



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D. C. 20549

**FORM 10-Q**

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

**For the quarterly period ended December 31, 2001**

OR

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

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

Commission File Number 0-23837

**SurModics, Inc.**

(Exact name of registrant as specified in its Charter)

MINNESOTA  
(State of incorporation)

41-1356149  
(I.R.S. Employer Identification No.)

9924 West 74th Street  
Eden Prairie, Minnesota 55344  
(Address of principal executive offices)

Registrant's telephone number, including area code: (952) 829-2700

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

The number of shares of the registrant's Common Stock, \$.05 par value per share, outstanding as of January 31, 2002 was 16,915,351.

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**PART I — FINANCIAL INFORMATION****Item 1. Financial Statements**

**SURMODICS, INC.**  
Condensed Balance Sheets  
(In thousands, except share data)

	December 31, 2001	September 30, 2001
	(Unaudited)	
<b>ASSETS</b>		
Current Assets		
Cash & cash equivalents	\$ 2,035	\$ 9,044
Short-term investments	3,770	5,796
Accounts receivable, net	2,672	3,245
Inventories	710	724
Deferred tax asset	297	297
Prepays and other	766	877
	<u>          </u>	<u>          </u>
Total current assets	10,250	19,983
	<u>          </u>	<u>          </u>
Property and equipment, net	15,032	7,672
Long-term investments	28,915	29,565
Deferred tax asset	646	646
Other assets, net	6,710	2,717
	<u>          </u>	<u>          </u>
	\$61,553	\$60,583
	<u>          </u>	<u>          </u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current Liabilities		
Accounts payable	\$ 621	\$ 553
Accrued liabilities	1,154	1,672
Deferred revenues	253	303
	<u>          </u>	<u>          </u>
Total current liabilities	2,028	2,528
Deferred revenue, less current portion	2,372	2,355
	<u>          </u>	<u>          </u>
Total liabilities	4,400	4,883
	<u>          </u>	<u>          </u>
Commitments and Contingencies		
Stockholders' Equity		
Series A Preferred stock-		
\$.05 par value, 450,000 shares authorized; no shares issued and outstanding	—	—
Common stock-		
\$.05 par value, 45,000,000 shares authorized; 16,786,106 and 16,760,501 shares issued and outstanding	839	838
Additional paid-in capital	47,715	47,777
Unearned compensation	(281)	(376)
Accumulated other comprehensive income	284	275
Retained earnings	8,596	7,186
	<u>          </u>	<u>          </u>
Total stockholders' equity	57,153	55,700
	<u>          </u>	<u>          </u>
	\$61,553	\$60,583
	<u>          </u>	<u>          </u>

The accompanying notes are an integral part of these condensed balance sheets.

**SURMODICS, INC.**  
Condensed Statements of Income  
(In thousands, except per share data)  
(Unaudited)

	Three Months Ended December 31,	
	2001	2000
		(As restated)
<b>Revenue</b>		
Royalties	\$ 2,735	\$ 2,058
License fees	79	360
Product sales	1,620	1,557
Research and development	1,625	782
	<u>6,059</u>	<u>4,757</u>
<b>Operating costs and expenses</b>		
Product	565	608
Research and development	2,430	1,775
Sales and marketing	351	405
General and administrative	894	713
	<u>4,240</u>	<u>3,501</u>
Income from operations	<u>1,819</u>	<u>1,256</u>
<b>Other income</b>		
Investment income, net	419	631
Gain on sale of investments	4	150
	<u>423</u>	<u>781</u>
Income before income taxes	2,242	2,037
Income tax provision	(832)	(712)
	<u>1,410</u>	<u>1,325</u>
Income before cumulative effect of a change in accounting principle	1,410	1,325
Cumulative effect of a change in accounting principle, net of tax	—	1,705
	<u>1,410</u>	<u>(\$380)</u>
Net income (loss)	<u>\$ 1,410</u>	<u>(\$380)</u>
Basic net income per share before cumulative effect of a change in accounting principle	\$ 0.08	\$ 0.08
Cumulative effect of a change in accounting principle, net of tax	—	(0.10)
	<u>\$ 0.08</u>	<u>(\$0.02)</u>
Diluted net income (loss) per share	<u>\$ 0.08</u>	<u>(\$0.02)</u>
Diluted net income per share before cumulative effect of a change in accounting principle	\$ 0.08	\$ 0.08
Cumulative effect of a change in accounting principle, net of tax	—	(0.10)
	<u>\$ 0.08</u>	<u>(\$0.02)</u>
Basic net income (loss) per share	<u>\$ 0.08</u>	<u>(\$0.02)</u>
<b>Weighted average shares outstanding</b>		
Basic	16,780	16,590
Dilutive effect of outstanding stock options	1,060	1,106
	<u>17,840</u>	<u>17,696</u>

