests and in vitro reagents that are marketed as finished test kits. Some clinical laboratories, however, purchase clinical products which are marketed under FDA regulations as analyte specific reagents, or ASRs, and develop and prepare their own finished diagnostic tests called "home brews." FDA also considers ASRs to be medical devices. The FDA restricts the sale of these products to clinical laboratories certified under the Clinical Laboratory Improvement Amendments of 1988, known as CLIA, to perform high complexity testing. We intend to market some diagnostic products as finished test kits and others as individual reagents. Consequently, these clinical products will be regulated as medical devices.

Unless otherwise exempt, medical devices require FDA approval or clearance prior to marketing in the United States. Although we believe our currently marketed products, as well as those ASRs we intend to market in the future, are exempt from 510(k) premarket notification and premarket approval requirements, the process of obtaining approvals and clearances necessary to market our proposed clinical products can be time-consuming, expensive and uncertain. To date, we have not applied for FDA or any other regulatory approvals or clearances with respect to any of our clinical diagnostic products. However, clinical products that we may seek to introduce in the future may require FDA approvals or clearances prior to commercial sale in the United States. We may experience difficulties that could delay or prevent the successful development, introduction and marketing of new clinical products. In addition, we cannot assure you that regulatory approval or clearance of any clinical products for which we seek such approvals will be granted by the FDA or foreign regulatory authorities on a timely basis, if at all.

If approval or clearance is obtained we will be subject to continuing FDA obligations. When manufacturing medical devices, including ASRs, we will be required to adhere to Quality System regulations, which will require us to manufacture our products and maintain records in a prescribed manner. We have never been subject to an FDA Quality System inspection, and we cannot assure you that we can pass an FDA audit or maintain compliance in the future. Further, the FDA may place substantial restrictions on the indications for which our products may be marketed or to whom they may be marketed. Additionally, there can be no assurance that FDA will not require us to conduct clinical studies as a condition of approval or clearance. Failure to comply with applicable FDA requirements can result in, among other things:

- administrative or judicially imposed sanctions;
- injunctions, civil penalties, recall or seizure of our products;
- total or partial suspension of production;
- failure of the government to grant premarket clearance or premarket approval for our products;
- withdrawal of marketing clearances or approvals; and
- criminal prosecution.

Any of our customers using our products for clinical use in the United States may be regulated under CLIA. CLIA is intended to ensure the quality and reliability of clinical laboratories in the United States by mandating specific standards in the areas of personnel qualification, administration, participation in proficiency testing, patient test management, quality control, quality assurance and inspections. The regulations promulgated under CLIA establish three levels of clinical tests and the standards applicable to a clinical laboratory depend on the level of the tests it performs. CLIA requirements may prevent some clinical laboratories from using our products. Therefore, CLIA regulations and future administrative interpretations of CLIA could harm our business by limiting the potential market for our products.

OUR FAILURE TO COMPLY WITH ANY APPLICABLE ENVIRONMENTAL, HEALTH, SAFETY AND RELATED GOVERNMENT REGULATIONS MAY AFFECT OUR ABILITY TO DEVELOP, PRODUCE OR MARKET OUR POTENTIAL PRODUCTS AND MAY ADVERSELY AFFECT OUR RESULTS OF OPERATIONS.

Our research, development and manufacturing activities involve the use, transportation, storage and disposal of hazardous materials and are subject to related environmental and health and safety statutes and regulations. As we expand our operations, our increased use of hazardous substances will lead to additional and more stringent requirements. This may cause us to incur substantial costs to maintain compliance with applicable statutes and regulations. In addition, we are obligated to file a report to the United States Environmental Protection Agency, or EPA, regarding specified types of microorganisms we use in our operations. The EPA could, upon review of our use of these microorganisms, require us to discontinue its use. If this were to occur, we would have to substitute a different microorganism from the EPA's approved list. We could experience delays or disruptions in production while we converted to the new microorganism. In addition, any failure to comply with laws and regulations and any costs associated with unexpected and unintended releases of hazardous substances by us into the environment, or at disposal sites used by us, could expose us to substantial liability in the form of fines, penalties, remediation costs or other damages and could require us to shut down our operations. Any of these events would seriously harm our business and operating results.

WE MAY BE HELD LIABLE FOR ANY INACCURACIES ASSOCIATED WITH GENETIC ANALYSIS TESTS PERFORMED USING OUR PRODUCTS, WHICH MAY REQUIRE US TO DEFEND OURSELVES IN COSTLY LITIGATION.

We may be subject to claims resulting from incorrect results of analysis of genetic variations or other screening tests performed using our products. Litigation of these claims can be costly. We could expend significant funds during any litigation proceeding brought against us. Further, if a court were to require us to pay damages to a plaintiff, the amount of such damages could significantly harm our financial condition.

IF OUR VENDORS FAIL TO SUPPLY US WITH COMPONENTS FOR WHICH AVAILABILITY IS LIMITED, WE MAY EXPERIENCE DELAYS IN OUR PRODUCT DEVELOPMENT AND COMMERCIALIZATION.

Certain key components of our manufacturing equipment and products are currently available only from a single source or a limited number of sources. We currently rely on outside vendors to manufacture certain components of our products and certain reagents we provide in our products. Some or all of these key components may not continue to be available in commercial quantities at acceptable costs. It could be time consuming and expensive for us to seek alternative sources of supply. Consequently, if any events cause delays or interruptions in the supply of our components, we may not be able to supply our customers with our products on a timely basis which would adversely affect our results of operations.

FUTURE ISSUANCE OF OUR PREFERRED STOCK MAY DILUTE THE RIGHTS OF OUR COMMON STOCKHOLDERS.

Our Board of Directors has the authority to issue up to 10,000,000 shares of preferred stock and to determine the price, privileges and other terms of these shares without any further approval of our stockholders. The rights of the holders of common stock may be adversely affected by the rights of our holders of our preferred stock that may be issued in the future.

WE HAVE VARIOUS MECHANISMS IN PLACE THAT YOU AS A STOCKHOLDER MAY NOT CONSIDER FAVORABLE AND WHICH MAY DISCOURAGE UNSOLICITED TAKEOVER ATTEMPTS.

Certain provisions of our certificate of incorporation and bylaws, as well as Section 203 of the Delaware General Corporation Law, may discourage, delay or prevent changes in our board of directors, executive officers or other senior management. These provisions may also be used by incumbent management to delay a change of control or acquisition of our Company. These provisions include:

- authorizing our Board of Directors to issue preferred stock and to determine the price, privileges and other terms of these shares without any further approval of our stockholders, which could increase the number of outstanding shares or thwart an unsolicited takeover attempt;
- establishing a classified Board of Directors with staggered, three-year terms, which may lengthen the time required to gain control of our Board of Directors;
- prohibiting cumulative voting in the election of directors, which would allow a majority of stockholders to control the election of all directors;
- requiring super-majority voting to effect certain amendments to our certificate of incorporation and bylaws;
- limiting who may call special meetings of stockholders;
- prohibiting stockholder action by written consent, which requires all actions to be taken at a meeting of stockholders; and
- establishing advance notice requirements for nominations of candidates for election to the Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

A change of control could be beneficial to stockholders in a situation in which the acquisition price being paid by the party seeking to acquire us represented a substantial premium over the prevailing market price of our common stock. If our board of directors were not in favor of such a transaction, the provisions of our certificate of incorporation and bylaws described above could be used by our board of directors to delay or reduce the likelihood of completion of the acquisition.

OUR DIRECTORS, EXECUTIVE OFFICERS AND PRINCIPAL STOCKHOLDERS WILL HAVE SUBSTANTIAL CONTROL OVER OUR AFFAIRS.

As of February 28, 2003, our directors, executive officers and principal stockholders beneficially own, in the aggregate, 31.23% of our common stock. These stockholders, acting together, will have the ability to exert substantial influence over all matters requiring approval by our stockholders. These matters include the election and removal of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, they may dictate the management of our business and affairs. This concentration of ownership could have the effect of delaying, deferring or preventing a change in control, or impeding a merger or consolidation, takeover or other business combination of which you might otherwise approve.

RISKS RELATED TO THE BIOTECHNOLOGY INDUSTRY

PUBLIC OPINION REGARDING ETHICAL ISSUES SURROUNDING THE USE OF GENETIC INFORMATION MAY ADVERSELY AFFECT DEMAND FOR OUR PRODUCTS.

Public opinion regarding ethical issues related to the confidentiality and appropriate use of genetic testing results may influence governmental authorities to call for limits on, or regulation of the use of, genetic testing. In addition, such authorities could prohibit testing for genetic predisposition to certain conditions, particularly for those that have no known cure. Furthermore, adverse publicity or public opinion relating to genetic research and testing, even in the absence of any governmental regulation, could harm our business. Any of these scenarios could reduce the potential markets for our products, which could materially and adversely affect our revenues.

GOVERNMENT REGULATION OF GENETIC RESEARCH OR TESTING MAY ADVERSELY AFFECT THE DEMAND FOR OUR PRODUCTS AND IMPAIR OUR BUSINESS AND OPERATIONS.

Federal, state and local governments may adopt regulations relating to the conduct of genetic research and genetic testing. These regulations could limit or restrict genetic research activities as well as genetic testing for research or clinical purposes. In addition, if state and local regulations are adopted, these regulations may be inconsistent with, or in conflict with, regulations adopted by other state or local governments. Regulations relating to genetic research activities could adversely affect our ability to conduct our research and development activities. Regulations restricting genetic testing could adversely affect our ability to market and sell our products. Accordingly, any regulations of this nature could harm our business.

HEALTH CARE COST CONTAINMENT INITIATIVES COULD LIMIT THE ADOPTION OF GENETIC TESTING AS A CLINICAL TOOL, WHICH WOULD HARM OUR REVENUES AND PROSPECTS.

In recent years, health care payors as well as federal and state governments have focused on containing or reducing health care costs. We cannot predict the effect that any of these initiatives may have on our business, and it is possible that they will adversely affect our business. In particular, gene-based therapeutics, if successfully developed and commercialized, are likely to be costly compared to currently available drug therapies. Health care cost containment initiatives focused either on gene-based therapeutics or on genetic testing could cause the growth in the clinical market for genetic testing to be curtailed or slowed. In addition, health care cost containment initiatives could also cause pharmaceutical companies to reduce research and development spending. In either case, our business and our operating results would be harmed. In addition, genetic testing in clinical settings is often billed to third-party payors, including private insurers and governmental organizations. If our current and future clinical products are not considered cost-effective by these payors, reimbursement may not be available to users of our products. In this event, potential customers would be much less likely to use our products, and our business and operating results would be seriously harmed.

ITEM 2. PROPERTIES

Our primary facility consists of space for research and development, manufacturing, product support operations, marketing and corporate headquarters and administration. Our facility is located in Madison, Wisconsin. Our primary facility is leased and consists of the following:

TYPE OF FACILITY	SQUARE FOOTAGE	LEASE EXPIRATION
Headquarters, research and development, manufacturing, selling, marketing, and administration.....	95,000	September 2011, with option to extend for three 5 year periods.

In addition to our primary facility, we have a lease on a facility of 33,000 square feet located in Middleton, Wisconsin. This lease is due to expire in October of 2003 and the Company has no intention to extend the lease or secure additional facility space.

Under the terms of the existing leases, we pay rent of approximately \$153,000 per month. We believe that our current facilities will be adequate to meet our near-term space requirements. We also believe that suitable additional space will be available to us, when needed, on commercially reasonable terms.

ITEM 3. LEGAL PROCEEDINGS

From time to time, we may be involved in litigation relating to claims arising out of our operations in the usual course of business. With the exception of the matters identified below, there are no material legal proceedings pending. From time to time, we may be involved in litigation related to claims arising out of our operations in the usual course of business.

On September 6, 2002 the Company filed a patent infringement action against Eragen Biosciences, Inc. in the United States District Court for the Western District of Wisconsin. The complaint alleges that the defendant is infringing certain claims of the Company's U.S. Patent No. 6,348,314 entitled "Invasive cleavage of nucleic acids" and U.S. Patent No. 6,090,543 entitled "Cleavage of nucleic acids" based on Eragen's development and sale of products known as "Gene-Code" or similar technologies or products. The defendants answered the complaint on October 8, 2002 and asserted a counterclaim seeking declaratory judgment that Eragen has not infringed any valid claims of the company patents at issue. The trial of this case is currently scheduled for September 8, 2003.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

Our common stock is quoted on the NASDAQ National Market under the symbol "TWTI" and has been publicly traded since February 2001. The following table sets forth for each quarter in 2002 and 2001 the high and low sales prices per share, based on closing prices, for our common stock as reported on the NASDAQ Stock Market.

FISCAL YEAR ENDED DECEMBER 31, 2002 -----	HIGH -----	LOW -----
First Quarter.....	\$7.65	\$3.09
Second Quarter.....	\$4.31	\$2.13
Third Quarter.....	\$2.35	\$1.35
Fourth Quarter.....	\$3.11	\$1.32

As of March 27, 2003, approximately 387 shareholders of record held our common stock.

FISCAL YEAR ENDED DECEMBER 31, 2001 -----	HIGH -----	LOW -----
First Quarter.....	\$11.00	\$5.38
Second Quarter.....	\$11.00	\$5.10
Third Quarter.....	\$10.19	\$5.01
Fourth Quarter.....	\$ 8.85	\$6.26

We have never declared or paid any dividends on our capital stock. We currently expect to retain future earnings, if any, to support the development of our business and do not anticipate paying any cash dividends in the foreseeable future. Covenants in our capital lease facilities prohibit the payment of cash dividends.

ITEM 6. SELECTED FINANCIAL DATA

The following table summarizes certain selected financial data that is derived from the Company's audited financial statements. All the information should be read in conjunction with the Company's audited financial statements and notes thereto and with Management's Discussion and Analysis of Financial Condition and Results of Operations, which are included elsewhere in this filing. The Company's audited statements of operations for the years ended December 31, 2002, 2001, and 2000 and the audited balance sheets as of December 31, 2002 and 2001 are included elsewhere in this filing. The corresponding selected financial data set forth below should be read in conjunction with such audited financial statements.

	YEAR ENDED DECEMBER 31,				
	1998	1999	2000	2001	2002
	(IN THOUSANDS, EXCEPT FOR PER SHARE AMOUNTS)				
STATEMENT OF OPERATIONS DATA:					
Revenues.....	\$ 4,382	\$ 2,574	\$ 11,417	\$ 34,092	\$ 32,355
Operating expenses:					
Cost of goods sold.....	1,223	2,290	11,518	32,746	21,320
Research and development.....	3,669	4,315	7,337	16,179	13,934
Selling and marketing.....	1,712	2,408	4,983	9,200	9,578
General and administrative.....	3,357	3,725	7,408	14,521	11,984
Restructuring and other charges.....	--	--	--	--	11,087
Impairment of goodwill & other intangible assets.....	--	--	5,789	--	4,810
Merger costs.....	--	116	833	--	--
Total operating expenses.....	9,961	12,854	37,868	72,646	72,713
Loss from operations.....	(5,579)	(10,280)	(26,451)	(38,554)	(40,358)
Other income (expense), net.....	147	566	877	1,762	(506)
Net loss.....	(5,432)	(9,714)	(25,574)	(36,792)	(40,864)
Deemed dividend upon issuance of convertible preferred stock.....	--	--	(17,023)	--	--
Net loss attributable to common shareholders.....	\$ (5,432)	\$ (9,714)	\$ (42,597)	\$ (36,792)	\$ (40,864)
Basic and diluted net loss per share.....	\$ (0.43)	\$ (0.68)	\$ (2.83)	\$ (1.03)	\$ (1.04)
Shares used in computing basic and diluted net loss per share.....	12,772	14,183	15,078	35,714	39,457
Pro forma basic and diluted net loss per share.....			\$ (0.98)	\$ (0.98)	
Shares used in computing pro forma basic and diluted net loss per share.....			26,120	37,483	

	DECEMBER 31,				
	1998	1999	2000	2001	2002
	(IN THOUSANDS)				

BALANCE SHEET DATA:

Cash, cash equivalents and short-term investments.....	\$ 5,614	\$ 12,919	\$ 47,179	\$ 73,299	\$ 60,315
Working capital.....	4,099	13,774	29,122	64,834	43,518
Total assets.....	8,283	20,289	83,193	131,615	89,223
Long-term obligations, net of current portion.....	96	420	12,095	6,694	13
Accumulated deficit.....	(12,860)	(22,575)	(48,149)	(84,852)	(125,715)
Total shareholders' equity.....	5,776	17,199	47,039	104,753	65,287

ITEM 7. 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 should be read in conjunction with "Selected Financial Data" and our financial statements, including the notes thereto, included elsewhere in this Form 10-K.

OVERVIEW

Third Wave Technologies, Inc. is a leading genetic analysis products company. The Company believes that its proprietary Invader technology platform is easier to use, more accurate and cost-effective, and enables higher testing throughput than conventional methods based on polymerase chain reaction, or PCR. These and other advantages conferred by Third Wave's technology platform are enabling the Company to continue to successfully serve select research customers, while focusing the majority of its commercial effort on the rapidly growing, high-value clinical molecular diagnostic market.

More than 100 clinical molecular diagnostic laboratory customers are using Third Wave's products in routine patient care. The Company's research customer base includes the most notable genome research projects in the world, including the Japanese government's SNP Initiative and that government's share of the International Haplotype Map Project. Other customers include pharmaceutical and biotechnology companies, academic research centers and major health care providers.

Third Wave markets a growing number of products including analyte-specific reagents (ASRs) for routine clinical use. These ASRs allow certified clinical reference laboratories to create assays to screen for cystic fibrosis and other inherited disorders, and to test for the Factor V Leiden and a host of other mutations associated with predisposition to cardiovascular and other diseases. The Company also markets a series of Invader RNA Assays for measuring expression levels of an extensive number of genes with proven clinical relevance.

Our financial results may vary significantly from quarter to quarter due to fluctuations in the demand for our products, timing of new product introductions and deliveries made during the quarter, the timing of research, development and grant revenues, and increases in spending, including expenses related to our product development.

CRITICAL ACCOUNTING POLICIES

Management's discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. We review the accounting policies we use in reporting our financial results on a regular basis. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate our estimates, including those related to accounts receivable, inventories, equipment and leasehold improvements and intangible assets. We base our estimates on historical experience and on various other assumptions that are believed to be 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. Results may differ from these estimates due to actual outcomes being different from those on which we based our assumptions. These estimates and judgments are reviewed by management on an ongoing basis, and by the Audit Committee at the end of each quarter prior to the public release of our financial results. We believe the following critical accounting policies affect our more significant judgments and estimates used in the preparation of our consolidated financial statements.

RESTRUCTURING AND OTHER CHARGES.

The restructuring and other charges resulting from the restructuring plan in the third quarter of 2002 has been recorded in accordance with EITF Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)" and Staff Accounting Bulletin No. 100, "Restructuring and Impairment Charges." The restructuring

charge is comprised primarily of costs to consolidate facilities, impairment charges for abandoned leasehold improvements and equipment to be sold or abandoned, prepayment penalties related mainly to capital lease obligations on equipment to be sold or abandoned, and other costs related to the restructuring. In calculating the cost to consolidate the facilities, we estimated the future lease and operating costs to be paid until the leases are terminated and the amount, if any, of sublease receipts for each location. This required us to estimate the timing and costs of each lease to be terminated, the amount of operating costs, and the timing and rate at which we might be able to sublease the site. To form our estimates for these costs, we performed an assessment of the affected facilities and considered the current market conditions for each site. Estimates were also used in our calculation of the estimated realizable value on equipment that is being held for sale. These estimates were formed based on recent history of sales of similar equipment and market conditions. Our assumptions on the lease termination payments, operating costs until terminated, the offsetting sublease receipts and estimated realizable value of equipment held for sale may turn out to be incorrect and our actual cost may be materially different from our estimates.

LONG-LIVED ASSETS -- IMPAIRMENT

Equipment, leasehold improvements and amortizable identifiable intangible assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. For assets held and used, the sum of the expected undiscounted cash flows is less than the carrying value of the related asset or group of assets, a loss is recognized for the difference between the fair value and carrying value of the asset or group of assets. For assets removed from service and held for sale, we estimate the fair market value of such assets and record an adjustment if fair value less costs to sell is lower than carrying value.

DERIVATIVE INSTRUMENTS

We sell products in a number of countries throughout the world. During 2002 and 2001, we sold certain products with the resulting accounts receivable denominated in Japanese Yen. Simultaneous with such sales and purchase order commitments, we purchased foreign currency forward contracts to manage the risk associated with collections of receivables denominated in foreign currencies in the normal course of business. These derivative instruments have maturities of less than one year and are intended to offset the effect of transaction gains and losses. There were contracts outstanding at December 31, 2002 amounting to \$0.6 million. The changes in the fair value of the derivatives and the loss or gain on the hedged asset relating to the risk being hedged are recorded currently in earnings.

INVENTORIES -- SLOW MOVING AND OBSOLESCENCE

Significant management judgment is required to determine the reserve for obsolete or excess inventory. Inventory on hand may exceed future demand either because of process improvements or technology advancements, the amount on hand is more than can be used to meet future need, or estimates of shelf lives may change. We currently consider all inventory that we expect will have no activity within one year as well as any additional specifically identified inventory to be subject to a provision for excess inventory. We also provide for the total value of inventories that we determine to be obsolete based on criteria such as changing manufacturing processes and technologies. At December 31, 2002, our inventory reserves were \$3.1 million, or 65% of our \$4.7 million total gross inventories.

RESULTS OF OPERATIONS

YEARS ENDED DECEMBER 31, 2002 AND 2001

Revenues. Revenues for the year ended December 31, 2002 of \$32.4 million represented a decrease of \$1.7 million as compared to revenues of \$34.1 million for the year ended December 31, 2001.

Product revenues decreased to \$28.9 million for the year ended December 31, 2002, from \$30.4 million for the year ended December 31, 2001. Product sales during the year were lower than prior year due to the conclusion of the initial phase of the Japanese Millennium Project.

Development revenues decreased to \$1.6 million for the year ended December 31, 2002, from \$3.1 million for the year ended December 31, 2001. The decrease is primarily due to a scheduled decrease in funding amounts per our development and commercialization agreement with BML, Inc (BML). Under the agreement, we develop assays in accordance with a mutually agreed development program for use in clinical applications by BML. This development is expected to be completed by the end of 2003.

License and royalty revenue of \$1.5 million was from the license and supply agreement with Aclara Biosciences, Inc. ("Aclara"). In October 2002, we and Aclara announced that we have entered into license and supply agreements under which Aclara will have nonexclusive rights to incorporate our proprietary Invader technology and Cleavase enzyme with Aclara's eTag(TM) technology platform for multiplexed gene expression applications for the research market. In exchange for the license, Aclara has made up front payments and will make royalty payments to the Company based on sales of the Aclara product. We also recognized revenue of \$2.8 million for product shipped during 2002.

Significant Customer. We generated \$16.6 million, or 51%, of our revenues from sales to a major Japanese research institute for use by several end-users during the year ended December 31, 2002. As of December 31, 2002, \$0.7 million of our accounts receivable were attributable to this customer. There is no guarantee that this significant customer will continue to purchase our products at current levels.

Cost of Goods Sold. Cost of goods sold consists of materials used in the manufacture of product, depreciation on manufacturing capital equipment, salaries and related expenses for management and personnel associated with our manufacturing and quality control departments and amortization of licenses and settlement fees. For the year ended December 31, 2002, cost of goods sold decreased to \$21.3 million compared to \$32.7 million for 2001. The decrease was due to lower volume and lower variable costs achieved by improved operational efficiencies.

Research and Development Expenses. Our research activities are focused on moving our technology into broader markets. Our development activities are focused on new products to expand our molecular diagnostics menu. Research and development expenses consist primarily of salaries and related personnel costs, material costs for assays and product development, fees paid to consultants, depreciation and facilities costs and other expenses related to the design, development, testing and enhancement of our products and acquisition of technologies used or to be used in our products. Research and development costs are expensed as they are incurred. Research and development expenses for the year ended December 31, 2002 were \$13.9 million, compared to \$16.2 million for 2001. The decrease in research and development expenses was primarily attributable to decreased material costs for assay and product development.

Selling and Marketing Expenses. Selling and marketing expenses consist primarily of salaries and related personnel costs for our sales and marketing management and field sales force, commissions, office support and related costs, and travel and entertainment. Selling and marketing expenses for the year ended December 31, 2002 were \$9.6 million, an increase of \$0.4 million, as compared to \$9.2 million for 2001. We attribute the change to a combination of a reduction in the supply of complimentary product, and the hiring of additional personnel and increased costs associated with establishing and commercializing our business units.

General and Administrative Expenses. General and administrative expenses consist primarily of salaries and related expenses for executive, finance and other administrative personnel, legal and professional fees, office support and depreciation. General and administrative expenses decreased to \$12.0 million in the twelve months ended December 31, 2002, from \$14.5 million for 2001. The decrease is due to the fixed asset impairment of \$3.0 million that occurred in the year ending December 31, 2001.

Restructuring and Other Charges. During the third quarter of 2002, we announced a restructuring plan designed to simplify our product development and manufacturing operations, increase gross margin, reduce operating expenses and move the Company more aggressively towards profitability. During the year ending December 31, 2002, we recorded a restructuring charge of \$11.1 million associated primarily with our consolidation of facilities and the write down of certain equipment and leasehold improvements. Some of the equipment and leasehold improvements were sold in an auction on November 14, 2002.

The restructuring charge included \$2.5 million of expense related to the consolidation of facilities, \$0.5 million for the prepayment penalties mainly on capital leases related to assets to be sold, and a net charge of \$7.2 million for the write down of equipment and leasehold improvements. The equipment and leaseholds that were not sold in the auction were written down to their fair value less costs to sell.

Impairment Loss. During the third quarter of 2002, we completed the annual impairment tests required by Statement of Financial Accounting Standards (SFAS) No. 142 for goodwill and intangible assets with indefinite lives, using the assistance of an independent valuation expert.

For the goodwill analysis, the fair value of the Agbio reporting unit was compared to the carrying value of the net assets of the reporting unit. The fair value of the reporting unit was determined using a combination of discounted cash flows method and other common valuation methodologies. For indefinite lived intangible assets, the fair values of these assets were compared to their carrying values. Based on the analyses, it was determined that goodwill and indefinite lived intangible assets were impaired and consequently an impairment charge of \$4.8 million for the impairment of goodwill and other intangible assets was recorded during the year ended December 31, 2002.

Interest Income. Interest income for the year ended December 31, 2002 was \$1.0 million, compared to \$3.3 million for 2001. This decrease was primarily due to lower interest rates and decreased cash and cash equivalents compared to the year ending December 31, 2001.

Interest Expense. Interest expense for the year ended December 31, 2002 was \$1.1 million compared to \$1.3 million in 2001. The decrease in interest expense was due to lower interest rates on new debt and decreasing debt balances.

Other Items. As previously announced, part of our operational consolidation plan included a reduction in the Company work force. A plan for work force reductions was implemented in the June 2002 through August 2002 timeframe. A majority of the workforce reductions occurred in the oligo synthesis production and operations support functions and the remainder spread throughout the organization. As of December 31, 2002, we employed 168 persons.

New Accounting Pronouncements: During 2002, the Financial Accounting Standards Board issued SFAS No. 143, "Accounting for Asset Retirement Obligations," SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," and SFAS No. 148, "Accounting for Stock-Based Compensation -- Transition and Disclosure." SFAS No. 143 will become effective for the Company on January 1, 2003, and adoption of this statement is not expected to have a material impact on the Company's consolidated financial statements. The provisions of SFAS No. 144, which was adopted on January 1, 2002, were applied by the Company in the determination of certain components of the restructuring charge described in Note 8. SFAS No. 146 will be effective for exit or disposal activities initiated after December 31, 2002. Adoption of this statement is not expected to have a material impact on the Company's consolidated financial statements. Effective December 31, 2002, the Company made the disclosures required under SFAS No. 148.

YEARS ENDED DECEMBER 31, 2001 AND 2000

Revenues. Revenues for the year ended December 31, 2001, of \$34.1 million represented an increase of \$22.7 million as compared to revenues of \$11.4 million for the year ended December 31, 2000.

Product revenues increased to \$30.4 million for the year ended December 31, 2001, from \$10.9 million in the year ended December 31, 2000. The increase in product sales was the result of increasing sales of the Invader products, which are consumable tests and reagents used for DNA and RNA analysis in research and clinical applications. Product sales during 2001 were above our original expectations because our largest customer accelerated its purchases of our proprietary Cleavase enzyme. The customer will use the enzyme in conjunction with previously delivered Invader SNP probes sets, as well as those planned to be delivered over the remainder of the project.

Development revenues increased to \$3.1 million for the year ended December 31, 2001, from \$0.1 million for the year ended December 31, 2000. The increase was primarily due to development work being done on a development and commercialization agreement with BML, Inc (BML). Under the agreement, we are developing assays in accordance with a mutually agreed development program for use in clinical applications by BML. This development is expected to be completed by the end of 2003.

Cost of Goods Sold. Cost of goods sold consists of materials used in the manufacture of product, depreciation on manufacturing capital equipment, salaries and related expenses for management and personnel associated with our manufacturing and quality control departments and amortization of licenses and litigation settlement fees. For the year ended December 31, 2001, cost of goods sold increased to \$32.7 million compared to \$11.5 million for the year ended December 31, 2000. The increase was due to the increased material expenses as a result of higher product sales and costs incurred as we put in place additional manufacturing capacity to meet accelerating demand for our Invader products. The increase in cost of goods sold is also attributable to an increase in a non-cash charge for amortization of litigation settlement costs and reacquired marketing and distribution rights. Also, due to process improvements and technology advancements, we incurred a non-cash charge of \$2.4 million to increase the reserve for obsolete and excess inventory on our raw materials.

Research and Development Expenses. Research and development expenses consist primarily of salaries and related personnel costs, material costs for assays and product development, fees paid to consultants, depreciation and facilities costs and other expenses related to the design, development, testing and enhancement of our products and acquisition of technologies used or to be used in our products. Research and development costs are expensed as they are incurred. Research and development expenses for the year ended December 31, 2001, were \$16.2 million, compared to \$7.3 million for the year ended December 31, 2000. The increase in research and development expenses of \$8.9 million was primarily attributable to increased expenses associated with additional research and development personnel, increased purchases of laboratory supplies, increased equipment depreciation, deferred compensation amortization and increased facilities expenses in connection with the expansion of our internal and collaborative research efforts.

Selling and Marketing Expenses. Selling and marketing expenses consist primarily of salaries and related personnel costs for our sales and marketing management and field sales force, office support and related costs, and travel costs. Selling and marketing expenses for the year ended December 31, 2001, were \$9.2 million, an increase of \$4.2 million, as compared to \$5.0 million for the year ended December 31, 2000. We attribute this increase to the hiring of additional personnel and increased costs associated with establishing and expanding our clinical and research businesses.

General and Administrative Expenses. General and administrative expenses consist primarily of salaries and related expenses for executive, finance and other administrative personnel, legal and professional fees, office support and depreciation. General and administrative expenses increased to \$14.5 million in the year ended December 31, 2001, from \$7.4 million for the year ended December 31, 2000. In 2001, a fixed asset impairment charge of \$3.0 million was recorded in general and administrative expense related to a write-down of equipment to its net realizable value. The increase is also due to the hiring of additional personnel to support our growing business activities.

Impairment Loss. In the year ended December 31, 2000, an impairment charge of \$5.8 million was recognized. The impairment charge pertained to intangible assets recorded in connection with terminating a distribution agreement.

Merger Costs. In January 2000, we entered into an agreement to merge with another company. In May 2000, we and the other company mutually agreed to terminate the merger agreement. During the year ended December 31, 2000, we incurred expenses related to the proposed merger of \$0.8 million.

Interest Income. Interest income for the year ended December 31, 2001, was \$3.3 million, compared to \$1.5 million for the year ended December 31, 2000. This increase was primarily due to interest received on larger cash, cash equivalent and short-term investment balances, which we held as a result of our initial public

offering in February 2001, offset by amounts used to fund operating activities and a decrease in interest rates realized on our investments.

Interest Expense. Interest expense for the year ended December 31, 2001, was \$1.3 million compared to \$0.7 million in the year ended December 31, 2000. The increase in interest expense was mainly due to additional debt related to capital equipment financings completed in September 2000, May 2001, and September 2001.

Equity In Losses from Joint Ventures. On December 14, 2001, we acquired the remaining 50% of Third Wave Agbio (Agbio). Accordingly, we recorded 50% of Agbio's net losses from January 1, 2001 through December 14, 2001, which amounted to \$0.2 million, as a credit to equity in losses from joint ventures.

LIQUIDITY AND CAPITAL RESOURCES

Since our inception, we have financed our operations primarily through private placements of equity securities, research grants from federal and state government agencies, payments from strategic collaborators, equipment loans, capital leases, sale of products, a convertible note and an initial public offering. As of December 31, 2002, we had cash and cash equivalents and short-term investments of \$60.3 million.

In February 2001, we completed our initial public offering of 7,500,000 shares of common stock at a price of \$11.00 per share (excluding underwriters' discounts and commissions), generating net proceeds of \$74.8 million.

Net cash used in operations for the year ended December 31, 2002 was \$14.0 million, compared with \$30.3 million in 2001 and \$0.6 million in 2000. The cash used in operations was primarily to fund our operating losses as well as working capital requirements.

Net cash used in investing activities for the year ended December 31, 2002 was \$8.7 million, compared to \$4.4 million in 2001 and \$34.3 million in 2000. Excluding the impact of purchases, sales and maturities of short-term investments, cash provided by investing activities for the year ended December 31, 2002 was \$2.1 million, compared to cash usage of \$16.0 million in 2001 and cash usage of \$25.3 million in 2000. Investing activities included capital expenditures of \$2.3 million in 2002, \$21.0 million in 2001, and \$15.9 million in 2000. Capital expenditures during 2001 and 2000 were higher due to investments in leasehold improvements to facilities and production equipment. We reduced our level of capital expenditures in 2002 and received \$4.4 million in proceeds from the sale of equipment primarily in connection with our restructuring. In 2001, we sold and leased back \$5.1 million of certain equipment. Also included in investing activities was the purchase of licensed technologies of \$0.2 million in 2001 and \$9.4 million in 2000.

Net cash used in financing activities was \$1.1 million in 2002, compared to net cash provided by financing activities of \$72.4 million in 2001 and \$60.2 million in 2000. Cash used in financing activities in 2002 consisted of \$6.6 million to repay debt, compared to \$7.7 million in 2001 and \$0.4 million in 2000. Additionally, in 2002, \$4.4 million was used for capital lease obligation payments, compared to \$0.7 million in 2001. Cash provided by financing activities during 2002 included proceeds from long-term debt of \$9.5 million compared to \$5.4 million in 2001 and \$2.7 million in 2000. During 2002, we entered into a term loan agreement due on July 31, 2003 to pay off the existing debt and capital lease obligations. The term loan is collateralized with a 12-month certificate of deposit. Proceeds from the issuance of common stock were \$0.3 million in 2002, \$75.4 million in 2001 and \$0.4 million in 2000. During 2001 proceeds from the issuance of common stock was primarily the result of our initial public offering of 7,500,000 shares of common stock in February 2001. Additionally, during 2000, we received \$45.5 million in proceeds from the issuance of preferred stock in a private placement in July 2000, \$10 million in proceeds from a convertible note payable, and \$2.0 million from the collection of a note receivable.

The following summarizes our contractual obligations at December 31, 2002 and the effect those obligations are expected to have on our liquidity and cash flow in future periods (in thousands):

	TOTAL	LESS THAN 1 YEAR	YEARS 1 - 3	YEARS 4 - 5	OVER 5 YEARS
	-----	-----	-----	-----	-----
CONTRACTUAL OBLIGATIONS					
Non-cancelable operating lease obligations.....	\$19,601	\$ 1,904	\$3,784	\$4,484	\$9,429
Term loans.....	9,528	9,515	13	--	--
	-----	-----	-----	-----	-----
Total contractual obligations.....	\$29,129	\$11,419	\$3,797	\$4,484	\$9,429
	=====	=====	=====	=====	=====

As we approach cash break even, we expect the net cash used in operating activities will continue to decline in 2003.

During the year, we entered into a term loan agreement due on July 31, 2003 to pay off the existing debt and capital lease obligations. The term loan of \$9.5 million is collateralized with a 12 month certificate of deposit.

As of December 31, 2002, a valuation allowance equal to 100% of our net deferred tax assets had been recognized since our future realization is not assured. At December 31, 2002, we had federal and state net operating loss carryforwards of \$103 million. The net operating loss carryforwards will expire at various dates beginning in 2008, if not utilized. Utilization of the net operating losses and credits to offset future taxable income may be subject to an annual limitation due to the change of ownership provisions of federal tax laws and similar state provisions as a result of the initial public offering.

We cannot assure you that our business or operations will not change in a manner that would consume available resources more rapidly than anticipated. We also cannot assure you that we will not require substantial additional funding before we can achieve profitable operations. Our capital requirements depend on numerous factors, including the following:

- our progress with our research and development programs;
- our level of success in selling our products and technologies;
- our ability to establish and maintain successful collaborative relationships;
- the costs we incur in enforcing and defending our patent claims and other intellectual property rights; and
- the timing of purchases of additional capital.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our exposure to market risk is currently confined to changes in foreign exchange and interest rates. The securities in our investment portfolio are not leveraged and due to their short-term nature, are subject to minimal interest rate risk. We currently do not hedge interest rate exposure. Due to the short-term maturities of our investments, we do not believe that an increase in market rates would have any negative impact on the realized value of our investment portfolio.

To reduce foreign exchange risk, we selectively use financial instruments. Our earnings are affected by fluctuations in the value of the U.S. dollar against foreign currencies as a result of the sales of our products in foreign markets. Forward foreign exchange contracts are used to hedge against the effects of such fluctuations. Our policy prohibits the trading of financial instruments for profit. A discussion of our accounting policies for derivative financial instruments is included in the notes to the financial statements included elsewhere in this Form 10-K.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

CONSOLIDATED FINANCIAL STATEMENTS

THIRD WAVE TECHNOLOGIES, INC.
YEARS ENDED DECEMBER 31, 2002, 2001 AND 2000

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THIRD WAVE TECHNOLOGIES, INC.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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REPORT OF ERNST & YOUNG LLP,

INDEPENDENT AUDITORS

To the Board of Directors
Third Wave Technologies, Inc.

We have audited the accompanying consolidated balance sheets of Third Wave Technologies, Inc. (the Company) as of December 31, 2002 and 2001, and the related consolidated statements of operations, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2002. Our audits also included the financial statement schedule listed in the index at

Item 15(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company at December 31, 2002 and 2001, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2002, in conformity with accounting principles generally accepted in the United States. Also, in our opinion, the related financial statement schedule, when considered in relation to the financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As discussed in Note 2 to the financial statements, effective January 1, 2002, the Company changed its method of accounting for goodwill and identifiable intangible assets with indefinite lives.

ERNST & YOUNG LLP

Milwaukee, Wisconsin
January 31, 2003

THIRD WAVE TECHNOLOGIES, INC.
CONSOLIDATED BALANCE SHEETS

		DECEMBER 31	
		2002	2001
		-----	-----
ASSETS			
Current assets:			
Cash and cash equivalents.....	\$	49,301,501	\$ 73,131,123
Short-term investments.....		11,013,000	168,000
Accounts receivable, net of allowance for doubtful accounts of \$465,000 and \$175,000 in 2002 and 2001, respectively.....		2,724,856	1,829,122
Inventories.....		1,660,344	6,448,974
Prepaid expenses and other.....		1,145,687	2,308,003
		-----	-----
Total current assets.....		65,845,388	83,885,222
Equipment and leasehold improvements:			
Machinery and equipment.....		18,449,319	30,848,712
Leasehold improvements.....		2,091,457	7,597,235
		-----	-----
		20,540,776	38,445,947
Less accumulated depreciation.....		9,617,330	10,864,634
		-----	-----
		10,923,446	27,581,313
Assets held for sale.....		336,000	--
Amortizable intangible assets.....		7,155,876	9,257,434
Indefinite-lived intangible assets.....		1,007,411	1,474,000
Goodwill.....		489,873	4,700,186
Other assets.....		3,465,244	4,716,427
		-----	-----
Total assets.....	\$	89,223,238	\$131,614,582
		=====	=====

DECEMBER 31

	2002	2001
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable.....	\$ 7,088,962	\$ 11,276,955
Accrued payroll and related liabilities.....	2,260,563	1,186,812
Other accrued liabilities.....	2,517,315	789,987
Deferred revenue.....	945,664	1,535,951
Long-term debt due within one year.....	9,515,152	2,618,359
Capital lease obligations due within one year.....	--	1,643,372
	22,327,656	19,051,436
Total current liabilities.....		
Deferred revenue.....	--	916,667
Long-term debt.....	13,333	3,966,620
Capital lease obligations.....	--	2,727,070
Other liabilities.....	1,595,181	200,000
Commitments (Note 7)		
Shareholders' equity:		
Participating preferred stock, Series A, \$.001 par value, 100,000 shares authorized, 0 shares issued and outstanding.....	--	--
Common stock, \$.001 par value, 100,000,000 shares authorized, 39,559,574 and 39,374,014 shares issued and outstanding in 2002 and 2001, respectively.....	39,560	39,374
Additional paid-in capital.....	191,581,136	191,426,698
Unearned stock compensation.....	(618,246)	(1,861,566)
Accumulated deficit.....	(125,715,382)	(84,851,717)
	65,287,068	104,752,789
Total shareholders' equity.....		
Total liabilities and shareholders' equity.....	\$ 89,223,238	\$131,614,582

See accompanying notes.

THIRD WAVE TECHNOLOGIES, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS

	YEAR ENDED DECEMBER 31		
	2002	2001	2000
Revenues:			
Product sales.....	\$ 28,880,942	\$ 30,405,055	\$ 10,891,439
Development revenues.....	1,641,567	3,110,004	102,355
Grant revenues.....	332,453	576,690	423,624
License and royalty revenue.....	1,500,000	--	--
	32,354,962	34,091,749	11,417,418
Operating expenses:			
Cost of goods sold (including amortization of capitalized legal settlement costs and reacquired marketing and distribution rights of \$1,930,557, \$1,930,560 and \$1,672,988 in 2002, 2001 and 2000, respectively).....	21,320,133	32,745,672	11,518,439
Research and development.....	13,933,864	16,179,250	7,336,694
Selling and marketing.....	9,577,122	9,199,622	4,983,323
General and administrative.....	11,984,104	14,520,855	7,407,934
Impairment of goodwill and other intangible assets.....	4,809,902	--	5,788,889
Merger costs.....	--	--	833,254
Restructuring and other charges.....	11,087,233	--	--
	72,712,358	72,645,400	37,868,533
Total operating expenses.....			
Loss from operations.....	(40,357,396)	(38,553,651)	(26,451,115)
Other income (expense):			
Interest income.....	1,006,231	3,349,617	1,500,142
Interest expense.....	(1,089,497)	(1,346,876)	(673,818)
Equity in losses from joint ventures.....	--	(241,282)	--
Other.....	(423,003)	(16)	50,645
	(506,269)	1,761,443	876,969
Net loss.....	(40,863,665)	(36,792,208)	(25,574,146)
Deemed dividend upon issuance of convertible preferred stock.....	--	--	(17,022,824)
Net loss attributable to common stockholders.....	\$ (40,863,665)	\$ (36,792,208)	\$ (42,596,970)
Net loss per share -- basic and diluted.....	\$ (1.04)	\$ (1.03)	\$ (2.83)
Pro forma, net loss per share (unaudited) -- basic and diluted.....	N/A	\$ (0.98)	\$ (0.98)

See accompanying notes.

THIRD WAVE TECHNOLOGIES, INC.

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

YEARS ENDED DECEMBER 31, 2000, 2001 AND 2002

	CONVERTIBLE PREFERRED STOCK		COMMON STOCK		COMMON STOCK TO BE ISSUED	UNEARNED STOCK COMPENSATION	ACCUMULATED DEFICIT
	PAR VALUE	ADDITIONAL PAID-IN CAPITAL	PAR VALUE	ADDITIONAL PAID-IN CAPITAL			
Balance at December 31, 1999.....	\$ 8,668	\$ 22,686,097	\$14,716	\$ 17,599,055	\$ --	\$ (535,184)	\$ (22,574,823)
Common stock issued -- 918,000 shares.....	--	--	918	5,525,263	--	--	--
Preferred stock issued -- 5,444,400 shares.....	5,444	45,450,703	--	--	--	--	--
Unearned stock compensation.....	--	--	--	7,610,857	--	(7,610,857)	--
Amortization of unearned stock compensation.....	--	--	--	--	--	3,575,677	--
Common stock to be issued.....	--	--	--	--	856,800	--	--
Net loss.....	--	--	--	--	--	--	(25,574,146)
Balance at December 31, 2000.....	14,112	68,136,800	15,634	30,735,175	856,800	(4,570,364)	(48,148,969)
Common stock issued in initial public offering -- 7,500,000 shares.....	--	--	7,500	74,831,549	--	--	--
Common stock issued for conversion of note payable -- 909,091 shares.....	--	--	909	9,999,091	--	--	--
Common stock issued related to a litigation settlement -- 116,854 shares...	--	--	117	856,683	(856,800)	--	--
Common stock issued for acquisition -- 925,000.....	--	--	925	6,192,440	--	--	89,460
Common stock issued for stock options and stock purchase plan -- 177,269 shares.....	--	--	177	571,482	--	--	--
Conversion of preferred stock to common stock -- 14,112,000 shares.....	(14,112)	(68,136,800)	14,112	68,136,800	--	--	--
Unearned stock compensation.....	--	--	--	103,478	--	(103,478)	--
Amortization of unearned stock compensation.....	--	--	--	--	--	2,812,276	--
Net loss.....	--	--	--	--	--	--	(36,792,208)
Balance at December 31, 2001.....	--	--	39,374	191,426,698	--	(1,861,566)	(84,851,717)
Common stock issued for stock options and stock purchase plan -- 185,560 shares.....	--	--	186	300,931	--	--	--
Unearned stock compensation.....	--	--	--	147,932	--	(147,932)	--
Amortization of unearned stock compensation.....	--	--	--	--	--	1,248,154	--
Reversal of unearned stock compensation related to terminated employees.....	--	--	--	(294,425)	--	143,098	--
Net loss.....	--	--	--	--	--	--	(40,863,665)
Balance at December 31, 2002.....	\$ --	\$ --	\$39,560	\$191,581,136	\$ --	\$ (618,246)	\$ (125,715,382)

TOTAL

Balance at December 31, 1999.....	\$ 17,198,529
Common stock issued -- 918,000 shares.....	5,526,181
Preferred stock issued -- 5,444,400 shares.....	45,456,147
Unearned stock compensation.....	--
Amortization of unearned stock compensation.....	3,575,677
Common stock to be issued.....	856,800
Net loss.....	(25,574,146)
Balance at December 31, 2000.....	47,039,188
Common stock issued in initial public offering -- 7,500,000 shares.....	74,839,049
Common stock issued for conversion of note payable -- 909,091 shares.....	10,000,000
Common stock issued related to a litigation settlement -- 116,854 shares...	--
Common stock issued for acquisition -- 925,000.....	6,282,825
Common stock issued for stock options and stock purchase plan -- 177,269 shares.....	571,659
Conversion of preferred stock to common stock -- 14,112,000 shares.....	--
Unearned stock compensation.....	--
Amortization of unearned stock compensation.....	2,812,276
Net loss.....	(36,792,208)
Balance at December 31, 2001.....	104,752,789
Common stock issued for stock	

options and stock purchase plan -- 185,560 shares.....	301,117
Unearned stock compensation.....	--
Amortization of unearned stock compensation.....	1,248,154
Reversal of unearned stock compensation related to terminated employees.....	(151,327)
Net loss.....	(40,863,665)

Balance at December 31, 2002.....	\$ 65,287,068
	=====

See accompanying notes.

THIRD WAVE TECHNOLOGIES, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

	YEAR ENDED DECEMBER 31		
	2002	2001	2000
OPERATING ACTIVITIES			
Net loss.....	\$ (40,863,665)	\$ (36,792,208)	\$ (25,574,146)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation.....	7,100,496	7,805,943	2,624,791
Amortization of intangible assets.....	1,968,558	1,984,937	1,672,988
Amortization of licensed technology.....	415,017	433,223	137,810
Noncash stock compensation.....	1,096,827	2,812,276	3,575,677
Noncash charge for impairment and restructuring.....	12,151,817	2,970,257	5,788,889
(Gain) loss on disposal of equipment.....	(68,898)	75,656	--
Deferred gain on sale of assets.....	--	(179,024)	--
Amortization of deferred gain.....	(23,871)	(25,724)	--
Equity in losses from joint ventures.....	--	241,282	--
Change in operating assets and liabilities:			
Receivables.....	(895,734)	(853,614)	(428,617)
Inventories.....	4,788,630	(5,688,123)	(561,231)
Prepaid expenses and other assets.....	1,554,514	(1,639,567)	(2,568,037)
Accounts payable.....	(4,187,993)	(162,076)	8,390,550
Accrued expenses and other liabilities.....	4,498,178	(18,459)	3,200,324
Deferred revenue.....	(1,506,954)	(1,227,999)	3,143,095
Net cash used in operating activities.....	(13,973,078)	(30,263,220)	(597,907)
INVESTING ACTIVITIES			
Purchases of equipment and leasehold improvements.....	(2,277,114)	(21,011,245)	(15,925,325)
Proceeds on sale of equipment.....	4,391,389	5,070,000	--
Purchases of licensed technology.....	--	(245,038)	(9,383,248)
Cash received in acquisition.....	--	165,314	--
Purchases of short-term investments.....	(10,941,000)	--	(40,448,900)
Sales and maturities of short-term investments.....	96,000	11,582,000	31,488,900
Net cash used in investing activities.....	(8,730,725)	(4,438,969)	(34,268,573)
FINANCING ACTIVITIES			
Proceeds from long-term debt.....	9,500,000	5,399,879	2,742,443
Payments on long-term debt.....	(6,556,494)	(7,706,345)	(412,878)
Proceeds from convertible note payable.....	--	--	10,000,000
Proceeds from notes receivable.....	--	--	1,997,736
Proceeds from issuance of common stock, net.....	301,117	75,410,708	382,981
Proceeds from issuance of preferred stock, net.....	--	--	45,456,147
Payments on capital lease obligations.....	(4,370,442)	(699,558)	--
Net cash provided by (used in) financing activities.....	(1,125,819)	72,404,684	60,166,429
Increase (decrease) in cash and cash equivalents...	(23,829,622)	37,702,495	25,299,949
Cash and cash equivalents at beginning of year.....	73,131,123	35,428,628	10,128,679
Cash and cash equivalents at end of year.....	\$ 49,301,501	\$ 73,131,123	\$ 35,428,628
Supplemental disclosure of cash flows information--			
Cash paid for interest.....	\$ 1,075,940	\$ 1,760,161	\$ 260,533

See accompanying notes.

Noncash investing and financing activities:

During the year ended December 31, 2001, the Company:

- converted \$10,000,000 of notes payable into 909,091 shares of common stock
- issued 925,000 shares of common stock in acquisition
- entered into capital lease obligations of \$5,070,000

During the year ended December 31, 2000, the Company:

- issued 545,454 shares of common stock valued at \$11.00 per share as a cost for defending certain patents
- issued notes payable of \$6,000,000 for purchased intangible assets

See accompanying notes.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
DECEMBER 31, 2002

1. NATURE OF OPERATIONS AND PRINCIPLES OF CONSOLIDATION

PRINCIPLES OF CONSOLIDATION

The accompanying consolidated financial statements include the accounts of Third Wave Technologies, Inc. (the Company) and its wholly-owned subsidiary, Third Wave Agbio, Inc. (Agbio) which became wholly owned in December 2001. All significant intercompany balances and transactions are eliminated in consolidation.

NATURE OF OPERATIONS

The Company is a leading genetic analysis products company. The Company believes its proprietary Invader technology platform is easier to use, more accurate and cost-effective, and enables higher testing throughput than conventional methods based on polymerase chain reaction, or PCR. These other advantages conferred by the Company's technology platform are enabling the Company to continue to serve select research customers, while focusing the majority of its commercial effort on the rapidly growing clinical molecular diagnostic market.

The Company currently markets products domestically and internationally to clinical and research markets using an internal sales force as well as collaborative relationships with pharmaceutical companies and research institutions. Revenues to a major Japanese research institute for use by several end users during 2002, 2001 and 2000 were 51%, 76% and 67% of total revenues, respectively. The Company performs periodic credit evaluations of its customers' financial condition and generally does not require collateral. The Company evaluates the collectibility of its accounts receivable based on a combination of factors. For accounts greater than 60 days past due, an allowance for doubtful accounts is recorded based on a customer's ability and likelihood to pay based on management's review of the facts. For all other accounts, the Company recognizes an allowance based on the length of time the receivable is past due and the anticipated future write offs based on historical experience.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of the significant accounting policies applied in the preparation of the accompanying financial statements follows.

CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS

The Company considers highly liquid money market investments and short-term investments with maturities of 90 days or less from the date of purchase to be cash equivalents.

Short-term investments consist of certificates of deposit. The cost of these securities, which are considered "available-for-sale" for financial reporting purposes, approximates fair value at December 31, 2002 and 2001.

INVENTORIES

Inventories, consisting mostly of raw materials, are carried at the lower of cost or market using the first-in, first-out (FIFO) method for determining cost.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

Inventories consisted of the following:

	DECEMBER 31	
	2002	2001
Raw material.....	\$ 4,253,090	\$ 6,963,240
Finished goods and work in process.....	457,254	2,165,734
Reserve for excess and obsolete inventory.....	(3,050,000)	(2,680,000)
Total inventories.....	\$ 1,660,344	\$ 6,448,974

ADVERTISING COSTS

Advertising costs are expensed at the time the advertising takes place. Advertising costs were \$511,685, \$675,624 and \$158,033 in 2002, 2001 and 2000, respectively.

EQUIPMENT AND LEASEHOLD IMPROVEMENTS

Equipment and leasehold improvements are recorded at cost less accumulated depreciation. Depreciation of purchased equipment is computed by the straight-line method over the estimated useful lives of the assets which are generally three to ten years. Depreciation of leasehold improvements is computed by the straight-line method over the shorter of the estimated useful lives of the assets or the lease term.

PATENTS

Patent-related development costs are expensed in the period incurred and are included in general and administrative expenses in the statements of operations. These costs were \$509,598, \$546,776 and \$311,992 in 2002, 2001 and 2000, respectively.

GOODWILL AND OTHER INTANGIBLE ASSETS

Effective January 1, 2002, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 142, "Goodwill and Other Intangible Assets." Under SFAS No. 142, goodwill and intangible assets deemed to have indefinite lives are no longer amortized, but are subject to annual impairment tests. Other intangible assets continue to be amortized over their estimated useful lives of three to seven years.

In connection with the adoption of SFAS No. 142, the Company completed the first step of the transitional impairment test of goodwill, which required the Company to compare the fair value of its reporting units to the carrying value of the net assets of the respective reporting units as of January 1, 2002. Based on this analysis, the Company concluded that no impairment existed at the time of adoption, and accordingly, the Company did not recognize any transitional impairment loss for goodwill. For intangible assets with indefinite lives, the fair values of these assets were compared to their carrying values as of January 1, 2002, also resulting in no transitional impairment.

The Company completed the annual impairment tests as of September 30, 2002. For goodwill, this analysis is based on the comparison of the fair value of its reporting units to the carrying value of the net assets of the respective reporting units. The fair value of the reporting units was determined using a combination of discounted cash flows method and other common valuation methodologies. For intangible assets with indefinite lives, the fair values of these assets were compared to their carrying values. Based on the analyses, the Company determined that goodwill and intangible assets deemed to have indefinite lives were impaired and accordingly, recognized an impairment charge of \$4,676,902 (Goodwill -- \$4,210,313, Indefinite-lived intangible assets -- \$466,589).

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

Identifiable intangible assets with indefinite lives consist of the following:

	DECEMBER 31	
	2002	2001
Technology license.....	\$1,053,000	\$1,053,000
Impairment charge.....	(137,172)	--
Trademark.....	421,000	421,000
Impairment charge.....	(329,417)	--
	-----	-----
	\$1,007,411	\$1,474,000
	=====	=====

There was no accumulated amortization of goodwill at December 31, 2001. During 2002, the Company finalized the allocation of the purchase price for the remaining outstanding shares of Agbio acquired in December 2001. The \$6,345,186 included in intangible assets at December 31, 2001, was allocated to technology license (\$1,053,000), trademark (\$421,000), customer agreements (\$171,000) and goodwill (\$4,700,186).

Amortizable intangible assets consist of the following:

	DECEMBER 31, 2002		DECEMBER 31, 2001	
	GROSS CARRYING AMOUNT	ACCUMULATED AMORTIZATION	GROSS CARRYING AMOUNT	ACCUMULATED AMORTIZATION
Costs of settling patent litigation.....	\$10,533,248	\$3,377,372	\$10,533,248	\$1,872,619
Reacquired marketing and distribution rights.....	2,211,111	2,211,111	2,211,111	1,785,306
Customer agreements.....	171,000	38,000	171,000	--
Impairment charge -- Customer agreements.....	(133,000)	--	--	--
	-----	-----	-----	-----
	\$12,782,359	\$5,626,483	\$12,915,359	\$3,657,925
	=====	=====	=====	=====

As required by SFAS No. 142, the results of operations for periods prior to its adoption have not been restated. Because goodwill and the intangible assets with indefinite lives were acquired in December 2001, and no amortization expense was recognized in 2001, there would have been no impact on the consolidated statements of operations in 2001 or 2000 if SFAS No. 142 had been adopted effective January 1, 2000.

The estimated future amortization expense related to intangible assets for the five years subsequent to December 31, 2002 is as follows:

2003.....	\$1,504,752
2004.....	1,504,752
2005.....	1,504,752
2006.....	1,504,752
2007.....	1,136,868

IMPAIRMENT OF LONG-LIVED ASSETS

Equipment, leasehold improvements and amortizable identifiable intangible assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. If the sum of the expected undiscounted cash flows is less than the carrying value of the related asset or group of assets, a loss is recognized for the difference between the fair value and carrying value of the asset or group of assets. Such analyses necessarily involve significant judgment. During 2002, the Company

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

recorded a charge of approximately \$7,176,000 associated with its restructuring activities (described further in Note 8) to write-off leasehold improvements related to vacated leased facilities and to write down certain equipment to its fair value. During 2001, the Company recorded a charge of approximately \$2,970,000 classified in general and administrative expenses to write down certain equipment to its fair value.

As described in Note 10, a \$5,788,889 impairment loss was recognized in 2000 pertaining to intangible assets recorded in connection with terminating the Endogen agreement. The fair value of the intangible assets was determined using a discounted cash flow calculation.

PREPAID LICENSE FEES

Other assets at December 31, 2002 and 2001 included \$2,227,593 and \$2,642,610, respectively, of prepaid license fees (which is net of \$967,444 and \$552,427, respectively, of accumulated amortization) paid to third parties for the use of patented technology. The assets are being amortized to expense over the shorter of the term of the license or the estimated useful lives of the assets (generally three to ten years).

DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

Effective January 1, 2001, the Company adopted SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended, which requires that all derivative instruments be recorded in the balance sheet at fair value and that changes in fair value be recognized currently in earnings unless specific hedge accounting criteria are met. There was no cumulative effect of adoption because the Company did not have any derivative financial instruments on January 1, 2001.

The Company sells its products in a number of countries throughout the world. During 2002 and 2001, the Company sold certain products with the resulting accounts receivable denominated in Japanese Yen. Simultaneous with such sales, the Company purchased foreign currency forward contracts to manage the risk associated with collections of receivables denominated in foreign currencies in the normal course of business. These derivative instruments have maturities of less than one year and are intended to offset the effect of currency gains and losses on the underlying Yen receivables. Forward contracts outstanding at December 31, 2002, represented a U.S. dollar equivalent commitment of \$629,000. The negative fair value of these derivative instruments of \$12,000 is included in accrued liabilities in the accompanying balance sheet. There were no contracts outstanding at December 31, 2001. The changes in the fair value of the Company's derivatives and the loss or gain on the hedged asset relating to the risk being hedged both are recorded currently in operations.

REVENUE RECOGNITION

Revenue from product sales is recognized upon delivery which is generally when the title passes to the customer, provided that the Company has completed all performance obligations and the customer has accepted the products. Customers have no contractual rights of return or refunds associated with product sales.

Grant and development revenues consist primarily of research grants from agencies of the federal government and revenue from companies with which the Company has established strategic alliances, the revenue from which is recognized as research is performed. Payments received which are related to future performance are deferred and recorded as revenue when earned. Grant payments designated to purchase specific assets to be used in the performance of a contract are recognized as revenue over the shorter of the useful life of the asset acquired or the contract.

License and royalty revenue includes amounts earned from third parties for licenses of the Company's intellectual property and are recognized when earned under the terms of the related agreements. License revenues are generally recognized upon receipt unless the Company has continuing performance obligations,

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

in which case the license revenue is recognized ratably over the period of expected performance. Consideration received in multiple element arrangements is allocated to the separate units based upon their relative fair values. Royalty revenues are recognized under the terms of the related agreements, generally upon manufacture or shipment of a product by a licensee.

RESEARCH AND DEVELOPMENT

All costs for research and development activities are expensed in the period incurred.

SHIPPING AND HANDLING COSTS

Shipping and handling costs incurred are classified as cost of goods sold in the accompanying statements of operations.

INCOME TAXES

Deferred income taxes are recognized for the tax consequences in future years of differences between the tax bases of assets and liabilities and their financial reporting amounts at each year-end based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the current tax payable for the period plus or minus the change during the period in deferred tax assets and liabilities. No current or deferred income taxes have been provided through December 31, 2002, because of the net operating losses incurred by the Company since its inception.

STOCK-BASED COMPENSATION

The Company has stock-based employee compensation plans (see Note 5). SFAS No. 123, "Accounting for Stock-Based Compensation," encourages, but does not require companies to record compensation cost for stock-based employee compensation plans at fair value. The Company has chosen to continue using the intrinsic value method prescribed in Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations, in accounting for its stock option plans.

Had compensation cost been determined based upon the fair value at the grant date for awards under the plans based on the provisions of SFAS No. 123, the Company's SFAS No. 123 pro forma net loss and net loss per share would have been as follows:

	YEAR ENDED DECEMBER 31		
	2002	2001	2000
Net loss:			
As reported.....	\$ (40,863,665)	\$ (36,792,208)	\$ (42,596,970)
Add: Stock-based employee compensation expense related to stock options determined under fair value based method.....	(3,690,676)	(3,588,213)	(549,347)
Add: Stock-based employee compensation related to the employee stock purchase plan under fair value based method.....	(43,314)	(35,515)	--
SFAS No. 123 Pro forma.....	\$ (44,597,655)	\$ (40,415,936)	\$ (43,146,317)
Net loss per share:			
As reported, basic and diluted.....	\$ (1.04)	\$ (1.03)	\$ (2.83)
SFAS No. 123 pro forma, basic and diluted.....	(1.13)	(1.13)	(2.86)

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

Stock compensation expense for options granted to nonemployees has been determined in accordance with SFAS No. 123 and Emerging Issues Task Force (EITF) Issue No. 96-18, "Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services," and represents the fair value of the consideration received or the fair value of the equity instruments issued, whichever may be more reliably measured. For options that vest over future periods, the fair value of options granted to nonemployees is periodically remeasured as the underlying options vest.

FAIR VALUE OF FINANCIAL INSTRUMENTS

The carrying amounts of the Company's financial instruments, which include cash and cash equivalents, short-term investments, accounts receivable, foreign currency forward contracts, accounts payable and long-term debt are considered to approximate their respective fair values.

USE OF ESTIMATES

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

NET LOSS PER SHARE

Basic and diluted net loss per share has been computed using the weighted-average number of shares of common stock outstanding during the respective periods. The effect of stock options, convertible preferred stock and convertible note payable is antidilutive for all periods presented.

Unaudited pro forma basic and diluted net loss per common share for 2001 and 2000, as presented on the face of the statements of operations, gives effect to common stock equivalent shares arising assuming that the preferred stock and convertible note payable were converted to common stock upon issuance using the if-converted method. This pro forma disclosure has been included because the preferred stock and convertible note payable automatically converted to common stock upon the closing of the initial public offering.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

The following table presents the calculation of basic, diluted and pro forma basic and diluted net loss per share.

	YEAR ENDED DECEMBER 31		
	2002	2001	2000
Net loss attributable to common stockholders.....	\$ (40,863,665)	\$ (36,792,208)	\$ (42,596,970)
Weighted-average shares of common stock outstanding -- basic and diluted.....	39,457,000	35,714,000	15,078,100
Basic and diluted net loss per share.....	\$ (1.04)	\$ (1.03)	\$ (2.83)
Pro forma (unaudited):			
Net loss.....		\$ (36,792,208)	\$ (25,574,146)
Interest on convertible note payable.....		164,000	74,000
Net loss used in computing pro forma basic and diluted net loss per share.....		\$ (36,628,208)	\$ (25,500,146)
Shares used above.....		35,714,000	15,078,100
Pro forma adjustment to reflect weighted effect of conversion of convertible preferred stock and convertible note payable.....		1,769,000	11,041,900
Shares used in computing pro forma basic and diluted net loss per share.....		37,483,000	26,120,000
Pro forma basic and diluted net loss per share.....		\$ (0.98)	\$ (0.98)
Weighted-average shares from options that could potentially dilute basic earnings per share in the future that are not included in the computation of diluted loss per share as their impact is antidilutive (computed under the treasury stock method).....	506,000	974,000	1,034,000

COMPREHENSIVE LOSS

Net loss for 2002, 2001 and 2000 is the same as comprehensive loss defined pursuant to SFAS No. 130, "Reporting Comprehensive Income."

RECLASSIFICATIONS

Certain reclassifications have been made to the 2001 and 2000 financial statements to conform to the 2002 presentation.

NEW ACCOUNTING PRONOUNCEMENTS

During 2002, the Financial Accounting Standards Board issued SFAS No. 143, "Accounting for Asset Retirement Obligations," SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," and SFAS No. 148, "Accounting for Stock-Based Compensation -- Transition and Disclosure." SFAS No. 143 will become effective for the Company on January 1, 2003, and adoption of this statement is not expected to have a material impact on the Company's consolidated financial statements. The provisions of SFAS No. 144, which was adopted on January 1, 2002, were applied by the Company in the determination of certain components of the restructuring charge described in Note 8. SFAS No. 146 will be effective for exit or

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

disposal activities initiated after December 31, 2002. Adoption of this statement is not expected to have a material impact on the Company's consolidated financial statements. Effective December 31, 2002, the Company made the disclosures required under SFAS No. 148.

3. ACQUISITION

On October 16, 1998, the Company and a venture capital fund managed by a director of the Company closed a transaction at which time the Company received 1,000 shares of common stock, representing 50% of the total voting stock of Agbio in exchange for the Company's contribution to Agbio of an exclusive worldwide license in the field of agriculture to all of the Company's technology, which had a \$2,000,000 fair value when contributed. The Company's investment in Agbio was recorded initially at zero because the contributed technology was in the development phase and thus had no book value. Agbio also recorded the Company's nonmonetary contribution at zero; however, the other investor's \$2,000,000 million contribution was in cash, which created a difference between the Company's investment balance (\$0) and its share of Agbio's beginning equity (\$1,000,000). This difference was being amortized by the Company over the estimated life of the contributed technology (5 years) as a reduction to its share of Agbio's net losses. The investment balance remained at zero throughout 2001 and 2000.

On December 14, 2001, the Company purchased the remaining 50% of Agbio from the other investor for an aggregate of 925,000 shares of the Company's common stock valued at \$6.53 per share. In addition, 25,391 options to purchase the Company's common stock were issued to replace existing Agbio options.

The acquisition of the remaining shares was accounted for as a purchase. Accordingly, the results of operations of Agbio have been included in the consolidated financial statements since December 14, 2001, the effective date of the acquisition. Additionally, 50% of Agbio's losses from January 1, 2001 through December 14, 2001, have been included as a credit to equity in losses from joint ventures. A credit was also recorded directly to retained earnings for 50% of the net worth of Agbio through December 31, 2000.

The purchase price of \$6.2 million was allocated to the acquired assets and assumed liabilities on the basis of their estimated fair values as of the date of the acquisition, as determined by an independent appraisal.

Based on unaudited data, the following table presents selected financial information for the Company on a pro forma basis, assuming Agbio had been 100% owned and consolidated since January 1, 2000:

	YEARS ENDED DECEMBER 31	
	2001	2000
Net revenues.....	\$ 34,473,491	\$ 11,531,181
Net loss applicable to common shareholders.....	(37,933,490)	(44,426,818)
Net loss per share.....	\$ (1.04)	\$ (2.95)

The pro forma net loss includes an estimation of amortization of identifiable intangible assets and goodwill that would have been recorded had the transaction taken place at the beginning of the period being reported using a useful life of 7 years.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

4. LONG-TERM DEBT

Long-term debt is as follows:

	DECEMBER 31	
	2002	2001
	-----	-----
Note payable.....	\$9,500,000	\$ --
Equipment loans, paid in 2002.....	--	6,532,386
Other.....	28,485	52,593
	-----	-----
	9,528,485	6,584,979
Less current portion.....	9,515,152	2,618,359
	-----	-----
	\$ 13,333	\$3,966,620
	=====	=====

The Company has a \$9,500,000 note payable with a bank due on July 31, 2003, bearing interest at rates tied to LIBOR (2.184% at December 31, 2002) payable monthly. The borrowings under the note payable are secured by short-term investments, consisting of certificates of deposit, of \$9,665,000.

5. SHAREHOLDERS' EQUITY

INITIAL PUBLIC OFFERING

In February 2001, the Company completed an initial public offering of 7,500,000 shares of common stock at a price of \$11.00 per share (excluding underwriters' discounts and commissions), generating gross proceeds of approximately \$82.5 million and net proceeds of \$74.8 million, after deducting an aggregate of \$7.7 million in underwriting discounts, commissions, and other offering related expenses. All shares of Convertible Preferred Stock outstanding as of the closing date of the offering were automatically converted into shares of common stock. No dividends were paid on any of the Convertible Preferred Stock.

Subsequent to the commencement of the Company's initial public offering process, the Company reevaluated the deemed fair market value of its common stock as of July 2000 and determined it to be \$11.90 per share. The Series F convertible preferred stock was issued at about the same time for \$8.78 per share. The \$17,022,824 aggregate excess of the fair value of the "if-converted" stock over the preferred common stock conversion price was allocated to paid-in capital and created a discount on the preferred stock. That discount was immediately amortized to paid-in capital (due to a lack of retained earnings) and was considered a deemed dividend for loss-per-share purposes. For all other classes of preferred stock, the conversion price was greater than or equal to the fair value of the "if-converted" common stock.

STOCK PURCHASE PLAN

The Company has an Employee Stock Purchase Plan (Purchase Plan) under which an aggregate of 856,800 common shares may be issued. The Purchase Plan also provides for annual increases in the number of shares available for issuance, beginning in 2001, equal to the lesser of 1% of the outstanding shares of common stock on the first day of the fiscal year, 428,400 shares or an amount determined by the Board of Directors. During the years ended December 31, 2002 and 2001, 122,423 and 28,069 shares, respectively, were issued. Employees are eligible to participate in the Purchase Plan if they work at least 20 hours per week and more than five months in any calendar year. Eligible employees may make contributions through payroll deductions of up to 10% of their compensation. The price of common stock purchased under the Purchase Plan is 85% of the lower of the fair market value of the common stock at the beginning or end of the offering period. The Plan is considered noncompensatory under APB Opinion No. 25 and, therefore, no expense is recorded for the 15% discount.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

STOCK OPTION PLANS

The Company has Incentive Stock Option Plans for its employees and Nonqualified Stock Option Plans (the Plans) for employees and non-employees under which an aggregate of 9,913,183 options may be granted. Annual increases in the number of shares available for issuance are allowed beginning in 2001, limited to the lesser of 4.5% of the outstanding shares of common stock on the first day of the fiscal year, 2,571,600 shares or an amount determined by the Board of Directors. During 2002 and 2001, 1,771,831 and 1,338,552 additional shares, respectively, were authorized for grant. Options under the Plans have a maximum life of ten years. Options vest at various intervals, as determined by the Board of Directors at the date of grant.

The rollforward of shares available for grant through December 31, 2002, is as follows:

Shares available for grant at December 31, 2000.....	2,744,100
Options granted.....	(1,486,890)
Options forfeited.....	100,260
Increase in options available for grant.....	1,338,552
Options assumed in Agbio acquisition.....	(25,391)

Shares available for grant at December 31, 2001.....	2,670,631
Options granted.....	(2,307,950)
Options forfeited.....	667,075
Increase in options available for grant.....	1,771,831

Shares available for grant at December 31, 2002.....	2,801,587
	=====

The Company's option activity is as follows:

	NUMBER OF SHARES	WEIGHTED-AVERAGE EXERCISE PRICE
	-----	-----
Outstanding at December 31, 1999.....	1,851,600	\$1.97
Granted.....	1,998,000	8.30
Exercised.....	(489,600)	0.79
Forfeited.....	(59,700)	2.92
	-----	-----
Outstanding at December 31, 2000.....	3,300,300	5.96
Granted.....	1,486,890	8.48
Options assumed in Agbio acquisition.....	25,391	1.10
Exercised.....	(149,200)	2.48
Forfeited.....	(100,260)	7.92
	-----	-----
Outstanding at December 31, 2001.....	4,563,121	6.85
Granted.....	2,307,950	2.31
Exercised.....	(63,137)	0.84
Forfeited.....	(667,075)	5.39
	-----	-----
Outstanding at December 31, 2002.....	6,140,859	\$5.35
	-----	-----
Exercisable at December 31, 2002.....	2,516,468	\$5.76
	=====	=====

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

	NUMBER OF SHARES OUTSTANDING AT DECEMBER 31, 2002	REMAINING CONTRACTUAL LIFE	NUMBER OF SHARES EXERCISABLE AT DECEMBER 31, 2002
	-----	-----	-----
Options granted between \$0.27 and \$1.11.....	382,500	3.2	382,500
Options granted between \$1.11 and \$2.21.....	1,551,200	9.5	5,000
Options granted between \$2.21 and \$3.32.....	401,400	6.4	249,900
Options granted between \$3.32 and \$4.42.....	822,154	7.2	529,254
Options granted between \$5.53 and \$6.64.....	647,525	8.7	165,714
Options granted between \$6.64 and \$7.74.....	40,500	8.8	5,372
Options granted between \$7.74 and \$8.85.....	1,769,850	7.7	1,026,710
Options granted between \$8.85 and \$9.96.....	13,550	7.5	8,787
Options granted between \$9.96 and \$11.06.....	512,180	8.4	143,231
	-----		-----
	6,140,859		2,516,468
	=====		=====

From August 1, 1999 through December 31, 1999, and from January 1, 2000 to December 31, 2000, options to purchase 238,800 and 165,600 shares of common stock, respectively, were granted to employees with an exercise price of \$3.37 per share. From January 1, 2000 to December 31, 2000, and from January 1, 2001 to February 9, 2001, options to purchase 1,818,000 and 56,400 shares of common stock were granted to employees with an exercise price of \$8.78 per share. As a result of these option grants having exercise prices below what was considered the fair value of the underlying stock, the Company recorded deferred compensation of \$103,478 and \$7,610,857 in 2001 and 2000, respectively. The Company amortized to expense \$994,078 in 2002, \$2,812,276 in 2001 and \$3,575,677 in 2000 using an accelerated vesting method whereby each of the years' vesting components is amortized over its own vesting period. During 2002, the Company extended the exercise period for certain option grants. Accordingly, options that were fully vested at the new measurement date were expensed based upon their new intrinsic value and options not yet vested were recorded as unearned stock compensation at the end of the reporting period based upon the fair value of the options as calculated using the Black-Scholes option-pricing model. Such unvested options will continue to be revalued at the end of each succeeding reporting period until fully vested, with compensation expense recorded over the remaining vesting period. Expense recorded in 2002 was \$102,749.

Included in operating expenses are the following stock compensation charges, net of reversals related to terminated employees:

	YEAR ENDED DECEMBER 31		
	2002	2001	2001
	-----	-----	-----
Cost of goods sold.....	\$ 163,590	\$ 540,076	\$ 890,995
Research and development.....	98,753	270,920	228,990
Selling and marketing.....	31,781	123,529	469,453
General and administrative.....	802,703	1,877,751	1,986,239
	-----	-----	-----
	\$1,096,827	\$2,812,276	\$3,575,677
	=====	=====	=====

The weighted-average fair value of options granted in 2002, 2001 and 2000 was \$1.73, \$5.73 and 2.34, respectively, using the minimum value option-pricing model for option grants made prior to the Company's initial public offering and the Black-Scholes option-pricing model for grants made subsequent to such offering. The calculations were made assuming a dividend yield of 0%, a weighted-average expected option life of five years and a weighted-average risk-free interest rate of 4.0%, 5.5% and 5.5% for the years ended December 31,

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

2002, 2001 and 2000, respectively. The volatility factor used in the Black-Scholes method for 2002 and the period subsequent to the initial public offering in 2001 was .97 and .90, respectively.

6. INCOME TAXES

The types of temporary differences between tax bases of assets and liabilities and their financial reporting amounts that give rise to the deferred tax asset (liability) and their approximate tax effects are as follows:

	DECEMBER 31	
	2002	2001
Deferred tax assets:		
Patent expense.....	\$ 952,000	\$ 732,000
Stock compensation expense.....	887,000	368,000
Deferred revenue.....	378,000	981,000
Inventory obsolescence.....	1,220,000	1,072,000
Accrued liabilities.....	1,939,000	48,000
Equipment and leasehold improvements.....	924,000	924,000
Other.....	196,000	70,000
Net operating loss carryforwards.....	41,187,000	31,146,000
	-----	-----
	47,683,000	35,341,000
Deferred tax liability -- intangible assets.....	(2,862,000)	(3,635,000)
	-----	-----
Net deferred tax asset.....	44,821,000	31,706,000
Valuation allowance.....	(44,821,000)	(31,706,000)
	-----	-----
	\$ --	\$ --
	=====	=====

At December 31, 2002, the Company had net operating loss carryforwards of approximately \$103 million for U.S. federal and state tax purposes, which expire beginning in 2008. In the event of a change in ownership greater than 50% in a three-year period, utilization of the net operating losses may be subject to a substantial annual limitation due to the ownership change limitations provided by the Internal Revenue Code of 1986 and similar state provisions.

7. LEASE OBLIGATIONS

The Company leases its corporate facilities under an operating lease effective through September 2011. The Company has the option to extend the lease for three additional five-year periods. The lease agreement requires the Company to provide the landlord an irrevocable standby letter of credit of \$1,300,000, which is collateralized by a certificate of deposit included in short-term investments. In 2000, the Company prepaid \$1 million of rent payments. The prepaid rent will be utilized over the remaining life of the lease. Rent expense is being recorded by the Company on a straight-line basis over the amended lease term. At December 31, 2002, long-term other assets includes \$1,218,000 of prepaid rent and other long-term liabilities includes \$174,000 of deferred rent.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

Future minimum lease payments by year are as follows:

2003.....	\$ 1,904,000
2004.....	1,670,000
2005.....	2,114,000
2006.....	2,198,000
2007.....	2,286,000
Thereafter.....	9,429,000

Total minimum lease obligations.....	\$19,601,000
	=====

The Company has one other leased operating facility effective through October 2003. In connection with the restructuring described in Note 8, the Company has vacated the facility and does not anticipate any sublease income. The remaining lease payments are included in the restructuring accrual.

Rent expense was approximately \$2,473,000, \$1,713,000 and 779,000 in 2002, 2001 and 2000, respectively.

The Company entered into two capital leases during 2001 for the sale and leaseback of certain equipment totaling approximately \$5.1 million. The Company paid these obligations in 2002.

8. RESTRUCTURING AND OTHER CHARGES

During the third quarter of 2002, the Company announced a restructuring plan designed to simplify product development and manufacturing operations and reduce operating expenses. The restructuring charges recorded were determined based upon plans submitted by the Company's management and approved by the Board of Directors using information available at the time. The third quarter restructuring charge included \$2.2 million for the consolidation of facilities, \$500,000 for prepayment penalties mainly under capital lease arrangements, an impairment charge of \$10.8 million for abandoned leasehold improvements and equipment to be sold or abandoned and \$900,000 of other costs related to the restructuring. The Company also recorded a \$1.1 million charge within cost of goods sold related to inventory that was considered obsolete based upon the restructuring plan.

During the fourth quarter of 2002, the Company completed an auction to sell equipment held for sale resulting from the restructuring. The auction resulted in significantly higher proceeds than the Company had anticipated in the third quarter of 2002. Accordingly, a credit of \$3.6 million was recorded as an offset to the restructuring charge in the fourth quarter of 2002. Assets held for sale on the balance sheet represent equipment that the Company continues to attempt to sell, written down to its estimated fair value. The Company also amended its corporate lease agreement during the fourth quarter of 2002, which resulted in an increase to the facilities charge of \$300,000. The facilities charge contains estimates based upon the Company's potential to sublease a portion of its corporate office for a portion of the remaining lease term. Actual results may differ from these estimates, which could require adjustments to the restructuring accrual in future periods.

The following table shows the components of the restructuring and other charges and changes in the restructuring accrual through December 31, 2002. The remaining facilities balance of \$2.1 million included in the restructuring accrual is primarily related to rent payments on non-cancelable leases, net of estimated sublease income, which will continue to be paid over the respective lease terms through 2011. The current portion of the accrual is included in accrued expenses and other liabilities on the balance sheet and the long-term portion is

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

included in other liabilities. The other component of the restructuring accrual mainly represents amounts owed resulting from the termination of non-cancelable purchase orders for equipment.

	FACILITIES	EQUIPMENT AND LEASEHOLD IMPROVEMENTS DISPOSALS	PREPAYMENT PENALTIES	OTHER	TOTAL
	-----	-----	-----	-----	-----
Charge in September 2002.....	\$2,165,652	\$ 10,788,885	\$ 494,930	\$ 859,888	\$ 14,309,355
Payments made.....	(312,400)	--	(469,300)	--	(781,700)
Non-cash charges.....	--	(10,788,885)	(25,630)	(140,290)	(10,954,805)
Adjustments to the September 2002 charge in the fourth quarter of 2002.....	304,786	(3,612,890)	--	85,982	(3,222,122)
Non-cash credit.....	--	3,612,890	--	--	3,612,890
Accrued restructuring balance at December 31, 2002.....	\$2,158,038	\$ --	\$ --	\$ 805,580	\$ 2,963,618
	=====	=====	=====	=====	=====

9. LICENSE AGREEMENTS

The Company entered into an exclusive license agreement (research license) in March 1994 to make, use and sell products utilizing the licensed patents in the research market. Under the research license, the Company is required to pay a royalty at a rate not to exceed a certain percentage of the selling price on licensed component sales. There have been no sales of licensed components through December 31, 2002. The research license will continue until the licensed patents expire or until the agreement is terminated by either party, whichever is earlier, as defined in the agreement. The Company also entered into an equity agreement with the licensor in March 1994 whereby it issued 115,200 shares of common stock in exchange for the research license and diagnostic market option, which is an exclusive license agreement to make, use and sell products utilizing the licensed patents in the diagnostic market. In October 1998, the Company issued 103,200 shares to the licensor to exercise the diagnostic market option. The shares issued in 1994 and 1998 were valued at amounts considered to approximate the fair value of common stock at the time of each issuance.

Under this agreement, the Company granted the licensor a put option to sell a specified number of shares back to the Company anytime after March 1, 1998. The total number of shares that can be put to the Company cannot exceed the number of shares necessary to achieve a purchase price of \$200,000. At December 31, 2002, the price per share to be paid if the put option is exercised is \$3.37. Accordingly, the Company has classified \$200,000 of additional paid-in capital outside of shareholders' equity in the accompanying balance sheets.

In October 2001, the Company entered into a development, license and supply agreement with RIKEN, Inc. (RIKEN). The Company licensed certain patent rights relating to polymorphism genes that encode drug metabolizing enzymes from RIKEN for a nonrefundable fee which is being amortized over its estimated useful life (7.5 years). The Company also pays royalties based upon net sales of licensed products in exclusive and nonexclusive territories.

10. COLLABORATIVE AGREEMENTS

In August 1997, the Company entered into a product development and marketing agreement with Endogen Corporation (Endogen), a leading manufacturer and distributor of reagents supplied to the research market.

Endogen received from the Company an exclusive license to develop and market unregulated nonhuman cytokine and chemokine tests to the life science research and pharmacogenomics markets. The Company

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

retained all rights to regulated product applications which are developed as a result of the agreement. Initial products were shipped to Endogen in 1999. In addition to the retained rights to regulated product applications, the Company obtained a commitment to receive funding of 50 percent of expenditures incurred in the development of the gene expression monitoring tests, to a maximum of \$1,050,000, paid over a 36-month period which commenced December 1, 1997, based upon a predetermined schedule of employment and work load sharing. The Company terminated the product development and marketing agreement on January 21, 2000, agreeing to pay \$8,000,000 to Endogen, consisting of \$2,000,000 in cash and \$6,000,000 payable under a three-year note bearing interest at 6%. The \$8,000,000 was initially capitalized as an intangible asset (i.e., reacquired marketing and distribution rights) in connection with a pending merger with another company. However, the pending merger transaction was terminated in May 2000, which triggered an impairment evaluation of the intangible asset. The impairment evaluation resulted in the recognition of a \$5,788,889 impairment loss.

In December 2000, the Company entered into a development and commercialization agreement with BML, Inc. (BML). Under this agreement, the Company is developing assays in accordance with a mutually agreed development program for use in clinical applications by BML; such development is expected to be complete by the end of 2003.

The agreement may be terminated by BML on six months written notice given on or after June 30, 2003. In 2000, BML paid the Company a nonrefundable fee of \$3 million, which is being recognized as revenue on a straight-line basis over the expected term of development services being performed by the Company. The Company recorded revenue from BML of \$1,000,000, \$1,000,000 and \$83,333 in 2002, 2001 and 2000, respectively. The Company deferred revenue recognition of \$916,667 at December 31, 2002. Additionally, in 2002 and 2001, BML paid the Company \$642,000 and \$2,000,000 for specified services performed in these respective years, which was recognized as revenue as the services were performed.

On October 16, 2002, the Company entered into a license and supply agreement with Aclara Biosciences, Inc. (Aclara) under which Aclara has the non-exclusive right to incorporate the Company's Invader(TM) technology and Cleavase(R) enzyme with Aclara's eTag(TM) technology to offer the eTag Assay System for multiplexed gene expression applications for the research market. In exchange, Aclara made certain upfront payments and will make royalty payments to the Company on sales of eTag-Invader gene expression assays. The Company has also provided Aclara with certain manufacturing materials for use in manufacturing Invader products. In connection with this agreement, the Company recorded revenue of \$1,500,000 in 2002 related to the license granted to Aclara. In addition, \$2,780,000 of revenue was recognized for product shipped to Aclara during 2002.

11. 401(K) PLAN

The Company has a 401(k) savings plan (the Plan) which covers substantially all employees. Through September 30, 2000, the Plan did not allow for Company contributions. Effective October 1, 2000, the Plan provides for Company contributions of 50% of employee contributions up to 6% of their compensation. Company contributions to the plan were approximately \$331,000, \$316,000 and \$64,000 in 2002, 2001 and 2000, respectively.

12. TERMINATION OF MERGER

In January 2000, the Company entered into an agreement to merge with Applied Biosystems. In May 2000, the Company and Applied Biosystems agreed to terminate the merger agreement. Merger related costs charged to expense were \$833,254 in 2000.

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

13. LITIGATION SETTLEMENT

In October 2000, the Company entered into a settlement and release agreement with ID Biomedical Corporation (ID) related to a patent infringement lawsuit filed by ID in September 2000. In return for a cash payment to ID of \$4,000,000 and 545,454 shares of common stock issued to ID valued at the initial public offering price of \$11 per share, the patent infringement lawsuit was dismissed and ID agreed not to sue the Company, its affiliates, distributors, customers and any others for patent infringement or otherwise with respect to the manufacture, use or sale of the Company's Invader products. Legal costs associated with the settlement of this case were \$533,248. Total litigation settlement costs of \$10,533,248 were capitalized as an intangible asset and are being amortized to cost of goods sold over seven years, the period during which the benefits are expected to be realized.

14. SEGMENT DISCLOSURE

The Company operates in one industry segment. Product revenues to international end-users accounted for 70%, 87% and 82% of product revenues in 2002, 2001 and 2000, respectively. All customers were billed in U.S. dollars during 2000. At December 31, 2002 and 2001, \$695,000 and \$91,907, respectively, of receivables are denominated in Yen. Product revenues by geographic area for the years ended December 31, 2002, 2001 and 2000, were as follows:

	2002	2001	2000
	-----	-----	-----
United States.....	\$ 8,700,680	\$ 3,868,909	\$ 1,936,738
Japan.....	19,865,716	26,386,919	7,848,699
Other.....	314,546	149,227	1,106,002
	-----	-----	-----
	\$28,880,942	\$30,405,055	\$10,891,439
	=====	=====	=====

THIRD WAVE TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS -- (CONTINUED)

15. QUARTERLY FINANCIAL DATA (UNAUDITED)

The following sets forth selected quarterly financial and stock price information for the years ended December 31, 2002 and 2001 (in thousands). The operating results are not necessarily indicative of results for any future period.

	QUARTER ENDED			
	MARCH 31	JUNE 30	SEPTEMBER 30	DECEMBER 31
2002:				
Net revenues.....	\$10,127	\$ 9,588	\$ 5,023	\$ 7,617
Gross margin.....	2,450	2,986	603	4,996
Net loss.....	(7,318)	(6,128)	(26,932) (1)	(486) (2)
Basic and diluted net loss per share...	\$ (0.19)	\$ (0.16)	\$ (0.68)	\$ (0.01)
Common stock price per share:				
High.....	\$ 7.65	\$ 4.31	\$ 2.35	\$ 3.11
Low.....	3.09	2.13	1.35	1.32
2001:				
Net revenues.....	\$11,173	\$ 8,694	\$ 8,188	\$ 6,038
Gross margin (loss).....	1,086	1,836	1,823	(3,399)
Net loss.....	(5,865)	(6,632)	(7,418)	(16,877) (3)
Basic and diluted net loss per share...	\$ (0.20)	\$ (0.17)	\$ (0.19)	\$ (0.44)
Common stock price per share:				
High.....	11.00	11.00	10.19	8.85
Low.....	5.38	5.10	5.01	6.26

Common stock price per share is not presented from January 1, 2001 to February 8, 2001, because the common stock was not yet publicly traded.

(1) Net loss during the quarter ended September 30, 2002, included an increase in the reserve for excess and obsolete inventory of \$1,134,000 (see Note 8) (classified in cost of goods sold); a restructuring charge of \$14,309,000 (see Note 8) and an impairment loss of \$4,810,000 (see Note 2).

(2) Net loss during the quarter ended December 31, 2002, included a reduction in the restructuring charge recorded in the quarter ended September 30, 2002 of \$3,222,000 (see Note 8).

(3) Net loss during the quarter ended December 31, 2001, included an increase in the reserve for excess and obsolete inventory of \$2,180,000 (classified in cost of goods sold) and an equipment impairment charge of \$2,970,000 (classified in general and administrative expenses).

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

The Company incorporates by reference the information required by this Item from the Company's definitive proxy statement for its annual meeting of shareholders scheduled to be held on June 10, 2003 (the "Proxy Settlement"), which will be filed with the Securities and Exchange Commission pursuant to Regulation 14A not later than 120 days after the end of the Company's fiscal year.

ITEM 11. EXECUTIVE COMPENSATION

The Company incorporates by reference the information required by this Item from the Proxy Statement.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The Company incorporates by reference the information required by this Item from the Proxy Statement.

Information required with respect to the securities authorized for issuance under the Company's equity compensation plans, including plans that have previously been approved by the Company's stockholders and plans that have not previously been approved by the Company's stockholders, will be set forth in the Proxy Statement, and such information is incorporated by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The Company incorporates by reference the information required by this Item from the Proxy Statement.

ITEM 14. CONTROLS AND PROCEDURES

The Company's management, including its chief executive officer and chief financial officer, have, within 90 days prior to the date of this annual report, conducted an evaluation of effectiveness of the Company's disclosure controls and procedures pursuant to the Rule 13a-14(c) and 15d-14(c) of the Securities and Exchange Act of 1934. Based on that evaluation, the chief executive officer and chief financial officer concluded that the disclosure controls and procedures are effective in ensuring that all material information required to be filed in this annual report has been made known to them in a timely fashion. There have been no significant changes in internal controls, or in factors that could significantly affect internal controls, subsequent to the date the chief executive officer and chief financial officer completed their evaluation.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K

(a) Documents Filed as a Part of this Report.

1. Financial Statements. The financial statements required to be filed as part of this Report are listed on page 34.
2. Financial Statement Schedules. The financial statement schedules required to be filed as part of this Report are listed on page 34.
3. Exhibits. The exhibits required to be filed as a part of this Report are listed in the Exhibit Index.

(b) Reports on Form 8-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 31, 2003.

THIRD WAVE TECHNOLOGIES, INC.
(Registrant)

By: /s/ LANCE FORS

Lance Fors
President and Chief Executive
Officer

POWER OF ATTORNEY

We, the undersigned directors and executive officers of Third Wave Technologies, Inc., hereby severally constitute and appoint of John A. Comerford our true and lawful attorney and agent, with full power to them and each of them to sign for us, and in our names in the capacities indicated below, any and all amendments to the Annual Report on Form 10-K of Third Wave Technologies, Inc. filed with the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys to any and all amendments to said Annual Report on Form 10-K. Pursuant to the requirements of the Securities and Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on dates indicated.

SIGNATURE -----	TITLE -----	DATE -----
/s/ LANCE FORS ----- Lance Fors	President, Chief Executive Officer and Director	March 31, 2003
/s/ JOHN PUISIS ----- John Puisis	COO/CFO (Principal Financial Officer)	March 31, 2003
/s/ DAVID NUTI ----- David Nuti	VP Finance & Operations (Principal Accounting Officer)	March 31, 2003
/s/ GORDON F. BRUNNER ----- Gordon F. Brunner	Director	March 27, 2003
/s/ G. STEVEN BURRILL ----- G. Steven Burrill	Director	March 26, 2003
/s/ TOM DANIEL ----- Tom Daniel	Director	March 28, 2003
/s/ SAM ELETR ----- Sam Eletr	Director	March 28, 2003
/s/ KENNETH R. MCGUIRE ----- Kenneth R. McGuire	Director	March 29, 2003

SIGNATURE -----	TITLE -----	DATE -----
/s/ JOHN NEIS ----- John Neis	Director	March 28, 2003
/s/ LLOYD M. SMITH ----- Lloyd M. Smith	Director	March 27, 2003
/s/ DAVID A. THOMPSON ----- David A. Thompson	Director	March 27, 2003

CERTIFICATIONS

I, Lance Fors, Chief Executive Officer of Third Wave Technologies, Inc. (the "registrant") certify that:

1. I have reviewed this Annual Report on Form 10-K of the registrant;
2. Based on my knowledge, this annual 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 annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual 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 annual 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-14 and 15d-14) for the registrant and have:
 - (a) designed such disclosure controls and procedures 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 annual report is being prepared;
 - (b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and
 - (c) presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - (a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officer and I have indicated in this annual report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

By: /s/ LANCE FORS

Lance Fors,
Chief Executive Officer

Date: March 31, 2003

CERTIFICATIONS

I, John PUISIS, Chief Financial Officer of Third Wave Technologies, Inc. (the "registrant") certify that:

1. I have reviewed this Annual Report on Form 10-K of the registrant;
2. Based on my knowledge, this annual 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 annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual 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 annual 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-14 and 15d-14) for the registrant and have:
 - (a) designed such disclosure controls and procedures 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 annual report is being prepared;
 - (b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and
 - (c) presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - (a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officer and I have indicated in this annual report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

By: /s/ JOHN PUISIS

John PUISIS
Chief Financial Officer

Date: March 31, 2003

EXHIBIT INDEX

Certain of the following exhibits, as indicated parenthetically, were previously filed as exhibits to registration statements filed by the Company under the Securities Act of 1933, as amended (the "Securities Act"), or to reports or registration statements filed by the company under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and are hereby incorporated by reference to such statements or reports. The Company's Exchange Act file number is 000-31745.

Exhibits marked with an asterisk (*) indicate portions of the exhibit have received confidential treatment. Exhibits marked with a double asterisk (**) are filed herewith. Exhibits marked with a triple asterisk (***) indicate a management contract or compensatory plan or arrangement.

EXHIBIT NO. -----	DESCRIPTION -----	INCORPORATED BY REFERENCE TO -----
3.1	Amended and Restated Certificate of Incorporation of the Registrant, dated as of August 16, 2000	Exhibit 3.1(b) to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
3.2	Amended and Restated Bylaws of the Registrant, dated as of February 9, 2001	Exhibit 3.2(b) to the Registrant's Registration Statement on Form 8-A, File No. 000-31745, filed on November 30, 2001
4.1	Investors' Rights Agreement, dated as of July 24, 2000	Exhibit 4.2 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
4.2	Rights Agreement between the Registrant and EquiServe Trust Company N.A., dated as of October 24, 2001	Exhibit 4.9 to the Registrant's Registration Statement on Form 8-A, File No. 000-31745, filed on November 30, 2001
4.3	Amendment No. 1 to the Rights Agreement between the Registrant and EquiServe Trust Company N.A., dated February 18, 2003	Exhibit 4.2 to the Registrant's Registration Statement on Form 8-A/A, File No. 000-31745, filed on February 19, 2003
10.1***	Incentive Stock Option Plan	Exhibit 10.1 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.2***	1997 Incentive Stock Option Plan	Exhibit 10.2 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.3***	1997 Nonqualified Stock Option Plan	Exhibit 10.3 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.4***	1998 Incentive Stock Option Plan	Exhibit 10.4 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.5***	1999 Incentive Stock Option Plan	Exhibit 10.5 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.6***	1999 Nonqualified Stock Option Plan	Exhibit 10.6 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended

EXHIBIT NO. -----	DESCRIPTION -----	INCORPORATED BY REFERENCE TO -----
10.7***	2000 Stock Plan	Exhibit 10.7 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.8***	2000 Employee Stock Purchase Plan	Exhibit 10.8 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.9***	Form of Director and Executive Officer Indemnification Agreement	Exhibit 10.9 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.10**	Lease Agreement, dated as of April 1, 1997, between the Registrant and University Research Park Facilities Corp. and amendment, dated as of September 1, 2001	Exhibit 10.18 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.11**	Amendment to Lease between Registrant and University Research Park Facilities Corp. dated as of September 1, 2002	
10.12	Lease, dated as of October 30, 2000, between the Registrant and LCB, LLC	Exhibit 10.25 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.13	Development and Commercialization Agreement, dated as of December 29, 2000, between the Registrant and BML, Inc.	Exhibit 10.26 to the Registrant's Registration Statement on Form S-1, Registration No. 333-42694, filed on July 31, 2000, as amended
10.14	License Agreement dated as of October 15, 2002 between Registrant and Aclara Biosciences, Inc.	
21**	List of Subsidiaries	
23**	Consent of Ernst & Young LLP	
24**	Powers of Attorney (contained in the signature page hereto)	
99.1**	Certification of the Chief Executive Officer Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	
99.2**	Certification of the Chief Financial Officer Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	

SCHEDULE II: VALUATION AND QUALIFYING ACCOUNTS
YEARS ENDED DECEMBER 31, 2002, 2001, AND 2000

DESCRIPTION -----	BALANCE AT BEGINNING OF YEAR -----	ADDITIONS CHARGED (CREDITED) TO EXPENSE -----	(1) DEDUCTIONS -----	BALANCE AT END OF YEAR -----
		(DOLLARS IN THOUSANDS)		
Allowance for doubtful accounts receivable:				
2000.....	\$ 56 =====	\$ 3 =====	\$ 0 =====	\$ 59 =====
2001.....	\$ 59 =====	\$ 116 =====	\$ 0 =====	\$ 175 =====
2002.....	\$ 175 =====	\$ 455 =====	\$ 165 =====	\$ 465 =====
Allowance for excess and obsolete inventory:				
2000.....	\$ 155 =====	\$ 105 =====	\$ 0 =====	\$ 260 =====
2001.....	\$ 260 =====	\$2,420 =====	\$ 0 =====	\$2,680 =====
2002.....	\$2,680 =====	\$2,015 =====	\$1,645 =====	\$3,050 =====

(1) Represents amounts written off or disposed, net of recoveries.

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AMENDMENT ONE TO LEASE

THIS AMENDMENT ONE TO LEASE ("Amendment") is made by and between University Research Park, Inc., a Wisconsin non-stock corporation (hereinafter referred to as "URP" or "Landlord"), as successor by merger to University Research Park Facilities Corp. (hereinafter referred to as "URPFC"), and Third Wave Technologies, Inc., a Wisconsin corporation (hereinafter referred to as "Tenant").

- A. On September 1, 2001, URPFPC entered into an Amended and Restated Lease Agreement (the "Lease Agreement") with Tenant for approximately 94,726 square feet of space in a building located at 502 South Rosa Road, Wisconsin 53711 (the "Leased Premises").
- B. Effective December 31, 2001, URPFPC and URP merged, with URP as the surviving corporation and successor to all of URPFPC's rights and obligations, including as Landlord under the Lease Agreement.
- C. Landlord and Tenant wish to modify certain provisions of the Lease Agreement.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each party, the following amendments to the Lease Agreement are hereby agreed to, effective September 1, 2002 (the "Effective Date").

1. Section 1.4 of the Lease Agreement is deleted in its entirety.

2. Section 1.5 of the Lease Agreement is deleted in its entirety and restated as follows:

SECTION 1.5 SECURITY DEPOSIT. Tenant shall maintain with Landlord a security deposit in the form of a cash (or equivalent) deposit or acceptable letter of credit, in the amount of the lesser of \$1,300,000 or the amount which is then payable as the Improvement Prepayment amount, as shown on Exhibit C, attached. This security shall secure all of the Tenant's obligations under this Lease Agreement or arising in the event of the Tenant's default.

The cash deposit shall consist of one, or a combination of, (i) deposit accounts, certificates of deposit or banker's acceptances issued by an bank organized under the laws of the U.S. or any state thereof, with capital and undivided surplus of no less than \$100,000,000.00 and a rating by Moody's of its unsecured debt securities of no less than A, provided that such obligations mature within 365 days from the date of acquisition thereof; (ii) Investments in United States treasury securities, provided that such securities mature within 365 days from the date of acquisition thereof; (iii) investments in commercial paper given the highest rating by a credit rating agency of recognized national standing and maturing not more than 270 days from the date of creation thereof; (iv) investments in mutual funds which are required to invest only in the foregoing. In each case the deposit shall be the subject of a pledge or security interest in favor of Landlord, and no other

security interests or encumbrances, in form and substance satisfactory to Landlord.

The letter of credit shall be issued by a bank organized under the laws of the U.S. or any state thereof, with capital and undivided surplus of no less than \$100,000,000.00 and a rating by Moody's of its unsecured debt securities of no less than A, shall have an initial term of no less than one year, and shall enable the Landlord to draw upon it to satisfy any obligations of the Tenant under this Lease Agreement or to establish a cash security deposit account if the Landlord is not furnished with a renewal of the letter of credit within fifteen (15) days before the expiration date of the letter of credit then held.

3. Section 2.1 of the Lease Agreement is deleted in its entirety and restated as follows:

SECTION 2-1 BASE RENT, PREPAYMENT. Tenant shall pay to Landlord at its office in Madison, Wisconsin, or such other place as Landlord may designate in writing, and without any deduction or offset whatsoever, as base rent, the amounts on or in advance of the first day of each calendar month as shown on the rent schedule attached hereto as Exhibit C.

In the event that the interest rate on the Landlord's financing for the improvements covered by the Improvements rent, which is now 5.04% per annum, increases at its scheduled adjustment date, in March, 2005, the Landlord may give written notice to the Tenant, transmitting a revised Exhibit C, reflecting an increase in the Improvement rent. The increase in the amount of rent shall be equal to the increase in the amount of the Landlord's payments on its underlying financing for the improvements, using the same period of amortization as now applicable to the financing. Upon giving such notice the Improvement rent shall be deemed adjusted to the amount shown on the revised Exhibit C.

The Tenant may prepay all, but not less than all of the portion of base rent denominated on Exhibit C as the Improvement rent and the Deferred Base rent by paying the discounted amount shown on Exhibit C as the Improvement Prepayment Amount and the Deferred Base Prepayment Amount on or before September 1 of the year for which such prepayment amount is indicated. On and after the date of such prepayment no further Deferred Base or Improvement rent payments, as applicable, shall be required. The Improvement rent may not be so-prepaid unless the Deferred Base rent has previously been or is concurrently being repaid.

Exhibit C of the Lease Agreement is deleted in its entirety and restated as Exhibit C in the form attached hereto.

4. Section 4.3 of the Lease Agreement is deleted in its entirety and restated as follows:

SECTION 43 ASSIGNMENT OR SUBLETTING. Tenant agrees not to sell, assign, mortgage, pledge or in any manner transfer this Lease or any estate or interest there under and not to sublet the Leased Premises or any part or parts thereof without the prior written consent of Landlord in each instance which consent shall not be unreasonably withheld. Consent by Landlord to one assignment of this Lease or to one licensing or subletting of the Leased Premises shall not be a waiver of Landlord's rights hereunder as to subsequent assignment or subletting. Landlord's rights to assign this Lease are and shall remain unqualified. For any assignment or sublease of 20,000 square feet or more in a single or series of related transactions, (i) the Landlord shall not be required to consent in any event unless the Tenant shall concurrently pay the applicable Improvement Prepayment Amount and Deferred Base Prepayment Amount (or a comparably calculated amount for an assignment date that is in a month other than during a month for which a prepayment amount is shown), as shown on Exhibit C, attached, and (ii) the Landlord shall have the option to elect to enter into a new lease, directly with the proposed assignee or subtenant, on the same terms and conditions as the proposed sublease or assignment.

5. This Amendment shall not be effective until Tenant establishes the security deposit provided for in section 1.5, as amended. If the security deposit is not established on or before December 30, 2002, this amendment shall be void and of no effect.

6. Tenant shall promptly upon request reimburse Landlord for all of its costs and expenses incurred in connection with this Amendment.

7. ALL OTHER TERMS AND CONDITIONS OF THE LEASE AGREEMENT, AS AMENDED, SHALL

LANDLORD: UNIVERSITY RESEARCH PARK, INC.

BY: /s/ Mark D. Bugher

Mark D. Bugher, Assistant
Secretary/Treasurer
Date: 12/20/2002

TENANT: THIRD WAVE TECHNOLOGIES, INC.

BY: /s/ John Comerford

John Comerford, Vice President,
General Counsel & Secretary
Date: 12/23/2002

</TEXT>
</DOCUMENT>

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, together with exhibits attached hereto ("Agreement"), effective as of October 15, 2002 (the "Effective Date"), is entered into by and between THIRD WAVE TECHNOLOGIES, INC., organized under the laws of Delaware and having its principal place of business at 502 S. Rosa Road, Madison, Wisconsin 53719 ("TWTTI"), and ACLARA BIOSCIENCES, INC., organized under the laws of Delaware and having its principal place of business at 1288 Pear Avenue, Mountain View, California 94043 ("ACLA"). TWTTI and ACLA may each be referred to herein individually as a "Party" or, collectively, as "Parties."

RECITALS

WHEREAS, TWTTI and ACLA entered into a Development and Commercialization Agreement, dated October 24, 2001, which the Parties wish to terminate and supersede, in its entirety (except as otherwise set forth below), by this Agreement; and

WHEREAS, TWTTI has technology and intellectual property for, among other things, genetic analysis and life science research and testing, including test kits, components, and other products and services based upon its proprietary Invader(R) platform and/or Cleavase(R) enzymes; and

WHEREAS, ACLA has technology and intellectual property for, among other things, genetic analysis and life science research and testing, including products, services, and components based upon ACLA's eTag(TM) technology; and

WHEREAS, TWTTI wishes to license to ACLA, and ACLA wishes to obtain from TWTTI, certain rights under TWTTI intellectual property related to the Invader(R) platform, InvaderCreator(TM) software and/or Cleavase(R) enzymes, to commercialize certain assay products that perform multiplexed gene expression using ACLA's eTag(TM) technology; and

WHEREAS, TWTTI and ACLA are entering into a Supply Agreement of even date herewith for the supply by TWTTI to ACLA of Cleavase Enzyme (as defined below) on the terms and conditions set forth therein and are entering into an InvaderCreator(TM) Access Agreement of even date herewith for purposes of providing ACLA with access to TWTTI's InvaderCreator(TM) Software (as defined below).

NOW, THEREFORE, in consideration of the promises and undertakings set forth herein, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

Capitalized terms not otherwise defined herein will have the meaning set forth below:

1.1 "ACLARA COMPONENT" means an Aclara Precursor from a library that
***.

1.2 "ACLA ENTITIES" means ACLA, its Resellers, Value Added Distributors, Manufacturing Distributors, and Affiliates of ACLA or any such party.

1.3 "AFFILIATE" with respect to a party, means any business entity controlling, controlled by, or under common control with such party, but only so long as such control exists. For the purposes of this Section 1.3 and Sections 1.46 and 4.2(b) only, "control" means the possession, directly or indirectly, of the power to direct the management or policies of an entity through ownership of fifty percent (50%) or more of the voting securities of such entity (or, in the case of an entity that is not a corporation, ownership of fifty percent (50%) or more of the corresponding interest for the election of the entity's managing authority); provided that, if local law in a country outside the United States requires a minimum percentage of local ownership such that the maximum percentage that may be owned by foreign interests is less than fifty percent (50%), control will be established by direct or indirect beneficial ownership of one hundred percent (100%) of the maximum ownership percentage that may, under such local law, be owned by foreign interests.

1.4 "BRIDGING OLIGONUCLEOTIDE" shall have the meaning assigned in Section 1.25 below.

1.5 "BUNDLED" shall mean that the specified items are not distributed separately, but are promoted, priced, and distributed collectively as a Licensed Product.

1.6 "CLEAVAGE ENZYME" means any enzyme that (A) recognizes the structure formed by the hybridization of an Invader Probe and a Primary Probe to their cognate Target sequence such that the Invader Probe overlaps, at its 3' terminus by at least one nucleotide, the duplex formed by the hybridization of the Primary Probe to the complementary region of the Target; (B) cleaves the Non-Hybridizing Region from the Primary Probe when such structure exists; and (C) has limited or no nucleic acid synthesis ability. It is acknowledged and agreed that Cleavage Enzymes shall include enzymes having the three properties described in (A), (B), and (C) of this Section 1.6 above, regardless of whether or not the enzyme has other properties or uses, including causing cleavage under different circumstances, or cleaves additional nucleic acid bases along with the Non-Hybridizing Region. Cleavage Enzyme shall include those enzymes identified on Exhibit 2.2 in the Supply Agreement.

1.7 "CLEAVASE ENZYME" shall mean any Cleavage Enzyme to the extent actually (i) supplied by TWTI or its designee to ACLA under the Supply Agreement; or (ii) manufactured by ACLA in accordance with Section 2.10 of the Supply Agreement.

1.8 "CONFIDENTIAL INFORMATION" means any and all information, including without limitation Technology, that is disclosed by either Party to the other in written or other similar form, by inspection of tangible objects, orally, or otherwise in connection with this Agreement that if disclosed in tangible form is marked "Confidential" or with other similar designation to indicate its confidential or proprietary nature and that, if orally disclosed, is indicated orally by the disclosing party at the time of such disclosure to be confidential or proprietary and is confirmed as being confidential or proprietary by the disclosing Party in a writing, designated as "Confidential" or with similar designation, and delivered to the receiving Party within thirty (30) days of such oral disclosure.

1.9 "CONTROL" means, with respect to an item of Technology or an Intellectual Property Right, possession by the Party granting the applicable license of the power and authority, whether arising by ownership, license, or other authorization, to disclose and deliver the particular Technology or Intellectual Property Right to the other Party, and to grant and authorize the licenses, and sublicenses, as applicable, of the scope granted to such other Party in this Agreement without giving rise to any of the following: (i) a violation of the terms of any written agreement with any Third Party; (ii) a violation or infringement of any Patent, copyright, trade secret, or other Intellectual Property Right of any Third Party; (iii) the granting Party being required to pay any royalty or other consideration to any Third Party that would not have been required had a license not been provided under this Agreement; (iv) a violation of any law, regulation, rule, code, order or other requirement of any federal, state, foreign, local, or other government body or the need for any additional permits, payments, authorizations, or approvals under any such law, regulation, rule, code, order or requirement. Notwithstanding, the provisions of clause (iii) of this Section 1.9, an item of Technology or an Intellectual Property Right shall be deemed to be Controlled by a Party (for purposes of this Section 1.9, the "Granting Party") for purposes of clause (iii) above, if the other Party hereto (for purposes of this Section 1.9, the "Licensed Party") agrees in writing to (A) to reimburse the Granting Party for all amounts payable to a Third Party that would not have been required had a license not been provided under this Agreement or pay such amounts directly to such Third Party, at the election of the Granting Party, and (B) to reimburse the Granting Party for fifty percent (50%) of any upfront, licensing, milestone, milestone or other consideration payable to such Third Party, (but not including (1) consideration payable as a result solely of the exercise of rights under such item of Technology or Intellectual Property Rights by other than entities acting by or under authority of the Licensed Party (i.e. running royalties) or (2) amounts included in clause (A) above).

1.10 "DEVELOPMENT AND COMMERCIALIZATION AGREEMENT" means the certain Development and Commercialization Agreement by and between TWTI and ACLA, effective as of October 24, 2001 together with the separate letter agreement related thereto between TWTI and ACLA, effective as of October 24, 2001.

1.11 "DIAGNOSTIC PROCEDURE" means ***.

1.12 "ENABLED CUSTOMER AGREEMENT" means a written agreement between ACLA and a Third Party (i) in which ACLA grants to such Third Party a sublicense under Section 3.1(a) below to *** Probe Sets; (ii) in which ACLA grants to such Third Party a sublicense under Section 3.1(b) below, but which sublicense is limited ***; and (v) which otherwise contains terms and conditions at least as protective of TWTI and the TWTI IP, and at least as restrictive of the Probe Sets, Cleavase Enzyme, and Licensed Products, as the terms and conditions of Articles and Sections 3.1, 3.2, 3.3, 3.12, 6.3, 7, 8.3, 10, and 11.10.

1.13 "ENABLED CUSTOMER" means a Third Party that (i) has entered into an Enabled Customer Agreement with ACLA, (ii) ACLA has identified to TWTI in writing as being an "Enabled Customer;" and (iii) has been appointed as such by ACLA in accordance with this Agreement, in each case with respect to ***.

1.14 "END USER" shall mean any entity, including Technology Access Partners and Affiliates, that purchases a Licensed Product, a Probe Set, or Cleavase Enzyme in accordance with this Agreement for such entity's own use in performing a Multiplexed Invader Application in the Gene Expression Field and not for further distribution. An Enabled Customer shall be deemed to be an End User except with respect to the design, manufacture and use of any Probe Set or Cleavase Enzyme described in clauses (A) and (B) of Section 1.13 above.

1.15 "ETAG PROBE" means a Primary Probe in which the Non-Hybridizing Region incorporates an Aclara Component in lieu of or attached to the one or more nucleotides that may be included in the Non-Hybridizing Region.

1.16 "FLAP" shall have the meaning assigned in Section 1.25 below.

1.17 "GAAP" means the then-current applicable Generally Accepted Accounting Principles in the United States consistently applied as recognized or accepted by the United States Securities and Exchange Commission and the Financial Accounting Standards Board. As used herein, "GAAP" shall also include cost accounting principles and procedures that are generally accepted in the United States.

1.18 "GENE EXPRESSION FIELD" means ***.

1.19 "GENOTYPING FIELD" means ***.

1.20 "IMPROVEMENT PATENT CLAIMS" means any and all issued claims in patents within Patents ("Issued Claims") to inventions made during the Term claiming an invention which is an improvement, modification, enhancement, adaptation, or new use, of any Cleavage Enzyme (covered by Issued Claims owned or controlled by TWTI) or Invader Assay and is owned or Controlled by ACLA or its affiliates during the Term, including without limitation Issued Claims to inventions that are enhancements, adaptations, derivatives, and other modifications of any Cleavage Enzyme or any Invader Reaction. Notwithstanding the foregoing, Improvement Patent Claims shall exclude Issued Claims (a) that claim a specific nucleotide sequence(1) or the use of a specific nucleotide sequence, such as a particular Target or oligonucleotide probe, or the use of a particular Target or an oligonucleotide probe; (b) in or to any specific nucleotide sequences, whether a Target, oligonucleotide probe, or otherwise; or (c) in or to the composition of matter or method of manufacture of any Aclara Component or eTag Probe, or that requires the use of an Aclara Component, eTag Probe, or such composition or method of manufacture; or (d) that claim any method of use that does not describe (or depend from a claim that describes) a Cleavage Enzyme (covered by Issued Claims owned or controlled by TWTI), Invader Assay or use of a Cleavage Enzyme (covered by Issued Claims owned or controlled by TWTI) or Invader Assay. For purposes of this definition, "Invader Assay" means a biochemical test comprising the detection or quantification of a nucleic acid that is dependent upon the coordinate action of at least an Invader Probe, a Primary Probe, and a Cleavage Enzyme that cleaves an Overlap Region formed when an Invader Probe and a Primary Probe hybridize to the nucleic acid.

(1) As used in this Agreement, "nucleotide sequence" shall refer to a sequence (of any length) of nucleotides in a nucleic acid whether synthesized or naturally occurring, including nucleotide probes.

1.21 "INTELLECTUAL PROPERTY RIGHTS" means any and all rights in, to, or arising out of any (i) Patents; (ii) trade secrets or know how; (iii) copyrights, copyright registrations, or any application therefor, in the U.S. or any foreign country, or any other right corresponding thereto throughout the world, including moral rights; or (iv) any other intellectual property or proprietary right anywhere in the world.

1.22 "INVADERCREATOR ACCESS AGREEMENT" means that certain written agreement titled "InvaderCreator Access Agreement" entered into between ACLA and TWTI having an effective date of even date herewith.

1.23 "INVADERCREATOR SOFTWARE" shall have the meaning set forth in the InvaderCreator Access Agreement.

1.24 "INVADER PROBE" means an oligonucleotide probe(2) comprising (A) a region complementary to, and designed to hybridize to, the 3' portion of the Target; and (B) an additional region (the "Overlap Region") located on the 3' end of such oligonucleotide probe, which Overlap Region adjoins the foregoing complementary region and comprises one or more nucleotides or other structural moieties that overlaps the duplex formed by the hybridization of the Primary Probe and its cognate Target by at least a single nucleotide base at the boundary between the Non-Hybridizing Region and such duplex. The Overlap Region may be complementary or non-complementary to the Target.

1.25 "INVADER REACTION" means the following reaction: (i) the complementary portion of a Primary Probe hybridizes specifically to the 5' portion of a Target sequence (i.e., hybridizes to a materially greater degree to the Target sequence than to other nucleic acid sequences under the conditions of such reaction) to form a duplex with such 5' portion ("Primary Duplex"), and the Non-Hybridizing Region adjoined with the Primary Duplex does not hybridize to the Target, wherein the Primary Probe cycles on and off of the Target under the conditions of such reaction; (ii) the complementary portion of an Invader Probe hybridizes specifically to the 3' portion of such Target sequence to form a stable duplex (i.e., the melting temperature for the duplex is at least seven (7) degrees centigrade above the reaction temperature) with such 3' portion ("Invader Duplex") such that the Invader Duplex is contiguous with the Primary Duplex at the boundary between the Primary Duplex and the Non-Hybridizing Region, and the Overlap Region adjoined with the Invader Duplex extends into the Primary Duplex such that the Overlap Region is contiguous with at least one nucleotide base pair of the Primary Duplex that is adjacent to such boundary; and (iii) Cleavase Enzyme cleaves from the structure so formed the Non-Hybridizing Region of the Primary Probe, including the Aclara Component incorporated therein, together with one additional 3' nucleotide base from the Primary Probe's complementary region (the "Flap"). Notwithstanding anything to the contrary, Invader Reaction shall exclude any and all uses or applications in which the Flap or other cleaved nucleic acid sequence is used as a Target, Primary Probe, Invader Probe or otherwise in a cleavage reaction or the Flap is further amplified or used to amplify any specific nucleotide sequence. Except with respect to any Primary Probe as described in Section 1.35 below, Invader Reaction shall exclude any reaction which (i) is

(2) As used in this Agreement, "oligonucleotide probe" shall refer to any synthesized or otherwise manufactured sequence (of any length) of nucleotides in a nucleic acid, including DNA, RNA, PNA, modified or synthesized nucleotides, universal bases, adducts, or the like, or combinations thereof.

based upon or uses the SST Technology (including without limitation any reaction components, methods, compositions) or (ii) employs any Bridging Oligonucleotide. For purposes of this Section 1.25, "SST Technology" shall mean any and all subject matter claimed in U.S. Patent Nos. 6,214,545, 6,210,880, and 6,194,149 together with any and all subject matter claimed in Patents based on such patents or subject matter; and "Bridging Oligonucleotide" shall mean an oligonucleotide that comprises two or more regions that are complementary to a nucleotide sequence separated by at least one nucleotide or non-nucleotide chemical linker that is not complementary to such nucleotide sequence.

1.26 "LICENSED PRODUCT" means a product to the extent designed and used to perform a Multiplexed Invader Application, which product consists only of the following: (A) eTag Probes and Invader Probes which are suitable for use with each other for performing each Invader Reaction in such Multiplexed Invader Application; (B) that quantity of Cleavage Enzyme as is reasonably necessary to use the particular quantity of eTag Probes and Invader Probes used in the product to perform such Multiplexed Invader Application; and (C) buffers, salts, or other reagents (e.g. cofactors and controls, but excluding Cleavage Enzymes not obtained pursuant to the Supply Agreement) reasonably necessary or useful to perform the Multiplexed Invader Application. For clarity, Licensed Product shall exclude components and sub-configurations of the product described in this Section 1.26, and none of the foregoing components shall be considered to be a component of a Licensed Product if used other than in the Invader Reactions that occur during the performance of the Multiplexed Invader Application by a Licensed Product. Also for clarity, Licensed Product shall exclude all uses and applications in which any Target is detected or quantified other than by a Multiplex Invader Application. No product that uses or incorporates any component other than as described above, such as Cleavage Enzyme that is not Cleavage Enzyme, shall be considered a Licensed Product.

1.27 "MANUFACTURING DISTRIBUTOR" means a Third Party that has entered into a Manufacturing Distributor Agreement with Aclara, with respect to Probe Sets manufactured by such Third Party and sold to a Technology Access Partner.

1.28 "MANUFACTURING DISTRIBUTOR AGREEMENT" means a written agreement between ACLA and a Third Party (i) in which ACLA grants to such Third Party a sublicense under Section 3.1(a) below ***; and (iv) which otherwise contains terms and conditions at least as protective of TWTI and the TWTI IP, and at least as restrictive of the Probe Sets, as the terms and conditions of Articles and Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.12, 4.2(b), 4.2(c), 4.2(d), 4.2(e), 4.3, 5, 6.3, 7, 8.3, 10, and 11.10.

1.29 "MULTIPLYED INVADER APPLICATION" means ***.

1.30 "NET SALES" means the total amount invoiced on the distribution of Licensed Products, Probe Sets, and Cleavase Enzyme by ACLA, a Reseller, or a Manufacturing Distributor, as the case may be in accordance with this Agreement, (each, a "Seller") directly to the applicable End User less the following all as calculated in accordance with GAAP: (i) all trade, cash and quantity credits, discounts, refunds or rebates; (ii) amounts for claims, allowances or credits for returns; charge backs; and (iii) packaging, handling fees and prepaid freight, sales taxes, duties and other governmental charges (including value added tax), but excluding what is commonly known as income taxes; provided that in the case of (i) and (ii), such amounts are allowed by the Seller to, and actually taken by, such End User, and in the case of (iii), such amounts are charged separately on the invoice and paid by such End User. For purposes of sales through Resellers, End User under this Section 1.30 shall be deemed to mean the first Third Party not Affiliated with ACLA or the Reseller that purchases the Licensed Product, Probe Set, or Cleavase Enzyme from the Reseller in a fully arms length transaction. Net Sales shall be deemed to accrue in the calendar year in which the later of invoice or shipment to the End User occurs. Net Sales shall also include (A) the fair market value of Licensed Products, Probe Sets and Cleavase Enzymes used by ACLA or its Affiliates in generating data on behalf of a Third Party, where the data provided to such Third Party describes the results of a Multiplex Invader Application, and (B) amounts invoiced to a Third Party on the sale or other transfer of data generated from use of a Licensed Product, Probe Set or Cleavase Enzyme, where such data is intended or actually sold or transferred to multiple Third Parties. For clarity and subject to Section 4.2(c) below, Net Sales shall exclude reasonable amounts invoiced to an End User for the design of Probe Sets for use by such End User as part of a Licensed Product, but shall include amounts invoiced on the distribution of such Probe Sets.

1.31 "NON-HYBRIDIZING REGION" shall have the meaning assigned in Section 1.35 below.

1.32 "OTHER CONSIDERATION" means upfront access or license fees, milestone payments, royalty payments, and any other consideration, as applicable, received by ACLA, its Affiliate, or Reseller, from a Technology Access Partner, a Value Added Distributor, a Manufacturing Distributor, or an Enabled Customer, in connection with the grant to or exercise by such parties of sublicensed rights under Section 3.2 of this Agreement, as applicable ("Granted Rights"); excluding only Net Sales. Other Consideration shall be deemed to accrue when first received by ACLA, its Affiliate or Reseller, as applicable.

1.33 "OVERLAP REGION" shall have the meaning assigned in Section 1.24 above.

1.34 "PATENT" means any and all rights under any of the following, whether existing now or in the future: (i) a United States, international or foreign patent, utility model, design registration, certificate of invention, patent of addition or substitution, or other governmental grant for the protection of inventions or industrial designs anywhere in the world, including any reissue, renewal, re-examination or extension thereof; and (ii) any application for any of the foregoing, including any international, provisional, divisional, continuation, continuation-in-part, or continued prosecution application.

1.35 "PRIMARY PROBE" means an oligonucleotide probe comprising (A) a region complementary to, and designed to hybridize to, the 5' portion of a Target; and (B) a non-hybridizing region located on the 5' end of such oligonucleotide probe (the "Non-Hybridizing Region"); which Non-Hybridizing Region adjoins with the foregoing complementary region and incorporates one or more nucleotides, and may incorporate other structural moieties including an Aclara Component. For purposes of this Section 1.35, "complementary" requires that the region of the oligonucleotide probe that is complementary to the Target (such Target, the "Primary Target") be fully complementary to the nucleotide sequence of the Primary Target, however such oligonucleotide probe may be non-complementary to one or more other nucleotide sequences that are highly homologous to the Primary Target (such other nucleotide sequences, "Other Targets") also present in a sample such that the oligonucleotide probe may be used to detect and or quantify both the Primary Target and the Other Target(s) in the sample by means of an Invader Reaction. For the sake of clarity, it is understood that the Primary Target for which a particular Primary Probe is designed, may or may not be present in a particular sample.

1.36 "PROBE SET" means a pair of oligonucleotide probes, which pair consists only of an eTag Probe and an Invader Probe necessary for the Invader Reaction to detect or quantify a particular Target in the Gene Expression Field and the Genotyping Field.

1.37 "RESELLER" means a Third Party that has entered into a Reseller Agreement with ACLA with respect to (i) Probe Sets obtained directly from ACLA or a Manufacturing Distributor and sold to a Technology Access Partner (ii) or Cleavase Enzyme obtained directly from ACLA and sold to a Technology Access Partner or (iii) Licensed Products obtained directly from ACLA and sold to End Users.

1.38 "RESELLER AGREEMENT" means a written agreement between ACLA and a Third Party (i) in which ACLA (A) ***.

(iii) which otherwise contains terms and conditions at least as protective of TWTI and the TWTI IP, and at least as restrictive of the Licensed Products, Probe Sets and Cleavase Enzyme, as the terms and conditions of Articles and Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.12, 4.2(b), 4.2(c), 4.2(d), 4.2(e), 4.3, 5, 6.3, 7, 8.3, 10, and 11.10. Notwithstanding anything to the contrary, for purposes of sales through Resellers, End User under this Section 1.38 shall be deemed to mean the first Third Party not Affiliated with ACLA or the Reseller that purchases the Licensed Product, Probe Set, or Cleavase Enzyme from the Reseller in a fully arms length transaction.

1.39 "SST TECHNOLOGY" shall have the meaning assigned in Section 1.25 above.

1.40 "SUPPLY AGREEMENT" means that certain written "Supply Agreement" entered into by and between ACLA and TWTI, effective on even date herewith.

1.41 "TAP AGREEMENT" means a written agreement between ACLA and a Third Party *** (iii) which otherwise contains terms and conditions at least as protective of TWTI and the TWTI IP, and at least as restrictive of the Probe Sets, Cleavase Enzyme, and Licensed Products, as the terms and conditions of Sections 3.1, 3.2, 3.3, 3.12, 6.3, 7, 8.3, 10, and 11.10.

1.42 "TARGET" means (i) when used for purposes of or in connection with the licenses under Section 3.1, any natural or synthetic nucleic acid that is in the Gene Expression Field and is of a sufficient length to allow discrimination of other non-homologous nucleic acids in a Multiplex Invader Application; and (ii) when used for purposes of or in connection with the license under Section 3.5 only, any natural or synthetic nucleic acid that is in the Genotyping Field and is of a sufficient length to allow discrimination of other non-homologous deoxyribonucleic acids in a Multiplex Invader Application.

1.43 "TECHNOLOGY" means any and all technology and technical information, including without limitation data, results, samples, inventions (whether or not patented or patentable), knowledge, ideas, developments, prototypes, invention disclosures, designs, processes, sequences, methods, techniques, materials, instructions, recipes, formulas, compositions of matter, chemistries, algorithms, trade secrets, know-how, research, modifications, software,

formulas, drawings, equipment, machines, protocols, configuration and process information, specifications, models, works of authorship, improvements, and any other technical subject matter.

1.44 "TECHNOLOGY ACCESS PARTNER" means a Third Party that has entered into a TAP Agreement with ACLA.

1.45 "TERM" shall have the meaning assigned to it in Section 10.1 below.

1.46 "THIRD PARTY" means any party other than TWTI and ACLA. For clarity, Third Party shall include Affiliates of each Party, unless the Affiliate is 100% controlled (as defined in Section 1.3) by the applicable Party.

1.47 "TRANSFER PRICE" shall have the meaning, with respect to Cleavase Enzyme, as set forth in the Supply Agreement.

1.48 "TWTI IP" means any and all Patent claims to the extent Controlled by TWTI during the Term and ***. A list of such Patents Controlled by TWTI as of the Effective Date is attached hereto as Exhibit 1.48; it being understood that the list is not intended to be exhaustive of all such Patents Controlled by TWTI or licensed hereunder. For clarity, TWTI IP excludes ***. For purposes of this Section 1.48, "primarily directed at practicing" ***.

1.49 "TWTI MARKS" means the trademarks, trade names and logos of TWTI to be set forth in Exhibit 1.49 referencing this Section 1.49 and provided to ACLA within ten (10) days of the Effective Date, as amended from time to time in accordance with this Agreement. Invader(R) and Cleavase(R) are registered trademarks of TWTI, but are printed in this Agreement without the registration mark for convenience. Similarly, InvaderCreator is a trademark of TWTI, but is printed in this Agreement without the TM mark for convenience.

1.50 "VALID CLAIM" means (a) a claim of an issued and unexpired Patent, which claim has not lapsed or been abandoned, has not been canceled or declared invalid or unenforceable by an unreversed and unappealable decision or judgment of a court or other appropriate body of competent jurisdiction, and has not been admitted to be invalid or unenforceable through reissue or disclaimer; or (b) a claim of a pending patent application, provided that such application has been pending for a period not to exceed ten (10) years from the earliest date such application takes priority.

1.51 "VALUE ADDED DISTRIBUTOR" means a Third Party that has entered into a Value Added Distributor Agreement with ACLA, with respect to Probe Sets manufactured by such Third Party and sold to a Enabled Customer.

1.52 "VALUE ADDED DISTRIBUTOR AGREEMENT" means a written agreement between ACLA and a Third Party (i) in which ACLA grants to such Third Party a sublicense under Section 3.1(a) below ***. and (iv) which otherwise contains terms and conditions at least as protective of TWTI and the TWTI IP, and at least as restrictive of the Probe Sets, as the terms and conditions of Articles and Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.12, 4.2(b), 4.2(c), 4.2(d), 4.2(e), 4.3, 5, 6.3, 7, 8.3, 10, and 11.10.

ARTICLE 2

TERMINATION OF DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

2.1 TERMINATION. TWTI and ACLA hereby agree to terminate the Development and Commercialization Agreement in its entirety, including, without limitation, Section 19.5 thereof. Such termination shall be effective as of the Effective Date of this Agreement; provided, however, that notwithstanding the foregoing and anything to the contrary in this Section 2.1, the following provisions of the Development and Commercialization Agreement shall remain in effect: Articles 14, 15, and 17 and Sections 4.12 and 16.4.3. All other terms and conditions of the Development and Commercialization Agreement are hereby terminated and shall have no further force or effect. Such termination of the Development and Commercialization Agreement shall be deemed to be termination mutually agreed upon by and between TWTI and ACLA, and neither Party shall have any responsibility or liability as a result of such termination. The Parties hereby waive all rights to notice of termination as may be otherwise provided under the Development and Commercialization Agreement or applicable laws. As of the Effective Date of this Agreement, and except as otherwise expressly surviving pursuant to this Section 2.1, all rights and licenses granted by TWTI to ACLA under the Development and Commercialization Agreement shall terminate and revert to TWTI, and all rights and licenses granted by ACLA to TWTI under the Development and Commercialization Agreement shall terminate and revert to ACLA.

ARTICLE 3

GRANTS OF RIGHTS

3.1 LICENSE GRANTS TO ACLA WITHIN THE GENE EXPRESSION FIELD.

(A) Manufacture of Probes. Subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, royalty bearing license under the TWTI IP to manufacture, and have manufactured, Probe Sets in the Gene Expression Field that are included in a Licensed Product as set forth in Section 3.1(b) and used solely as part of a Licensed Product in the Gene Expression Field for Multiplex Invader Applications in accordance with this Agreement.

(I) Sublicenses. ACLA shall have no right to grant or authorize sublicenses under this Section 3.1(a), except to the extent expressly set forth in Sections 3.2(b), 3.2(c) and 3.2(d) below.

(II) Have Made Rights. ACLA shall have the right to use contract manufacturers to manufacture Probe Sets under this Section 3.1(a), provided that the contract manufacturer is subject to a written agreement with ACLA that is at least as protective of TWTI and the TWTI IP, and at least as restrictive of the Probe Sets, as the terms and conditions of Articles and Sections 3.1, 3.6, 3.7, 3.12, 5.3, 5.4, 6.3, 7, 8.3, 10, and 11.10. All eTag Probes and Invader Probes manufactured under the have made rights under this Section 3.1(a) shall be provided only to ACLA for disposition and use in accordance with this Agreement. No rights for contract manufacturers to use Probe Sets are granted or implied.

(III) Other Restrictions. All sublicenses under this Section 3.1 shall be only under that TWTI IP that is necessary to manufacture, and have manufactured, the particular Probe Sets that the applicable sublicensee manufactures. For clarity, Confidential Information of TWTI shall be disclosed to sublicensees and contract manufacturers under this Section 3.1 only as necessary to enable the sublicensee or contract manufacturer, as applicable, to manufacture the applicable Probe Sets. Any failure of a contract manufacturer or sublicensee to comply with terms or conditions required by this Agreement shall be deemed to be a breach of this Agreement by ACLA; provided that TWTI agrees that it will not terminate this Agreement for such a breach if ACLA (i) within sixty (60) days of becoming aware of such breach uses commercially reasonable efforts to cure such breach within such period and (ii) if such breach has not been cured within such sixty (60)-day period immediately terminates all rights of the contract manufacturer or sublicensee, as applicable, pursuant to this Agreement including requiring the sublicensee or contract manufacturer to return to ACLA at that time, and discontinue all further use of, the TWTI Confidential Information.

(B) Making Licensed Product. Subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, royalty bearing license under the TWTI IP to make Licensed Products in the Gene Expression Field solely by bundling together to form the Licensed Product (i) Probe Sets manufactured by ACLA, or its contract manufacturer, under Section 3.1(a); (ii) Cleavase Enzyme obtained or manufactured by ACLA pursuant to the Supply Agreement; and (iii) buffers, salts or other reagents (e.g. cofactors and controls, but excluding Cleavase Enzymes not obtained pursuant to the Supply Agreement)

reasonably necessary or useful to perform the applicable Multiplexed Invader Application for which the Licensed Product is designed. ACLA shall have no right to grant or authorize sublicenses under this Section 3.1(b) except to the extent expressly set forth in Sections 3.2(d) and 3.2(e) below. For clarity, no have made rights are granted under this Section 3.1(b).

(C) Use of Licensed Product, Probe Sets, and Cleavase Enzyme. Each Licensed Product under this Section 3.1 is and shall be licensed for use, whether created or used by ACLA or otherwise, solely to perform the Multiplexed Invader Application in the Gene Expression Field for which such Licensed Product is designed. Similarly, each eTag Probe and Invader Probe under this Section 3.1, and all Cleavase Enzyme, is and shall be licensed for use, whether used by ACLA or otherwise, solely as part of a Licensed Product to perform the Multiplexed Invader Application in the Gene Expression Field for which the Licensed Product is designed. All other uses are and shall be expressly prohibited. ACLA shall have no right to grant or authorize sublicenses under this Section 3.1(c) except to the extent expressly set forth in Sections 3.2(d) and 3.2(e) below.

(D) Distribution of Licensed Product. Subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, royalty bearing license under the TWTI IP, without the right to grant or authorize sublicenses except as expressly set forth in Section 3.2(a) below, to sell, and offer to sell, (directly or through a Reseller) to End Users Licensed Product that are created by ACLA solely in accordance with Sections 3.1(a) and 3.1(b) and used by the End User solely in accordance with Section 3.1(c); provided that only complete Licensed Products, each Bundled with all of its components at the time of purchase from ACLA, shall be distributed under this Section 3.1(d). Without limiting the foregoing, each Licensed Product distributed under this Section 3.1(d) shall conspicuously display a label indicating that it is "FOR RESEARCH USE ONLY; NOT FOR USE IN DIAGNOSTIC PROCEDURES. NOT FOR RESALE."

(E) Distribution of Probe Sets. Notwithstanding Section 3.1(d) and subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, royalty bearing license under the TWTI IP to (i) sell, and offer to sell, Probe Sets (directly or through a Reseller) to Technology Access Partners; (ii) to sublicense Manufacturing Distributors to sell, and offer to sell, Probe Sets directly to Technology Access Partners; and (iii) to authorize Value Added Distributors to sell, and offer to sell, Probe Sets directly to Enabled Customers. Without limiting the other terms of this Agreement, all Probe Sets distributed pursuant to (A) Section 3.1(e) (i), (ii) and (iii) shall conspicuously display a label indicating that it is "FOR RESEARCH USE ONLY; NOT FOR USE IN DIAGNOSTIC PROCEDURES. NOT FOR RESALE."; (B) Section 3.1(e) (i) and (ii) shall conspicuously display the additional label indicating that it is "LICENSED FOR USE SOLELY IN ACCORDANCE WITH THE TERMS OF A TAP AGREEMENT BETWEEN THE USER AND ACLARA BIOSCIENCES, INC.;" and (C) Section 3.1(e) (iii) shall conspicuously display the additional label indicating that it is "LICENSED FOR USE SOLELY IN ACCORDANCE WITH THE TERMS OF AN ENABLED CUSTOMER AGREEMENT BETWEEN THE USER AND ACLARA BIOSCIENCES, INC." ACLA shall have no right to grant or authorize sublicenses under this Section 3.1(e) except as expressly set forth in this Section 3.1(e) above.

(F) Distribution of Cleavase Enzyme. Notwithstanding Section 3.1(d) and subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, royalty bearing license under the TWTI IP to sell, and offer to sell, Cleavase Enzyme solely (i) to Technology Access Partners directly or through Resellers; and (ii) directly to those Enabled Customers authorized in accordance with Section 3.2(d) below. Without limiting the other terms of this Agreement, all Cleavase Enzyme distributed pursuant to (A) Section 3.1(f)(i) and (ii) shall conspicuously display a label indicating that it is "FOR RESEARCH USE ONLY; NOT FOR USE IN DIAGNOSTIC PROCEDURES.", (B) Section 3.1(f)(i) shall conspicuously display the additional label indicating that it is "LICENSED FOR USE SOLELY IN ACCORDANCE WITH THE TERMS OF A TAP AGREEMENT BETWEEN THE USER AND ACLARA BIOSCIENCES, INC.;" and (C) Section 3.1(f)(ii) shall conspicuously display the additional label indicating that it is "LICENSED FOR USE SOLELY IN ACCORDANCE WITH THE TERMS OF AN ENABLED CUSTOMER AGREEMENT BETWEEN THE USER AND ACLARA BIOSCIENCES, INC." This Section 3.1(f) shall not be construed to grant or imply any rights with respect to Cleavase Enzyme other than the right to distribute expressly set forth in this Section 3.1(f) above. ACLA shall have no right to grant or authorize sublicenses under this Section 3.1(f) except as expressly set forth in this Section 3.1(f) above.

3.2 LIMITED SUBLICENSE AND AUTHORIZATION RIGHTS OF ACLA IN THE GENE EXPRESSION FIELD.

(A) Resellers. Subject to the terms and conditions of this Agreement, ACLA may authorize Resellers to ***. ACLA shall disclose Confidential Information of TWTI to Resellers only as necessary to enable the Reseller to perform its rights under 3.2(a)(i) and (ii) above, and Resellers shall not further disclose such Confidential Information. Distribution by Resellers shall be solely in accordance with the restrictions on distribution set forth in Sections 3.1(d), (e) and (f). Any failure of a Reseller to comply with terms or conditions required by this Agreement shall be deemed to be a breach of this Agreement by ACLA; provided that TWTI agrees that it will not terminate this Agreement for such a breach if ACLA (A) within sixty (60) days of becoming aware of such breach uses commercially reasonable efforts to cure such breach within such period and (B) if such breach has not been cured within such sixty (60)-day period immediately terminates all rights of the Reseller including requiring the Reseller to return to ACLA at that time, and discontinue all further use of, the TWTI Confidential Information, Licensed Products, Probe Sets, and Cleavase Enzyme. For clarity, ACLA shall not make any sales of Licensed Product, Probe Sets, or Cleavase Enzyme to or through the Reseller who is in breach of the terms of this Agreement.

(B) Value Added Distributors. Subject to the terms and conditions of this Agreement, ACLA shall have the right to grant limited sublicense to Value Added Distributors to: ***.

Any failure of a Value Added Distributor to comply with terms or conditions required by this Agreement shall be deemed to be a breach of this Agreement by ACLA; provided that TWTI agrees that it will not terminate this Agreement for such a breach if ACLA (A) within sixty (60) days of becoming aware of such breach uses commercially reasonable efforts to cure such breach within such period and (B) if such breach has not been cured within such sixty (60)-day period immediately terminates all rights of the Value Added Distributor including requiring the Value Added Distributor to return to ACLA at that time, and discontinue all further use of, the TWTI Confidential Information. No Value Added Distributor shall sell Probe Sets through any other party.

(C) Manufacturing Distributors. Subject to the terms and conditions of this Agreement, ACLA shall have the right to grant limited sublicenses to Manufacturing Distributors each to: (i) *** all in accordance with this Agreement, provided that in each case the Manufacturing Distributor has entered into a Manufacturing Distributor Agreement with ACLA. Any failure of a Manufacturing Distributor to comply with terms or conditions required by this Agreement shall be deemed to be a breach of this Agreement by ACLA; provided that TWTI agrees that it will not terminate this Agreement for such a breach if ACLA (A) within sixty (60) days of becoming aware of such breach uses commercially reasonable efforts to cure such breach within such period and (B) if such breach has not been cured within such sixty (60)-day period immediately terminates all rights of the Manufacturing Distributor including requiring the Manufacturing Distributor to return to ACLA at that time, and discontinue all further use of, the TWTI Confidential Information. No Manufacturing Distributor shall sell Probe Sets through any other party other than ACLA or Resellers.

(D) Enabled Customers. Subject to the terms and conditions of this Agreement, ACLA shall have the right to grant limited sublicenses to Enabled Customers each to: ***. For purposes of clarity, no rights with respect to any Cleavase Enzyme or Probe Sets, or the use thereof, shall be deemed granted or implied as a result of this Section 3.2(d) or the sale of Cleavase Enzyme or Probe Sets to the Enabled Customer, except for the rights expressly set forth in this Section 3.2(d) above. No party other than the Enabled Customer itself shall exercise the Enabled Customer's rights. Any failure of a

Enabled Customer to comply with terms or conditions required by this Agreement shall be deemed to be a breach of this Agreement by ACLA; provided that TWTI agrees that it will not terminate this Agreement for such a breach if ACLA (A) within sixty (60) days of becoming aware of such breach uses commercially reasonable efforts to cure such breach within such period and (B) if such breach has not been cured within such sixty (60)-day period immediately terminates all rights of the Enabled Customer including requiring the Enabled Customer to return to ACLA at that time, and discontinue all further use of, the TWTI Confidential Information. Notwithstanding anything to the contrary, the total number of Enabled Customers to which such sublicenses may be granted under this Section 3.2(d) shall not exceed *** Enabled Customers; and commencing on ***, if ACLA has appointed less than *** Enabled Customers as of such time, ACLA shall have the right to grant additional sublicenses under this Section 3.2(d) to Enabled Customers only after obtaining the written permission of TWTI with respect to the particular Enabled Customer, which permission shall not be unreasonably withheld if the total number of Enabled Customers that ACLA has appointed at any time is less than ***. TWTI shall inform ACLA in writing whether or not it will grant such permission (the "Permission Notice") no later than twenty (20) days after TWTI receives written notice from ACLA requesting such permission. Upon ACLA's request, TWTI shall provide a reasonable explanation of a reason for withholding its consent. For the purposes of determining the reasonableness of withholding such permission if ACLA has appointed less than a total of *** Enabled Customers under this Section 3.2(d) only, TWTI shall consider the following factors: (i) if the number of Enabled Customers is more than *** of the total number of Third Party, non-Affiliate, users of Licensed Products in the Gene Expression Field and (ii) if Other Consideration from Enabled Customers and Value Added Distributors is more than *** of ACLA's Net Sales from sales of Licensed Product, Probe Sets, and Cleavase Enzyme hereunder. For clarity and without limitation, TWTI shall have the right to withhold consent if the number of Enabled Customers, or Other Consideration, exceed the foregoing limits. If TWTI withholds its consent with respect to an Enabled Customer when the total number of Enabled Customers is less than ***, the Parties shall discuss in good faith for a period not to exceed forty-five (45) days after ACLA receives the Permission Notice TWTI's reasons for withholding consent to the extent necessary to assess whether or not there may be mutually acceptable terms and conditions under which ACLA may make such sales to the particular Enabled Customer.

(E) Technology Access Partners. Subject to the terms and conditions of this Agreement, ACLA shall have the right to grant limited sublicenses to Technology Access Partners under Section 3.1(b) to ***. For purposes of clarity, no rights with respect to any Cleavase Enzyme or Probe Sets, or the use thereof, shall be deemed granted or implied as a result of this Section 3.2(e), or the sale of Cleavase Enzyme or Probe Sets to the Technology Access Partner,

except for the rights expressly set forth in this Section 3.2(e) above. No party other than the Technology Access Partner itself shall exercise the Technology Access Partner's rights.

3.3 UNAUTHORIZED SALES. ACLA, Manufacturing Distributors, Value Added Distributors, and Resellers shall not, directly or indirectly, market, sell or distribute Licensed Product, eTag Probes, Invader Probes, or Cleavase Enzyme anywhere in the world except in accordance with this Agreement and the same shall be used only as a Licensed Product to perform the Multiplexed Invader Application in the Gene Expression Field. No Licensed Product, Cleavase Enzyme, eTag Probe, or Invader Probe shall be provided to any Third Party, whether by ACLA, a Value Added Distributor, a Manufacturing Distributor, a Reseller, or otherwise, if ACLA knows, or has reason to know, that a Licensed Product, Cleavase Enzyme, eTag Probe, or Invader Probe provided to such Third Party has been promoted or sold for use, or used, other than to perform a Multiplex Invader Application in the Gene Expression Field as set forth in this Article 3.

3.4 INVADERCREATOR SOFTWARE. Access to the InvaderCreator Software by ACLA will be subject to, and in accordance with, the terms and conditions of the InvaderCreator Access Agreement between TWTI and ACLA of even date herewith. Access to the InvaderCreator Software by ACLA's contract manufacturers, Manufacturing Distributors, Value Added Distributors and Enabled Customers will be subject to, and in accordance with, the terms and conditions of the InvaderCreator Access Agreement.

3.5 GENOTYPING RESEARCH RIGHTS.

(A) Manufacture of Probes. Subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, license, with no right to grant or authorize sublicenses, under the TWTI IP to manufacture Probe Sets in the Genotyping Field that are included in a Licensed Product as set forth in Section 3.5(b) and used solely under Section 3.5(c) as part of a Licensed Product in the Genotyping Field to perform Multiplex Invader Applications in accordance with this Agreement. For clarity, no have made rights are granted under this Section 3.5(a).

(B) Making Licensed Product. Subject to the terms and conditions of this Agreement, TWTI hereby grants to ACLA a worldwide, non-exclusive, license, with no right to grant or authorize sublicenses, under the TWTI IP to create Licensed Products in the Genotyping Field ("Genotyping Products") solely by bundling together to form the Genotyping Products (i) Probe Sets manufactured by ACLA under Section 3.5(a); (ii) Cleavase Enzyme obtained or manufactured by ACLA pursuant to the Supply Agreement; and (iii) buffers, salts, or other reagents (e.g. cofactors and controls, but excluding Cleavage Enzymes not obtained under the Supply Agreement) reasonably necessary or useful to perform the applicable Multiplexed Invader Application for which the Genotyping Product is designed. For clarity, no have made rights are granted under this Section 3.5(b).

(C) Use of Genotyping Product, Probe Sets, and Cleavase Enzyme. Each Genotyping Product under this Section 3.5 is and shall be licensed for use solely by ACLA to perform the Multiplexed Invader Application in the Genotyping Field for ACLA's own internal research and development purposes, but not for any Diagnostic Procedure or any commercial

purposes (including, for example, to provide services on behalf of any Third Party). Similarly, each eTag Probe and Invader Probe under this Section 3.5, and all Cleavase Enzyme in the Genotyping Field, is and shall be licensed for use solely by ACLA as part of a Genotyping Product to perform the Multiplexed Invader Application in the Genotyping Field for ACLA's own internal research and development purposes, but not for any Diagnostic Procedure or any commercial purposes (including, for example, to provide services on behalf of any Third Party). All other uses are and shall be expressly prohibited.

3.6 USE OF TWTI MARKS.

(A) Trademark License. TWTI hereby grants to ACLA a non-exclusive, non-transferable, royalty free license to use the TWTI Marks during the Term in connection with the marketing, promotion, and sale of Licensed Products, Cleavase Enzyme, and Probe Sets that are distributed and used solely in accordance with Sections 3.1 and 3.2 above. Additionally, ACLA will have the right to sublicense Resellers, Manufacturing Distributors and Value Added Distributors (each an "Authorized User") to use the TWTI Marks during the Term in connection with their marketing, promotion, and sale of Licensed Products, Cleavase Enzyme, and Probe Sets (as applicable) that are distributed and used solely in accordance with Sections 3.1 and 3.2 above. All ownership and goodwill arising out of the use of the TWTI Marks shall vest in and inure solely to the benefit of TWTI. TWTI reserves all rights regarding its trademarks, trade names, and logos not expressly granted to ACLA. ACLA agrees to, and cause the Authorized Users to, conduct business related to the Licensed Products, Cleavase Enzyme, and Probe Sets in a manner that reflects favorably at all times on the products, goodwill, and reputation of TWTI.

(B) Guidelines for use of Marks. All representations of TWTI Marks that ACLA or an Authorized User intends to use shall first be submitted to TWTI for approval (which shall not be unreasonably withheld) of design, color, and other details or shall be exact copies of those used by TWTI and shall in any event comply with usage guidelines as established by TWTI from time to time. Within thirty (30) days of the Effective Date, TWTI will deliver to ACLA the initial version of such guidelines. ACLA and each Authorized User shall submit representative promotional materials, packaging and product using any TWTI Mark to TWTI for TWTI's review and comment prior to their first use and prior to any subsequent change or addition to such promotional, packaging and product materials. Notwithstanding the foregoing, until TWTI delivers the initial guidelines to ACLA as required above, TWTI will cooperate with ACLA to expedite the review of any materials provided pursuant to this Section 3.6(b) and provide comment within five (5) days of receipt thereof. TWTI may change its trademarks, trade names, and logos, and usage guidelines, to be used hereunder only upon ninety (90) days prior written notice to ACLA, setting forth in such notice the changes. Changes shall be limited to changes that are generally applicable to other uses of the trademarks, trade names, and logos by TWTI and its licensees thereof. From and after the end of such ninety (90) day period, as so designated in the notice, any trademarks, trade names, and logos that are to be deleted shall cease to be a TWTI Mark, any trademarks, trade names, and logos that are to be added shall thereafter be deemed to be a TWTI Mark and changes to the usage guidelines shall take effect. ACLA shall solely bear all costs and expenses that result from a change requested by TWTI.

(C) Quality Control and Other Restrictions. To enable TWTI to monitor the quality of the Licensed Products and Probe Sets in connection with which its trademarks, trade

names, and logos are used, ACLA shall, and cause each Authorized User to, provide to TWTI, as reasonably requested by TWTI from time to time, reasonable quantities of the applicable Licensed Products and Probes Sets, without charge, for such purposes. Without limiting the foregoing, all Licensed Products, Probe Sets, and Cleavase Enzyme manufactured by or on behalf of ACLA under this Agreement or under the Supply Agreement shall be of at least the quality of products that TWTI sells under the TWTI Marks. In addition, ACLA shall maintain, and cause the Authorized Users to, require and monitor, reasonable quality control procedures consistent with industry standards for all such Licensed Products, Cleavase Enzyme and Probe Sets.

(D) Recordation. In those countries where a license to use trademarks, trade names, or logos must be recorded, TWTI shall have the right to provide and record a separate license for such licenses to ACLA hereunder. ACLA shall cooperate in the preparation and execution of such documents. Upon termination of a license, ACLA shall cooperate in the cancellation of any such licenses recorded or entered into in applicable countries.

(E) Mark Infringement. ACLA shall, and cause the Authorized Users to, notify TWTI promptly upon learning of any actual, alleged, or threatened infringement of, or of any unfair trade practices, trade dress imitation, passing off of counterfeit goods, or similar offenses relating to, the trademarks, trade names, or logos of TWTI.

3.7 CO-BRANDING. All Licensed Product, Probe Sets, and Cleavase Enzyme distributed under this Agreement, whether by ACLA or otherwise, and all packaging materials, labels and promotional materials used in connection therewith, shall display the TWTI Marks as more fully described in this Article 3. The TWTI Marks shall be applied to such Licensed Product, Probe Sets, and Cleavase Enzyme in addition to any of ACLA's own trademarks, trade names, and logos that it applies. The trademarks, trade names, and logos of both Parties shall be displayed equally legibly and equally prominently on all Licensed Products, Probe Sets, and Cleavase Enzyme but nevertheless separated from the other so that each appears to be a mark in its own right, distinct from the other mark. Unless otherwise agreed, no Licensed Product, Probe Set, Cleavase Enzyme, or such materials or labels, shall display the trademarks, trade names, or logos of any other party.

3.8 UPDATE DISCUSSIONS. The Parties agree to hold bi-annual meetings (in person, by phone or by video conference) of mutually agreed personnel for the purpose of discussing opportunities of mutual interest.

3.9 GRANT BACK TO TWTI. Subject to the terms and conditions of this Agreement, ACLA hereby grants to TWTI:

(A) ACLA IP. ***; and

(B) Necessary Claims ***.

(C) Definitions. For purposes of Section 3.9(b) the following terms shall have the definitions set forth below:

(I) "TWTI Products" shall mean products, components, and services, the making, using, selling, distributing, or importing, of which, absent the license granted by ACLA to TWTI under Section 3.9(b) that would infringe but for the license granted by ACLA under the patent claims under Section 3.9(b).

(II) "TWTI Net Sales" shall mean the total amount invoiced on the distribution of TWTI Products to the applicable end user less the following all as calculated in accordance with GAAP: (i) all trade, cash and quantity credits, discounts, refunds or rebates; (ii) amounts for claims, allowances or credits for returns; charge backs; and (iii) packaging, handling fees and prepaid freight, sales taxes, duties and other governmental charges (including value added tax), but excluding what is commonly known as income taxes; provided that in the case of (i) and (ii), such amounts are allowed and actually taken and in the case of (iii), such amounts are charged separately on the invoice and paid. For purposes of sales of TWTI Products through resellers, end user shall be deemed to mean the first Third Party not Affiliated with TWTI or the reseller that purchases the TWTI Products from the reseller in a fully arms length transaction. TWTI Net Sales shall be deemed to accrue in the calendar year in which the later of invoice or shipment to the end user occurs.

(III) "Multiplex Applications Field" shall mean ***.

(D) Stacking. The royalty rate set forth in Section 3.9(b) shall be reduced for particular units of TWTI Product by an amount equal to *** of any amount of royalties and other payments required to be paid by TWTI to Non-Affiliate Third Parties for a license under the Patents of the Third Party to make, have made, use, sell, have sold or import such units of TWTI Products; provided, however, that any reduction in the royalty

rates set forth in Section 3.9(b) pursuant to this Section 3.9(d) shall be limited to *** (i.e., the royalty payable to ACLA on TWTI Net Sales shall not be less than ***). As used in this Section 3.9(d), royalties and other payments shall not include cost sharing or reimbursement, service or consulting fees, payments for purchases, non-cash consideration, amounts paid for equity or securities, dividends, profit distributions, amounts paid for facilities or equipment, or any other payment or consideration which is not expressly identified in the written agreement between TWTI and the applicable Third Party as a payment for a license under the Third Party's Patents to make, have made, use, sell, offer to sell, or import the applicable TWTI Product.

(E) Favorable Terms. If, during the period when TWTI is obligated to pay royalties to ACLA under Section 3.9(b) with respect to TWTI Net Sales (the "TWTI Royalty Period"), ACLA enters into a written agreement with any Third Party, other than an Affiliate of ACLA, in which ACLA grants a license to such Third Party, under those patent claims under which ACLA granted to TWTI a license under Section 3.9(b), to make, use, and sell products, components or services under financial terms, considered as a whole and taking into account the non-cash consideration received by ACLA, that are substantially more favorable than those provided to TWTI in Section 3.9(b) and provided that the rights granted by ACLA are materially the same as set forth in Section 3.9(b), then TWTI shall have the right to obtain such more favorable financial terms and conditions under Section 3.9(b) during the TWTI Royalty Period to the extent and for so long as those more favorable terms and conditions are made available to such Third Party. Notwithstanding the foregoing, this Section 3.9(e) shall not apply in connection with any litigation settlement, transfer or sale of all or substantially all of ACLA's business or assets related to this Agreement, whether by way of merger, acquisition of stock or assets, operation of the law, or otherwise and shall not apply in connection with any agreement in which ACLA grants exclusivity. No rebates, credits, or refunds shall be payable or provided by ACLA as a result of this Section 3.9(e).

(F) No Disclosure Requirement. It is acknowledged and agreed that nothing in this Agreement is intended to require either Party to disclose Technology that is Confidential Information to the other Party, provided that if such Technology is disclosed it will be included in the scope of the applicable license as expressly set forth herein.

(G) Termination. During the TWTI Royalty Period, ACLA shall have the right to terminate the licenses granted to TWTI in this Section 3.9 upon final determination, in accordance with Section 11.8(c) below, of a material breach by TWTI of a material term of such license. It is understood that upon expiration of the TWTI Royalty Period, the licenses granted in this Section 3.9 shall become irrevocable.

3.10 CHANGES IN TWTI IP. ***.

3.11 ADDITIONAL DISCUSSIONS. From time to time ACLA and TWTI agree to discuss the possibility of cooperating with each other with respect to the combination of ACLA's proprietary eTag technology and TWTI's proprietary Invader technology for certain commercial applications including for applications in the Genotyping Field and for Diagnostic Procedures. Notwithstanding the foregoing, neither Party shall have any liability arising out of or with respect to this Section 3.11.

3.12 NO OTHER RIGHTS. Except for the rights expressly granted under this Agreement, no right, title, or interest of any nature whatsoever is granted whether by implication, estoppel, reliance, or otherwise, by any Party to any other Party or any Affiliate of either. For clarity, nothing herein shall be construed as TWTI granting, or TWTI authorizing the grant of, a right to use Licensed Product, Cleavase Enzyme, or Probe Sets, beyond the rights to use set forth in Sections 3.1(c) and 3.5(c). All rights and licenses granted to ACLA in Sections 3.1 and 3.2 are non-transferable, except in accordance with Section 11.2. All sublicenses pursuant to Section 3.1 and 3.2 shall be non-transferable, without the right to grant or authorize sublicenses; provided that ACLA may authorize a sublicensee to transfer in its entirety a sublicense authorized by this Agreement to an entity that during the Term becomes a successor in interest to the sublicensee by way of merger, consolidation or other business reorganization, the sale of stock, or the transfer of all or substantially all of the business and assets of such sublicensee. ACLA agrees that it will not exercise the rights granted under this Article 3, or engage in or authorize any activities, to effectively grant sublicenses beyond those expressly authorized in Section 3.2. Additionally, any sale or other distribution of Cleavase Enzyme, Probe Set, or other component that is used to provide or perform any assay or use that is subject to TWTI's Intellectual Property Rights, and any such use of Cleavase Enzyme, Probe Set, or component, under the licenses granted to ACLA, other than in accordance with this Article 3, shall be deemed to be unlicensed and is prohibited by this Section 3.12. ALL RIGHTS WITH RESPECT TO TECHNOLOGY OR INTELLECTUAL PROPERTY RIGHTS THAT ARE NOT SPECIFICALLY GRANTED HEREIN ARE RESERVED TO THE OWNER OF SUCH TECHNOLOGY OR INTELLECTUAL PROPERTY RIGHTS.

ARTICLE 4

CONSIDERATION

4.1 INITIAL CONSIDERATION.

(A) Upfront Fee. ACLA shall pay to TWTI *** within five (5) business days after the Effective Date. Payment of such amount shall be non-refundable and non-creditable.

(B) Aclara Release. ACLA, for itself and for its successors, assigns, subsidiaries, parents, and other Affiliates hereby unconditionally, absolutely and completely releases TWTI, including TWTI's parents, subsidiaries and other Affiliates, and the respective officers, directors, agents, and employees of each, (each a "TWTI Released Party") from and against any and all liability, damages, claims, actions, demands, responsibility, and causes of actions (for purposes of this Section 4.1(b), "Claims") with respect to or arising out of the

Development and Commercialization Agreement or the Parties' relationship with each other thereunder, which ACLA ever had or may now have against TWTI. ACLA waives any and all such Claims and its rights under California Civil Code Section 1542 with respect to any such Claims, known or unknown. Notwithstanding the foregoing, ACLA does not release or waive any Claims that ACLA ever had, may now have, or which arise in the future under any surviving Section of the Development and Commercialization Agreement as set forth in Article 2 above. For clarity, however, no breach of this Agreement by TWTI shall give rise to Claims determined based upon the Development and Commercialization Agreement.

(C) TWTI Release. TWTI, for itself and for its successors, assigns, subsidiaries, parents, and other Affiliates hereby unconditionally, absolutely and completely releases ACLA, including ACLA's parents, subsidiaries and other Affiliates, and the respective officers, directors, agents, and employees of each, (each an "ACLA Released Party") from and against any and all liability, damages, claims, actions, demands, responsibility, and causes of actions (for purposes of this Section 4.1(c) "Claims") with respect to or arising out of the Development and Commercialization Agreement or the Parties' relationship with each other thereunder, which TWTI ever had or may now have against TWTI. TWTI waives any and all such Claims and its rights under California Civil Code Section 1542 with respect to any such Claims, known or unknown. Notwithstanding the foregoing, TWTI does not release or waive any Claims that TWTI ever had, may now have, or which arise in the future under any surviving Section of the Development and Commercialization Agreement as set forth in Article 2 above. For clarity, however, no breach of this Agreement by ACLA shall give rise to Claims determined based upon the Development and Commercialization Agreement.

4.2 ROYALTIES.

(A) Annual Fixed Royalties. ACLA shall pay to TWTI an annual fixed royalty in each calendar year of the three (3) calendar years beginning in calendar year 2003 and continuing through calendar year 2005, as set forth in this Section 4.2(a) below. ACLA shall make each payment to TWTI no later than by January 15 of the applicable calendar year.

Calendar Year	Annual Fixed Royalty
2002	No Royalty Due
2003	*** fixed royalty
2004	*** fixed royalty
2005	*** fixed royalty

(B) Royalties on Net Sales to End Users. Subject to Sections 4.4 and 6.4 below, ACLA shall pay to TWTI as royalties the following percentages of Net Sales during the applicable calendar year beginning with calendar year 2006 and continuing during the remainder of the Term, as set forth in this Section 4.2(b) below:

Calendar Year	Royalty Rate
2006 and 2007	***
2008 and 2009	***
2010 and thereafter	***

For clarity, the Parties acknowledge that the royalties in this Agreement have been established for the convenience of the Parties based upon the assumption that the identified royalties will be paid on Licensed Product sold in all countries of the world, whether or not a license under the TWTI IP is required in the particular country in which the Licensed Product is manufactured, sold, or otherwise commercialized. Accordingly, a royalty shall be paid by ACLA on all Licensed Products in all countries whether or not a license is required in the particular country. Notwithstanding anything to the contrary, in the event that ACLA undergoes a change of control in any calendar year prior to January, 1 2010, the royalty rate on Net Sales under this Section 4.2(b) will be adjusted to be *** effective as of the date of such change of control, and will remain *** during the remainder of the Term; provided, however, that the effective date of the royalty rate adjustment shall not be earlier than January 1, 2006. For purposes of illustration, ***. For purposes of this Section 4.2(b), the term "change of control" means any transaction or series of related transactions that would occasion: (i) any share exchange, re-capitalization, business combination, consolidation, merger or other transaction or series of transactions resulting in the exchange of the outstanding shares of ACLA unless the stockholders of ACLA that exist immediately prior to the closing date of such transaction (or series of related transactions) hold, after the closing date, more than fifty percent (50%) of the voting equity of the surviving entity in such transaction computed on a fully diluted basis, (ii) a sale, lease, or other transfer of all or substantially all of the assets or stock of ACLA; (iii) any tender offer or exchange offer for fifty percent (50%) or more of the outstanding voting securities of ACLA or the filing of a registration statement under the United States Securities Act of 1933 in connection therewith; or (iv) any person or group acting in concert to control ACLA (as control is defined in Section 1.3 of this Agreement) having acquired beneficial ownership or the right to acquire beneficial ownership of fifty percent (50%) or more of the outstanding voting securities of ACLA. As used in this Section 4.2(b), "person" and "group" shall have the meanings given to such terms when used in Sections 13(d) and 14(d) of the United States Securities Exchange Act of 1934.

(C) Bundling. No Licensed Product shall be bundled and priced with any other product, component or service; likewise, no Probe Set or Cleavase Enzyme shall be bundled and priced with any other product, component or service other than as part of a Licensed Product, except in both situations, Probe Sets, Cleavase Enzyme or Licensed Products may be bundled (but not priced) with other products, components and/or services, provided that such

Probe Sets, Cleavase Enzyme and Licensed Products are priced separately in accordance with the principles set forth in Section 4.2(e) below.

(D) Royalty on all Components. For avoidance of doubt, Net Sales shall include the Net Sales from the distribution of all items distributed as part of a Licensed Product or Probe Set, including Cleavase Enzyme. ACLA acknowledges and agrees that TWTI's compensation for such Cleavase Enzyme under the Supply Agreement shall include both the Transfer Price for Cleavase Enzyme under the Supply Agreement and a royalty under Section 4.2 on Net Sales from the sale of Cleavase Enzyme, whether alone or as part of a Licensed Product. It is agreed that the Transfer Price alone, whether set now or in the future, shall not be considered complete compensation to TWTI for Cleavase Enzyme.

(E) Conflicts of Interest. In a transaction, or series of separate transactions, involving the provision of License Products, Cleavase Enzyme, Probe Sets, or data describing the results of a Multiplexed Invader Application, and any other products, services, or non-cash consideration, to an entity (or affiliated entities) by any combination of ACLA Entities, payments received by any of the ACLA Entities as a result of such transaction(s) shall not be shifted, allocated, or weighted among such products (including License Products, Probe Sets, and Cleavase Enzyme), data, services, and non-cash consideration in any manner so as to reduce or disadvantage the Net Sales from the sale of License Products, Cleavase Enzymes, Probe Sets, Multiplexed Invader Application data. In the event of any failure to comply with this Section 4.2(e), or in the event that the Net Sales from the sale of a particular License Product, Cleavase Enzyme, Probe Set, or data is below the fair market value for such License Product, Cleavase Enzyme, Probe Set, or data, as applicable, then the Net Sales in the suspect transactions shall be deemed to be such fair market value for purposes of calculating payments owed to TWTI.

4.3 SHARE OF OTHER CONSIDERATION. Subject to Section 6.4 ACLA shall pay TWTI *** of any and all Other Consideration received during each such calendar year of the Term; provided, however, that with respect to Other Consideration received prior to January 1, 2006, ACLA shall pay to TWTI *** of such Other Consideration allocated to the period after January 1, 2006 as set forth in this Section 4.3. In the event that the Other Consideration is not in the form of U.S. dollars, ACLA shall pay the fair market value of the Other Consideration to TWTI. With respect to Other Consideration received prior to January 1, 2006, the amount of such Other Consideration that shall be allocated to the period after January 1, 2006 shall be equal to: the total amount of Other Consideration received prior to January 1, 2006 multiplied by $(1-X/Y)$, where (i) X is equal to the duration of time for which the applicable Manufacturing Distributor, Value Added Distributor, Enabled Customer, or Technology Access Partner is authorized to exercise rights pursuant to this Agreement prior to January 1, 2006 in connection with such Other Consideration; and (ii) Y is equal to the total duration of time for which such party is authorized to exercise rights pursuant to this Agreement. For purposes of the foregoing, Other Consideration received in any transaction or a series of transactions with the same Third Party shall be aggregated and allocated in accordance with the foregoing, notwithstanding any contrary allocation in agreements between ACLA and the applicable party.

4.4 ROYALTY STACKING. The royalty rates set forth in Section 4.2(b) shall be reduced for particular units of Licensed Product by an amount equal to *** of any amount of royalties

and other payments required to be paid by ACLA to Non-Affiliate Third Parties for a license under the Patents of the Third Party to make, have made, use, sell, have sold or import such units of Licensed Products in the Gene Expression Field; provided, however, that any reduction in the royalty rates set forth in Section 4.2(b) pursuant to this Section 4.4 shall be limited such that (i) the royalty rate in calendar year 2006 and/or calendar year 2007 will not be reduced by more than *** (i.e., the royalty payable to TWTTI on Net Sales shall not be less than ***), (ii) the royalty rate in calendar year 2008 and/or calendar year 2009 will not be reduced by more than *** (i.e., the royalty payable to TWTTI on Net Sales shall not be less than ***), and (iii) the royalty rate in calendar year 2010 and any calendar year thereafter will not be reduced by more than *** (i.e., the royalty payable to TWTTI on Net Sales shall not be less than ***). As used in this Section 4.4, royalties and other payments shall not include cost sharing or reimbursement, service or consulting fees, payments for purchases, non-cash consideration, amounts paid for equity or securities, dividends, profit distributions, amounts paid for facilities or equipment, or any other payment or consideration which is not expressly identified in the written agreement between ACLA and the applicable Third Party as a payment for a license under the Third Party's Patents to make, have made, use, sell, offer to sell, or import the applicable Licensed Product.

4.5 MOST-FAVORED FEE TERMS. If, during the Term, TWTTI enters into a written agreement with any Third Party, other than an Affiliate of TWTTI, in which TWTTI grants a license to such Third Party, under the TWTTI IP, to make, use, and sell products in the Gene Expression Field for multiplex applications (i.e., to analyze simultaneously within the same reaction container four (4) or more RNAs in the same sample) under financial terms, considered as a whole and taking into account the non-cash consideration received by TWTTI, that are substantially more favorable than those provided to ACLA in this Agreement and provided that the rights granted by TWTTI are materially the same as set forth in this Agreement, then ACLA shall have the right to obtain such more favorable financial terms and conditions under this Agreement during the Term to the extent and for so long as those more favorable terms and conditions are made available to such Third Party. Notwithstanding the foregoing, this Section 4.5 shall not apply in connection with any litigation settlement, transfer or sale of all or substantially all of TWTTI's business or assets related to this Agreement, whether by way of merger, acquisition of stock or assets, operation of the law, or otherwise and shall not apply in connection with any agreement in which TWTTI grants exclusivity. No rebates, credits, or refunds shall be payable or provided by TWTTI as a result of this Section 4.5.

4.6 TRANSFER PRICE RECONCILIATION. ACLA shall pay to TWTTI a Reconciliation Amount with respect to quantities of Cleavase Enzyme (i) provided to Enabled Customers and (ii) used by ACLA, except for quantities of Cleavase Enzyme used by ACLA for activities described in Section 1.30 clause (A) and any activities for the development of Licensed Products, Probe Sets or Cleavase Enzymes hereunder. For purposes of this Section 4.6, "Reconciliation Amount" shall be equal to *** the Transfer Price for such Cleavase Enzyme. ACLA shall not distribute Cleavase Enzyme to an Enabled Customer, or use Cleavase Enzyme for the activities described in clause (ii) above except to the extent that ACLA pays the Reconciliation Amount to TWTTI in accordance with this Agreement. The Reconciliation Amount payable under this Section 4.6 shall be deemed to accrue in the calendar quarter in which the Cleavase Enzyme is distributed to the Enabled Customer or so used by ACLA, as applicable. Notwithstanding the foregoing, no Reconciliation Amount shall be due with respect to quantities of Cleavase Enzyme manufactured by or under authority of ACLA pursuant to Section 2.10 of the Supply Agreement.

ARTICLE 5

PAYMENT PROVISIONS

5.1 REPORTS AND PAYMENTS. ACLA shall make written reports and payments to TWTI within sixty (60) days after the close of each calendar quarter. Such reports shall show for such calendar quarter, as applicable and broken down on a region by region (i.e., United States, Europe, Asia, and Rest of the World) basis: (i) Net Sales and Other Consideration; (ii) royalties due on such Net Sales; (iii) fee sharing of Other Consideration as required pursuant to Article 4; (iv) the quantities and type of Cleavase Enzyme provided to Enabled Customers; (v) the quantities and type of Cleavase Enzyme used by ACLA for the activities for which the Reconciliation Amount is due under Section 4.6(ii) above; and (vi) the amounts that have been excluded from Net Sales as a result of Section 6.4. With respect to Enabled Customers that are also End Users, ACLA shall provide documentation demonstrating to TWTI amounts to be included in Net Sales, otherwise amounts received from Enabled Customers shall be deemed Other Consideration. Concurrently with providing each such report, ACLA shall pay TWTI all amounts accruing during the period covered by such report. The Parties hereby acknowledge and agree that all reports, and all information in such reports, provided by ACLA pursuant to this Section 5.1 are Confidential Information of ACLA.

5.2 MODE OF PAYMENT. All payments made pursuant to this Agreement shall be made by check or direct wire transfer of United States Dollars in immediately available funds in the requisite amount to such bank account as TWTI may from time to time designate by written notice to ACLA; provided that all payments above One Million United States Dollars (U.S. \$1,000,000) shall be made by direct wire transfer. Payments will be without reduction for any taxes (such as, without limitation, any withholding and other taxes imposed on the payee), fees or charges, to the extent applicable. In the event that sales are made or fees received in currency other than United States Dollars, payments by ACLA shall be calculated based on currency exchange rates for the last calendar quarter for which remittance is made. For each calendar quarter, such exchange rate will equal the arithmetic average of the daily exchange rates (obtained as described below) during the calendar quarter for purchase of United States Dollars by sale of such non-United States Dollar currency; each daily exchange rate will be obtained from the Reuters Daily Rate Report or The Wall Street Journal, Eastern U.S. Edition, or, if not so available, as otherwise agreed by the Parties.

5.3 RECORDS. ACLA shall keep, and shall cause its Resellers, Value Added Distributors, and Manufacturing Distributors to keep, complete, true and accurate books of account and records sufficient to determine and establish the amounts payable under this Agreement, including without limitation to determine and establish the quantities and types of Cleavase Enzyme distributed to Enabled Customers or used by ACLA, and compliance with the other terms and conditions of this Agreement, including Sections 4.2 and 4.3 above. Such books and records shall be kept reasonably accessible for three (3) years following the end of the calendar quarter to which they pertain and shall be made available for inspection throughout such three (3) year period by an independent third party auditor selected by TWTI for such purposes in accordance with Section 5.4 below.

5.4 AUDITS.

(A) AUDIT RIGHTS; PROCEDURE. Upon the written request of either Party (for purposes of this Section 5.4, the "Requesting Party"), and not more than once in each calendar year, the other Party (or in the case of ACLA, each of the ACLA Entities) (for purposes of this Section 5.4, the "Other Party") shall permit an independent certified public accounting firm (or other auditor in the case of audits for compliance with license restrictions) of an internationally recognized standing selected by the Requesting Party, and reasonably acceptable to the Other Party, at the Requesting Party's expense, to have access during normal business hours, and upon reasonable prior written notice, only to such of the records of the Other Party as may be reasonably necessary to, as applicable, verify the accuracy of any financial reports to the Requesting Party with respect to the preceding three (3) years, to confirm compliance with license restrictions, or verify that the Requesting Party is receiving the most favorable terms as provided under Section 3.9(e) or 4.5 above, as applicable. For clarity, the auditor appointed by TWI shall have the right to inspect Enabled Customer Agreements, Technology Access Partner Agreements, Reseller Agreements, Manufacturing Distributor Agreements, and Value Added Distributor Agreements to confirm compliance with license restrictions and to evaluate Other Consideration. Additionally, for clarity, the auditor appointed by either Requesting Party shall have the right to inspect all agreements relevant to confirm compliance with Section 3.9(e) or 4.5, as applicable, between the Other Party and non-Affiliate Third Parties. The accounting firm or other auditor, as applicable, will disclose to the Requesting Party whether the reports are correct or incorrect and, if incorrect, the amount by which the reports reveal any underpayment to the Requesting Party and the reason for such underpayment or whether the license restrictions have been complied with and, if the auditor believes there may be a non-compliance, all information relevant to the non-compliance. If the accounting firm or other auditor, believes the Other Party has not complied with Section 3.9(e) or 4.5, as applicable, the auditor will so notify the Other Party in writing and the auditor will discuss the matter with the Other Party in good faith for sixty (60) days after receipt of such notice. If the auditor remains convinced that the Other Party has not complied with Section 3.9(e) or 4.5, as applicable, after such discussion, and the Other Party has not agreed to take action which the auditor agrees would remedy such noncompliance, then the auditor shall disclose to the Requesting Party the financial terms of the agreements between the Other Party and the non-Affiliate Third Parties which are material to such noncompliance. The Parties shall resolve any dispute in accordance with Section 5.4(d) below. Any and all information disclosed to the Requesting Party under this Section 5.4(a) shall be deemed Confidential Information of the Party that was being audited and no other information will be disclosed to the Requesting Party.

(B) ADDITIONAL PAYMENTS; COST REIMBURSEMENT. If such accounting firm concludes that additional payments were owed to the Requesting Party by the Other Party during such period, then the Other Party shall pay the additional payments, with interest from the date originally due at an amount equal to the lesser of the prime rate plus two percent (2%), as published in The Wall Street Journal, Eastern U.S. Edition, on the last business day preceding such date, or the maximum amount permitted by applicable law, within thirty (30) days after the date the Requesting Party delivers to the Other Party such accounting firm's written report unless the additional payment is disputed by the Other Party pursuant to Section 5.4(d) below. If the amount of the underpayment for such period of at least one (1) year is greater than ten percent (10%) of the total amount owed for that year and greater than Ten Thousand United States

Dollars (\$10,000), then the Other Party shall, in addition, reimburse the Requesting Party for its reasonable costs related to such audit.

(C) CONFIDENTIALITY. The Requesting Party shall treat all information subject to review under this Section 5.4 as Confidential Information of the Other Party and in accordance with the confidentiality provisions of Article 7, and will cause its accounting firm to enter into a confidentiality agreement consistent with Article 7, obligating such firm to retain all such financial information in confidence pursuant to such confidentiality agreement.

(D) AUDIT DISPUTES. If the Other Party in good faith disputes the conclusion of the accounting firm under Section 5.4(a) above that the Other Party owes additional royalties or other payments, or any specific aspect of the conclusion, then the Other Party will inform the Requesting Party by written notice within thirty (30) days of receiving a copy of the audit containing such conclusion, specifying in detail the reasons for disputing such conclusion. Likewise, if the Other Party in good faith disputes the conclusion under Section 5.4(a) above that any particular agreement provides a non-Affiliate Third Party more favorable financial terms, or any specific aspect of the conclusion, then the Other Party will inform the Requesting Party by written notice within thirty (30) days of receiving a copy, from the Requesting Party, of the audit containing such conclusion, specifying in detail the reasons for disputing such conclusion. In either such case, the Parties shall promptly thereafter meet and negotiate in good faith a resolution to such dispute. In the event that such Parties are unable to resolve such dispute within sixty (60) days after such notice, the matter will be resolved in accordance with Section 11.8 regarding dispute resolution.

5.5 LATE PAYMENT. Any payments or portions thereof due hereunder which are not paid when due shall bear interest equal to the lesser of the prime rate as reported by the Chase Manhattan Bank, New York, New York, on the date such payment is due, plus an additional two percent (2%), or the maximum rate permitted by law, calculated on the number of days such payment is delinquent. This Section 5.5 shall in no way limit any other remedies available to either Party.

ARTICLE 6

INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF TWTI IP AND TWTI MARKS. Subject to the rights granted to ACLA in this Agreement, TWTI shall own the TWTI IP and the TWTI Marks.

6.2 PATENT PROSECUTION.

(A) First Right To Prosecute. Subject to Section 6.2(b), TWTI (itself or through a designee) shall have the sole right to control the filing, prosecution and maintenance of Patents within the TWTI IP, and shall bear all costs associated therewith. TWTI shall consider comments from ACLA regarding steps that might be taken to strengthen patent protection with respect to any Patent within such TWTI IP or to expand protection in a mutually desired manner. Nothing herein shall imply or create any obligation for TWTI to file, prosecute, obtain or maintain any Patents or to follow ACLA's recommendations or comments.

(B) Election Not to Prosecute or Maintain. Without limiting Section 6.2(a) above, TWTI may elect, on a country-by-country basis, not to continue to prosecute and thereby abandon an application for a Patent within the TWTI IP, or not to maintain and thereby abandon such a Patent. With respect to issued Patents only, TWTI shall notify ACLA of such election and discuss with ACLA the possibility of allowing ACLA the right to maintain, in such country or jurisdiction, such issued Patent. Nothing herein shall imply or create any obligation for TWTI to file, prosecute, obtain or maintain any Patents nor grant to ACLA any right to do so.

6.3 PATENT MARKING. ACLA shall mark, and cause the ACLA Entities and Technology Access Partners and Enabled Customers to mark, Licensed Products, Probe Sets and Cleavase Enzyme with the numbers of the Patents covering the same as may be necessary or appropriate to preserve TWTI's rights under applicable law and regulations in applicable countries. In this regard, ACLA will consult with TWTI from time to time regarding such markings.

6.4 ENFORCEMENT OF INTELLECTUAL PROPERTY.

(A) Notice. If ACLA believes in good faith that a Third Party that is a significant competitor is engaged in sales or uses of a Competing Product (as defined below) in a given country, and that Competing Product infringes the TWTI IP in such country, then ACLA shall promptly notify TWTI in writing of such infringement, describing in such notice in reasonable detail ACLA's Corresponding Licensed Product (as defined below), the Competing Product and the Enforceable Patents (as defined below) included in the TWTI IP that ACLA believes are infringed. For purpose of this Section 6.4, (i) "Competing Product" means a product that infringes an Enforceable Patent in the TWTI IP and is functionally equivalent to a Licensed Product being marketed and sold by ACLA for use in the country identified in ACLA's notice (the "Corresponding Licensed Product"); (ii) "Enforceable Patent" means a Patent in such country which is included in the TWTI IP and which TWTI has the power and authority to enforce as contemplated in this Section 6.4; and (iii) the term "significant competitor" means a Third Party who is not, and is not Affiliated with, any ACLA Entity, Technology Access Partner, or Enabled Customer and whose total revenues from its sales of such Competing Product in a given country that are used in such country are greater than or equal to *** of the total aggregate amount of the ACLA Entities' Net Sales and Other Consideration from sales of the Corresponding Licensed Product in such country in the most recent twelve (12) consecutive calendar month period, provided that the ACLA Entities' Net Sales and Other Consideration from the sales of the Corresponding Licensed Product that are used in such country exceeds *** during such period.

(B) Right to Enforce TWTI IP. TWTI (itself or through a designee) shall have the sole right, but not the obligation, to enforce and control the enforcement of the TWTI IP. With respect to enforcement by TWTI of an Enforceable Patent in the TWTI IP against a significant competitor with respect to a Competing Product for which TWTI has received notice from ACLA in accordance with Section 6.4(a), TWTI shall keep ACLA reasonably informed on a reasonably timely basis, and reasonably consult with ACLA and consider in good faith the reasonable comments of ACLA, regarding such enforcement, both prior to and during any such enforcement. ACLA shall assist TWTI and provide information, upon request, and to the extent commercially reasonable for ACLA, in taking any action to enforce the TWTI IP. Amounts invoiced by ACLA on sales, after the occurrence of a Toll Event (as defined below), of Corresponding Licensed Product shall be excluded from Net Sales for units used in the country in which the Toll Event occurred, but only until such time as the Toll Event has been remedied in the applicable country and TWTI has so notified ACLA thereof in writing. Notwithstanding anything to the contrary, no amounts shall be excluded from Net Sales, and no Toll Event shall be considered to have occurred, if ACLA has failed to provide information or assistance reasonably requested by TWTI or if there is a difference between the Corresponding Licensed Product and the Competing Product that provides a reasonable basis for concluding that the Competing Product does not infringe the Enforceable Patent even if the Corresponding Licensed Product does infringe. ACLA shall provide TWTI with technical details concerning the Competing Product and Corresponding Licensed Product sufficient to enable TWTI to understand fully the two products, and their functionality and composition, and to establish infringement by the Competing Product. As used herein, a "Toll Event" shall be deemed to have occurred if ACLA has provided TWTI with notice of a Competing Product and infringement in accordance with Section 6.4(a), Competing Product used in the country identified in ACLA's notice continues to be sold by an entity that is a significant competitor in such country with respect to such Competing Product, and either of the following is true: (X) TWTI (itself or through a designee) has not, within one hundred eighty (180) days after receiving such notice from ACLA under Section 6.4(a), initiated actions to commence one of a lawsuit against, negotiations for a license with, or other reasonable enforcement of an Enforceable Patent against such entity with respect to the applicable Competing Product in the applicable country or (Y) TWTI (itself or through a designee) has not, within one (1) year after such notice, executed with such significant competitor a license or other authorization under the infringed Enforceable Patent, and has not within such period commenced a lawsuit against such significant competitor, each with respect to the Competing Product in the applicable country. A Toll Event shall be considered remedied if any of the following occurs: TWTI has executed a license or other authorization for the Competing Product in the applicable country; TWTI has commenced a lawsuit; the entity that was a significant competitor is no longer a significant competitor in the applicable country with respect to the applicable Competing Product; TWTI no longer has the power or authority to enforce the Enforceable Patent in the applicable country against the significant competitor with respect to the Competing Product through no action of TWTI (such as without limitation as a result of expiration of the Enforceable Patent, expiration of TWTI's exclusive in-license, or otherwise); a reasonable non-infringement and/or invalidity opinion has been provided by TWTI; or ACLA has failed to provide information or assistance reasonably requested by TWTI. Nothing shall be construed to require TWTI to bring an action based upon all of the Enforceable Patents that may be infringed.

(C) Defense of TWTI IP. TWTI (itself or through a designee) shall have the sole right, but not the obligation, to defend and control the defense of the TWTI IP; provided, however, that if ACLA is a party to any such action or proceeding regarding TWTI IP, ACLA shall have the right to conduct and control its defense of itself and its Licensed Products at ACLA's cost and expense, subject to Article 9. For clarity, the foregoing shall not be construed to provide ACLA with any rights to enforce or defend any TWTI IP in any manner. In such case where ACLA is a party, each Party shall keep the other informed on a reasonably timely basis, and reasonably consult with the other and consider in good faith the reasonable comments of the other, regarding such defense both prior to and during any such defense. ACLA shall assist TWTI and provide information, upon request, and to the extent commercially reasonable for ACLA, in taking any action to defend the TWTI IP.

ARTICLE 7

CONFIDENTIALITY

7.1 CONFIDENTIAL INFORMATION.

(A) Confidentiality Obligations. Each Party agrees that, for the Term and thereafter for a period of five (5) years, such Party will keep, and will ensure that its officers, directors, employees and agents keep, completely confidential and will not publish or otherwise disclose and will not use for any purpose except as permitted hereunder any Confidential Information of the other Party. The foregoing obligations will not apply to any information to the extent that it can be established by such receiving Party that such information:

(I) was already known to the receiving Party as evidenced by its written records, other than under an obligation of confidentiality, at the time of disclosure;

(II) was generally available to the public or was otherwise part of the public domain at the time of its disclosure to the receiving Party;

(III) became generally available to the public or otherwise becomes part of the public domain after its disclosure and other than through any act or omission of the receiving Party in breach of this Agreement;

(IV) was subsequently lawfully disclosed to the receiving Party by a Third Party other than under an obligation of confidentiality and other than in contravention of a confidentiality obligation of such Third Party; or

(V) was developed or discovered by employees of the receiving Party or its Affiliates who had no access to the Confidential Information of the disclosing Party as evidenced by the written records of the receiving Party.

Each Party shall obtain written agreements from each of its employees, consultants having access to the other Party's Confidential Information in accordance with this Section 7.1.

(B) Permitted Use and Disclosures. Notwithstanding the provisions of Section 7.1(a), each Party may disclose the other Party's Confidential Information to the extent

such disclosure is reasonably necessary to comply with applicable governmental laws, regulations, or orders; provided that if a Party is required to make any such disclosure of the other Party's Confidential Information, it will, to the extent it may legally do so, give reasonable advance notice to the latter Party of such disclosure and will use its reasonable efforts to secure confidential treatment of such information prior to its disclosure (whether through protective orders or otherwise). Each Party shall also have the right to use the Confidential Information of the other Party in accordance with licenses granted in this Agreement. Each Party shall disclose the Confidential Information of the other Party only to its employees, subcontractors, and sublicensees as reasonably necessary for such Party to exercise its rights.

7.2 TERMS OF AGREEMENT; PRESS RELEASE. Except to the extent required by applicable law or as otherwise permitted in accordance with this Section 7.2, neither Party shall make any public announcements concerning this Agreement or the terms hereof, including, without limitation, the existence and terms of the rights grant under Sections 3.1, 3.2 and 3.5 above, without the prior written consent of the other Party. Notwithstanding the foregoing, each Party shall have the right to issue a press release in the form attached as Exhibit 7.2 and to disclose this Agreement or the terms hereof (i) to advisors and investors on a need-to-know basis under conditions which reasonably ensure the confidentiality thereof; (ii) as required by any court or other governmental body; (iii) as otherwise required by law; (iv) in confidence to legal counsel of such parties; (v) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; (vi) in confidence, in connection with a merger, acquisition of stock or assets, proposed merger or acquisition, or the like; or (vii) as required in connection with any government or regulatory filings, including without limitation filings with the SEC, provided that such disclosing Party shall: (A) give reasonable advance written notice to the non-disclosing Party of the proposed disclosure and the reason for such disclosure; (B) consider in good faith comments and requests of the non-disclosing Party regarding such proposed disclosure that are received by the disclosing Party within two (2) business days after the non-disclosing Party's receipt of the proposed disclosure; and (C) use reasonable efforts to secure confidential treatment of such disclosed information.

7.3 PUBLICATION. ACLA shall have the right to publish and present information related to work performed pursuant to the rights granted ACLA under Sections 3.1 and 3.5 above, provided that such information does not contain or disclose Confidential Information of TWTI and provided further that, if such information arises from activities pursuant to Section 3.5, TWTI approves such publication or presentation, such permission not to be unreasonably withheld.

7.4 PROPRIETARY MARKINGS. Neither Party shall remove or obscure any trademark, trade name, copyright notice, patent marking or other proprietary notice from any materials provided to it by the other Party in connection with this Agreement.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES

8.1 REPRESENTATIONS BY TWTI. TWTI represents and warrants that it has not previously granted and will not grant any rights in conflict with the rights and licenses granted herein, and as of the Effective Date that: (i) it is duly organized and validly existing under the

laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement; (ii) it is in good standing with all relevant governmental authorities; (iii) it has taken all corporate actions necessary to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement; (iv) it has the rights to grant the rights and licenses under Article 3; (v) it has no knowledge that the Invader Reaction in and of itself infringes the Intellectual Property Rights of any Third Party; (vi) it Controls no Intellectual Property Rights, other than the TWTI IP, that are necessary to perform the Multiplexed Invader Application; (vii) no Intellectual Property Rights have been in-licensed by TWTI that are necessary to perform the Invader Reaction which are not Controlled by TWTI; and (viii) the performance of its obligations under this Agreement do not conflict with, or constitute a default under its charter documents, any contractual obligation of TWTI or any court order.

8.2 REPRESENTATIONS BY ACLA. ACLA represents and warrants that, as of the Effective Date: (i) it is duly organized and validly existing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement; (ii) it is in good standing with all relevant governmental authorities; (iii) it has taken all corporate actions necessary to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement; and (iv) the performance of its obligations under this Agreement do not conflict with, or constitute a default under its charter documents, any contractual obligation of ACLA or any court order.

8.3 DISCLAIMER OF WARRANTIES. EXCEPT AS SPECIFICALLY SET FORTH IN THIS ARTICLE 8, NO PARTY MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, NON-INFRINGEMENT, AND ANY OTHER STATUTORY WARRANTY.

ARTICLE 9

INDEMNIFICATION

9.1 INDEMNIFICATION BY TWTI. TWTI shall indemnify, defend and hold ACLA and its Affiliates, agents, employees, officers and directors (the "ACLA Indemnitees") harmless from and against any and all liability, damage, loss, cost or expense (including reasonable attorneys' fees) arising out of Third Party claims or suits to the extent resulting from: (i) TWTI's performance of, or failure to perform, its obligations under this Agreement; and (ii) breach by TWTI of any of its representations and warranties under Section 8.1 above, provided, however, that TWTI's obligations pursuant to this Section 9.1 will not apply to the extent such claims or suits result from the negligence or willful misconduct of any of the ACLA Indemnitees.

9.2 INDEMNIFICATION BY ACLA. Except for liability for which TWTI is required to indemnify ACLA under Section 9.1 above, ACLA shall indemnify, defend and hold TWTI and its Affiliates, agents, employees, officers and directors (the "TWTI Indemnitees") harmless from and against any and all liability, damage, loss, cost or expense (including reasonable attorneys' fees) arising out of Third Party claims or suits to the extent resulting from: (i) ACLA's performance of, or failure to perform, its obligations under this Agreement; (ii) breach by ACLA of any of its representations and warranties under Section 8.2 above; or (iii) product liability or

other claims arising from or in connection with the exercise or practice by any of the ACLA Entities, any End User, Technology Access Partner, Enabled Customer, or otherwise, of the rights and licenses granted by TWTI under this Agreement; provided, however, that ACLA's obligations pursuant to this Section 9.2 will not apply to the extent such claims or suits result from the negligence or willful misconduct of any of the TWTI Indemnitees.

9.3 NOTIFICATION OF CLAIM; CONDITIONS TO INDEMNIFICATION OBLIGATIONS. As a condition to a Party's right to receive indemnification under this Article 9, it shall: (i) promptly notify ("Claim Notice") the other Party as soon as it becomes aware of a claim or suit for which indemnification may be sought pursuant hereto (provided that the failure to give a Claim Notice promptly shall not prejudice the rights of an indemnified Party except to the extent that the failure to give such prompt notice materially prejudices the indemnifying Party); (ii) cooperate with the indemnifying Party in the defense of such claim or suit, at the expense of the indemnifying Party, including providing reasonable information; and (iii) if the indemnifying Party confirms in writing to the indemnified Party its intention to defend such claim or suit within ten (10) days of receipt of the Claim Notice, permit the indemnifying Party to control the defense of such claim or suit, including without limitation the right to select defense counsel; provided that if the indemnifying Party fails to (x) provide such confirmation in writing within the ten (10) day period or (y) diligently and reasonably defend such suit or claim at any time, its right to defend the claim or suit shall terminate immediately in the case of (x) and otherwise upon twenty (20) days' written notice to the indemnifying Party without cure and the indemnified Party may assume the defense of such claim or suit at the sole expense of the indemnifying Party and may settle or compromise such claim or suit without the consent of the indemnifying Party. In no event, however, may the indemnifying Party compromise or settle any claim or suit in a manner which admits fault or negligence on the part of any indemnified Party or that otherwise materially affects such indemnified Party's rights or requires any payment by an indemnified Party without the prior written consent of such indemnified Party. Subject as expressly provided above, the indemnifying Party will have no liability under this Article 9 with respect to claims or suits settled or compromised (including by admission) without its prior written consent.

ARTICLE 10

TERM AND TERMINATION

10.1 TERM. This Agreement will commence upon the Effective Date and shall continue in effect until the last-to-expire of any Valid Claim within the TWTI IP unless earlier terminated as provided herein (the "Term").

10.2 TERMINATION FOR CONVENIENCE BY ACLA. ACLA shall have the right to terminate this Agreement with immediate effect, unless otherwise expressly specified hereunder, at any time with ninety (90) days prior written notice.

10.3 TERMINATION FOR CAUSE BY TWTI. TWTI shall have the right to terminate this Agreement upon final determination, in accordance with Section 11.8(c) below, of material failure to comply with any material term of this Agreement by ACLA.

10.4 CONSEQUENCES OF TERMINATION OR EXPIRATION.

(A) RETURN OF MATERIALS. Upon termination or expiration of this Agreement each Party will promptly return all records and materials in its possession or control containing or comprising the other Party's know-how or other Confidential Information to which the former Party does not expressly retain rights hereunder.

(B) ACCRUED LIABILITY. Termination or expiration of this Agreement for any reason shall not release either Party hereto from any liability which at the time of such termination or expiration has already accrued to the other Party prior to such time. Such termination or expiration will not relieve a Party from accrued payment obligations or from obligations which are expressly indicated in this Agreement to survive termination or expiration of this Agreement.

(C) SURVIVAL. The following Articles and Sections of this Agreement shall survive its termination or expiration: Articles 1, 5 (for a period of three (3) years after termination or expiration), 7, 9 and 11 and Sections 3.6(a) (third sentence), 3.6(d) (last sentence), 3.9, 4.1(b), 4.1(c), 8.3, and 10.4. Except as otherwise expressly indicated in this Agreement, all rights and licenses shall terminate upon any expiration or termination of this Agreement. For clarity, all rights of ACLA under Articles 3 and 7, all rights of Resellers, Value Added Distributors, Manufacturing Distributors, Technology Access Partners, and Enabled Customers, shall terminate upon any termination or expiration of this Agreement. No ACLA Entity shall distribute Licensed Product, Cleavase Enzyme, or Probe Set, as applicable, after any termination or expiration of this Agreement.

ARTICLE 11

GENERAL PROVISIONS

11.1 RELATIONSHIP OF THE PARTIES. The Parties are independent contractors. Nothing in this Agreement is intended or will be deemed to constitute a partnership, agency or employer-employee relationship between the Parties. Neither Party will incur any debts or make any commitments for the other Party.

11.2 ASSIGNMENTS. Except as expressly provided herein, neither this Agreement nor any interest hereunder will be assignable, nor any other obligation delegable, by a Party without the prior written consent of the other Party; provided, however, that a Party shall have the right to assign and otherwise transfer this Agreement as a whole without consent to any successor that acquires all or substantially all of the business or assets of such Party by way of merger, consolidation, other business reorganization, or the sale of stock or assets, provided that the assigning Party notifies the other Party in writing of such assignment, both the Supply Agreement and InvaderCreator Access Agreement are concurrently transferred in their entirety to such successor in accordance with their terms, and such successor agrees in writing to be bound by the terms and conditions of this Agreement, the Supply Agreement and the InvaderCreator Access Agreement. This Agreement shall be binding upon successors and permitted assigns of the Parties. Any assignment not in accordance with this Section 11.2 will be null and void.

11.3 INTENTIONALLY OMITTED.

11.4 FORCE MAJEURE. Except with respect to payment of money, no Party shall be liable to the other for failure or delay in the performance of any of its obligations under this Agreement for the time and to the extent such failure or delay is caused by earthquake, riot, civil commotion, war, terrorist acts, strike, flood, or governmental acts or restriction, or other cause that is beyond the reasonable control of the respective Party. The Party affected by such force majeure will provide the other Party with full particulars thereof as soon as it becomes aware of the same (including its best estimate of the likely extent and duration of the interference with its activities), and will use commercially reasonable efforts to overcome the difficulties created thereby and to resume performance of its obligations as soon as practicable. If the performance of any such obligation under this Agreement is delayed owing to such a force majeure for any continuous period of more than one hundred eighty (180) days, the Parties hereto will consult with respect to an equitable solution, including the possibility of the mutual termination of this Agreement.

11.5 ENTIRE AGREEMENT OF THE PARTIES; AMENDMENTS. This Agreement, the Supply Agreement, the InvaderCreator Access Agreement, the Letter related to the Transition Manufacturing Plan and the Letter related to InvaderCreator Access Prior to Implementation of Updates, all entered into concurrently, constitute and contain the entire understanding and agreement of the Parties respecting the subject matter hereof and except as expressly provided in Section 2.1 of this Agreement cancels and supersedes any and all prior and contemporaneous negotiations, correspondence, understandings and agreements between the Parties, whether oral or written, regarding such subject matter, including, without limitation, the Development and Commercialization Agreement. No waiver, modification or amendment of any provision of this Agreement will be valid or effective unless made in writing and signed by the Parties.

11.6 CAPTIONS. The captions to this Agreement are for convenience only, and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement.

11.7 GOVERNING LAW. This Agreement will be governed by and interpreted in accordance with the laws of the State of California, applicable to contracts entered into and to be performed wholly within the State of California, excluding conflict of laws principles.

11.8 DISPUTE RESOLUTION.

(A) General. Except as otherwise provided in this Section 11.8 below, in the event of any controversy or claim arising out of, relating to or in connection with any provision of this Agreement or the rights or obligations of the Parties hereunder, either Party shall have the right to initiate dispute resolution by sending written notice of the dispute, and an intent to arbitrate such dispute, to the other Party; provided, however, that any dispute concerning the scope, construction, validity, enforceability or infringement of any Patent within the TWTTI IP shall be heard and decided in a court of competent jurisdiction under the local patent laws of the jurisdictions having issued the Patent or Patents in question. Within twenty (20) days after such notice (either, a "Dispute Notice"), each Party shall cause its Chief Executive Officer or the Chief Executive Officer's high-level executive (at the senior vice president level or higher) to meet in person to negotiate in good faith a resolution to the dispute within twenty (20) days of

the first such meeting. If the dispute is unresolved during such period, then any Party may initiate arbitration in accordance with the commercial arbitration rules of the American Arbitration Association ("AAA") then in force. The Parties shall use their commercially reasonable efforts to conclude the arbitration within six (6) months after the arbitrator has been appointed. The venue of such arbitration shall be in Madison, Wisconsin for disputes brought by ACLA and Santa Clara County, California for disputes brought by TWTTI.

(B) Fast Track. In the event of any dispute related to ACLA's rights to suspend payments under Section 6.4(b), then either Party shall have the right to issue a Dispute Notice as provided under Section 11.8(a) above identifying the nature of such dispute and that such Party believes in good faith that such dispute should be decided pursuant to this Section 11.8(b); provided, however, that any dispute related to the infringement, validity or claim construction of any Patents shall be heard by a court of competent jurisdiction in the country where such right exists. The Parties shall agree upon and appoint one (1) arbitrator within twenty (20) days after the notice of arbitration is received by all Parties and, failing such agreement, any Party may apply under the applicable rules of the AAA for the appointment of an arbitrator and the selection of an arbitrator under such rules of the AAA shall be final and binding on the Parties. Such arbitrator shall have appropriate experience in the biopharmaceutical industry and be independent of all the Parties. Within thirty (30) days after such arbitrator is identified and retained in writing, each Party shall submit to such arbitrator and the other Party a written proposal for resolving such dispute. The arbitrator shall select the proposal of one Party without alteration or modification, which proposal shall be deemed the judgment and award with respect to such dispute. The arbitrator shall limit discovery as reasonably practicable to complete the arbitration as soon as practicable.

(C) Judgments. An award rendered pursuant to this Section 11.8 shall be final and binding upon all parties participating in such arbitration. The arbitrator may, upon competent proof, grant any remedy or relief that the arbitrator deems just and equitable under the terms and conditions of this Agreement. Nothing in this Agreement shall be deemed as preventing any Party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the Parties and the subject matter of the dispute. Judgment upon the award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and/or an order of enforcement as the case may be and shall be deemed to be a final determination.

(D) Preliminary Injunctions. Notwithstanding anything to the contrary in this Section 11.8, a Party shall have the right to seek a temporary restraining order or preliminary injunction from any court of competent jurisdiction in order to prevent immediate and irreparable injury, loss or damage on a provisional basis, pending the decision of the arbitrator(s) on the merits under this Section 11.8.

11.9 NOTICES AND DELIVERIES. Any notice, request, delivery, approval or consent required or permitted to be given under this Agreement will be in writing and will be deemed to have been sufficiently given if delivered in person, transmitted by telecopier (receipt verified) or by express courier service (signature required) or five (5) days after it was sent by registered letter, return receipt requested (or its equivalent), provided that no postal strike or other disruption is then in effect or comes into effect within two (2) days after such mailing, to the

Party to which it is directed at its address or facsimile number shown below or such other address or facsimile number as such Party will have last given by notice to the other Party.

If to TWTI, addressed to:

Third Wave Technologies, Inc.
502 South Rosa Road
Madison, Wisconsin 53719
Attn.: President
Fax: 608-273-8618

With a copy to:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, California 94304-1050
Attn.: Ian B. Edvalson, Esq.
Fax: 650-493-6811

If to ACLA, addressed to:

ACLARA BioSciences, Inc.
1288 Pear Avenue
Mountain View, California 94043
Attn.: President and CEO
Fax: 650-210-9271

With a copy to:

Latham & Watkins
135 Commonwealth Drive
Menlo Park, California 94025
Attn.: Michael W. Hall, Esq.
Fax: 650-463-2600

11.10 NO CONSEQUENTIAL DAMAGES. EXCEPT WITH RESPECT TO UNAUTHORIZED EXPLOITATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, BREACH OF ARTICLE 7, BUT INCLUDING UNDER ARTICLE 9, IN NO EVENT WILL ANY PARTY OR ANY OF ITS RESPECTIVE AFFILIATES BE LIABLE TO THE ANY OTHER PARTY OR ANY OF ITS AFFILIATES FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE OR CLAIMS OF CUSTOMERS OF ANY OF THEM OR OTHER THIRD PARTIES FOR SUCH DAMAGES.

11.11 WAIVER. A waiver by any Party of any of the terms and conditions of this Agreement in any instance will not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach hereof. All rights, remedies, undertakings, obligations and agreements contained in this Agreement will be cumulative and none of them will be in limitation of any other remedy, right, undertaking, obligation or agreement of either Party.

11.12 SEVERABILITY. When possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement. The Parties will make a good faith effort to replace the invalid or unenforceable provision with a valid one which in its economic effect is most consistent with the invalid or unenforceable provision. In the event a Party seeks to avoid a provision of this Agreement by asserting that such provision is invalid, illegal or otherwise unenforceable, the other Party shall have the right to terminate this Agreement upon sixty (60) days' prior written notice to the asserting Party, unless such assertion is eliminated and cured within such sixty (60)-day period, such termination shall be deemed to be a termination pursuant to Section 10.2 if by ACLA or if by TWTI pursuant to Section 10.3.

11.13 COMPLIANCE WITH LAWS. Notwithstanding anything to the contrary contained herein, all rights and obligations of ACLA and TWTI are subject to prior compliance with, and each Party shall comply with, all United States and foreign export and import laws, regulations, and orders, and such other United States and foreign laws, regulations, and orders as may be applicable, including obtaining all necessary approvals required by the applicable agencies of the governments of the United States and foreign jurisdictions.

11.14 COUNTERPARTS. This Agreement may be executed simultaneously in any number of counterparts, any one of which need not contain the signature of more than one Party but all such counterparts taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the Effective Date, each copy of which will for all purposes be deemed to be an original.

THIRD WAVE TECHNOLOGIES, INC.

ACLARA BIOSCIENCES, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PRESS RELEASE

FOR IMMEDIATE RELEASE
ACLARA Contact: Alfred Merriweather

VP, Finance and CFO
650.210.1200
amerriweather@aclara.com

Third Wave Contact:: Rod Hise
Manager, Corporate Communications
608.663.4010
rhise@tw.com

ACLARA AND THIRD WAVE SIGN NEW LICENSE, SUPPLY AGREEMENTS
ACLARA licenses Third Wave's Invader(TM) technology to independently develop and commercialize multiplexed gene expression research applications

MOUNTAIN VIEW, Calif. and MADISON, Wis.--October 16, 2002--ACLARA BioSciences Inc. (Nasdaq: ACLA) and Third Wave Technologies Inc. (Nasdaq: TWTI) today announced that they have entered into license and supply agreements under which ACLARA will have rights to incorporate Third Wave's Invader(TM) technology and Cleavase(R) enzyme with ACLARA's eTag(TM) technology to offer the eTag Assay System for multiplexed gene expression applications for the research market.

The new business relationship allows ACLARA to directly develop and commercialize its multiplexed eTag-Invader(TM) gene expression assays, greatly streamlining the operational structure of the previous collaboration and permitting ACLARA to fully exploit a large market with an unmet need. ACLARA's products enable pharmaceutical and biotechnology companies to more efficiently identify important drug targets and new medicines, and to characterize disease status and treatment.

In addition to licensing the Invader technology platform to ACLARA for gene expression applications for research use, Third Wave will supply Cleavase enzyme to ACLARA for incorporation into eTag-Invader gene expression assays.

"This new commercial relationship provides ACLARA with an enhanced ability to address the sizable gene expression research market," said Joseph M. Limber, ACLARA's president and chief executive officer. "We plan to aggressively develop this significant market opportunity. Researchers want an accurate, efficient alternative for analyzing tens to hundreds of genes and eTag-Invader gene expression assays are ideally suited for these types of experiments. With our new agreement with Third Wave, ACLARA has greater flexibility to efficiently commercialize these applications."

"We believe ACLARA's eTag chemistry with our Invader(R) assay is a breakthrough detection technology for highly-multiplexed gene expression analysis,"

said Lance Fors, Ph.D., Third Wave chairman and chief executive officer. "The Invader(TM) platform is increasingly becoming the platform of choice and this license is one example of merging two great technologies to offer a uniquely-differentiated, value-added product."

The powerful combination of eTag reporter molecules and the proven Invader technology provides superior performance for profiling the expression of many genes compared to other DNA and RNA detection methods. eTag-Invader multiplexed, quantitative gene expression analyses are highly precise, accurate and efficient, enabling researchers to obtain decision-critical results more quickly and have greater success at detecting targets and drug response. Researchers can easily perform these analyses at high throughput using far less bio-sample and can compare results across different samples, experiments and labs. They can profile many genes simultaneously in a single reaction directly from crude cell lysates, without the need for sample preparation or polymerase chain reaction (PCR) and with built-in internal controls.

The agreement provides ACLARA with a license for Third Wave's Invader technology platform for multiplexed gene expression analysis in the research market. In exchange, ACLARA will make undisclosed upfront payments and will make royalty payments to Third Wave on sales of eTag-Invader gene expression assays. The agreements supersede the previously announced collaboration agreement between the two companies.

ABOUT ACLARA

ACLARA BioSciences, Inc. is developing advanced tools for drug discovery, genomics and proteomics using its proprietary eTag(TM) assay chemistries and microfluidics expertise. The Company's products allow researchers to have decision-critical information for drug development, which previously was difficult or impossible to obtain. The solution-phase eTag Assay System is cost-effective, easy-to-use and flexible, and enables highly accurate and precise analysis of genes and/or proteins from limited biological samples. Importantly, researchers can use their existing instrument platforms to perform eTag analyses. More information on ACLARA can be obtained on the Company's web site at www.aclara.com.

ABOUT THIRD WAVE TECHNOLOGIES

Third Wave Technologies develops, manufactures and markets genetic analysis products that are accelerating the delivery of personalized medicine. Our patented Invader product platform offers unmatched accuracy, sensitivity, ease of use and cost-effectiveness, making it the ideal solution for genetic analysis across the health care continuum.

For more information about Third Wave and its products, please visit the company's website at <http://www.twt.com>.

Forward-Looking Statements

ALL STATEMENTS IN THIS NEWS RELEASE THAT ARE NOT HISTORICAL ARE FORWARD-LOOKING STATEMENTS WITHIN THE MEANING OF THE SECURITIES EXCHANGE ACT OF 1934 AS AMENDED. SUCH FORWARD-LOOKING STATEMENTS ARE SUBJECT TO FACTORS THAT COULD CAUSE ACTUAL RESULTS FOR ACLARA AND/OR THIRD WAVE TO DIFFER MATERIALLY FROM THOSE PROJECTED. THOSE FACTORS INCLUDE RISKS AND UNCERTAINTIES RELATING TO TECHNOLOGICAL APPROACHES OF ACLARA AND THIRD WAVE, RESPECTIVELY, AND THEIR RESPECTIVE COMPETITORS, PRODUCT DEVELOPMENT PLANS AND EFFORTS, MANUFACTURING CAPABILITIES, MARKET ACCEPTANCE OF THEIR RESPECTIVE PRODUCTS, SUCCESSFUL ESTABLISHMENT OF AND PERFORMANCE UNDER COLLABORATIVE AND COMMERCIAL AGREEMENTS, ADOPTION OF THEIR RESPECTIVE TECHNOLOGIES BY PHARMACEUTICAL AND BIOTECHNOLOGY COMPANIES, ACLARA'S ABILITY TO SUCCESSFULLY BUILD A DIRECT SALES AND MARKETING ORGANIZATION, AND OTHER RISK FACTORS IDENTIFIED IN THE FORMS 10-K FOR THE YEAR ENDED DECEMBER 31, 2001, AND FORMS 10-Q FOR THE QUARTER ENDED JUNE 30, 2002, AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION BY ACLARA AND THIRD WAVE, RESPECTIVELY.

TRADEMARKS

ACLARA BioSciences, eTag, and the ACLARA logo are trademarks of ACLARA BioSciences, Inc. Invader and Cleavase are registered trademarks of Third Wave Technologies Inc.

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Exhibit 21

List of Subsidiaries:

Third Wave Agbio, Inc.

Third Wave Limited

Third Wave-Japan LLC

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CONSENT OF INDEPENDENT ACCOUNTANTS

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 333-57664) of Third Wave Technologies, Inc. pertaining to the 1995 Incentive Stock Option Plan, 1997 Incentive Stock Option Plan, 1997 Nonqualified Stock Option Plan, 1998 Incentive Stock Option Plan, 1999 Incentive Stock Option Plan, 1999 Nonqualified Stock Option Plan, 2000 Stock Plan and 2000 Employee Stock Purchase Plan of our report dated January 31, 2003, with respect to the consolidated financial statements and schedule of Third Wave Technologies, Inc. included in this Annual Report (Form 10-K) for the year ended December 31, 2002.

Milwaukee, Wisconsin
March 27, 2003

/s/ Ernst & Young LLP

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CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 1350 OF CHAPTER
63 OF TITLE 18 OF THE UNITED STATES CODE, AS ADOPTED PURSUANT TO SECTION 906 OF
THE SARBANES-OXLEY ACT OF 2002 PERIODIC REPORT

I, Lance Fors, Chairman and Chief Executive Officer of Third Wave Technologies,
Inc. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act
of 2002, 18 U.S.C. Section 1350, that on the date of this Certification:

1. the Annual Report on Form 10-K of the Company for the annual period ended
December 31, 2002, (the "Report") fully complies with the requirements of
Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. the information contained in the Report fairly presents, in all material
respects, the financial condition and results of operations of the Company.

Dated: March 31, 2003

/s/ Lance Fors

Lance Fors, Ph.D.
Chairman and Chief Executive Officer

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CERTIFICATION OF THE CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 1350 OF CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 PERIODIC REPORT

I, John Puisis, Chief Financial Officer of Third Wave Technologies, Inc. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that on the date of this Certification:

1. the Annual Report on Form 10-K of the Company for the annual period ended December 31, 2002, (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 31, 2003

/s/ John Puisis

John Puisis
Chief Financial Officer

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