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

**SURMODICS, INC.**  
Condensed Statements of Cash Flows  
(In thousands)  
(Unaudited)

	Three Months Ended December 31,	
	2001	2000
		<b>(As restated)</b>
<b>Operating Activities</b>		
Net income (loss)	\$ 1,410	(\$380)
Adjustments to reconcile net income to net cash provided by operating activities-		
Depreciation and amortization	441	361
Gain on sale of investments	(4)	(150)
Amortization of unearned compensation, net	32	27
Change in deferred tax	—	655
Cumulative effect of a change in accounting principle, net of tax	—	1,705
Change in operating assets and liabilities:		
Accounts receivable	573	(329)
Inventories	14	(73)
Accounts payable and accrued liabilities	(218)	(496)
Accrued income taxes	(232)	—
Deferred revenues	(33)	39
Prepays and other	111	(128)
Net cash provided by operating activities	<u>2,094</u>	<u>1,231</u>
<b>Investing Activities</b>		
Purchases of property and equipment, net	(7,795)	(470)
Purchases of available-for-sale investments	(6,959)	(14,046)
Sales/maturities of available-for-sale investments	9,649	13,031
Purchase of other assets	(4,000)	—
Net cash used in investing activities	<u>(9,105)</u>	<u>(1,485)</u>
<b>Financing Activities</b>		
Issuance of common stock	2	205
Net decrease in cash and cash equivalents	<u>(7,009)</u>	<u>(49)</u>
<b>Cash and Cash Equivalents</b>		
Beginning of period	<u>9,044</u>	<u>1,510</u>
End of period	<u>\$ 2,035</u>	<u>\$ 1,461</u>

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

**SURMODICS, INC.**  
**Notes to Condensed Financial Statements**  
**(Unaudited)**

**(1) Basis of Presentation**

In the opinion of management, the accompanying unaudited condensed financial statements have been prepared in accordance with generally accepted accounting principles and reflect all adjustments, consisting solely of normal recurring adjustments, needed to fairly present the financial results for these interim periods. These financial statements include some amounts that are based on management's best estimates and judgments. These estimates may be adjusted as more information becomes available, and any adjustment could be significant. The results of operations for the three months ended December 31, 2001 are not necessarily indicative of the results that may be expected for the entire fiscal year.

According to the rules and regulations of the Securities and Exchange Commission, the Company has omitted footnote disclosures that would substantially duplicate the disclosures contained in the audited financial statements of the Company. Read together with the disclosures below, management believes the interim financial statements are presented fairly. However, these unaudited condensed financial statements should be read together with the financial statements for the year ended September 30, 2001 and footnotes thereto included in the Company's form 10-K as filed with the Securities and Exchange Commission.

**(2) Revenue Recognition**

Effective October 1, 2000, the Company adopted Staff Accounting Bulletin No. 101 ("SAB 101") issued by the Securities and Exchange Commission in December 1999. Historically, the Company recognized initial license fees as revenue upon receipt, after a license agreement transferring the technology was executed and all significant obligations had been performed. SAB 101 requires that license and other up-front fees be recognized over the term of the agreement unless the fee is in exchange for products delivered or services performed that represent the culmination of a separate earnings process. The Company adopted SAB 101 in the fourth quarter of fiscal 2001, retroactive to October 1, 2000 by deferring license fee payments over the term of the agreement. The cumulative effect of this change to September 30, 2000, which was recorded in 2001, was \$1,705,000 or \$.10 per share, net of tax. The effect on the three months ended December 31, 2000 decreased income before cumulative effect of a change in accounting principle by \$41,000. There was no impact on earnings per share compared to results previously reported.

**(3) New Accounting Pronouncements**

In June 2001, the FASB issued Statement of Financial Accounting Standards No. 141, "Business Combinations" ("SFAS No. 141") and No. 142, "Goodwill and Other Intangible Assets" ("SFAS 142"). SFAS 141 supercedes Accounting Principles Board ("APB") Opinion No. 16 and requires that all business combinations initiated after June 30, 2001 be accounted for by the purchase method. SFAS 141 also changes the requirements for recognizing intangible assets as assets apart from goodwill in business combinations accounted for by the purchase method for which the date of acquisition is July 1, 2001, or later. SFAS 142 addresses how intangible assets that are acquired individually or with a group of other assets (but not in a business combination) should be accounted for upon their acquisition. SurModics will adopt SFAS 141 and 142 on October 1, 2002, and management expects no material impact on its financial statements.

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	<u>Licensing</u>	<u>Manufacturing</u>	<u>Research &amp; Development</u>	<u>Corporate</u>	<u>Consolidated</u>
<b>Three Months Ended December 31, 2001</b>					
Revenue:					
PhotoLink	\$2,300	\$1,167	\$1,440	\$ —	\$4,907
Diagnostic	514	—	—	—	514
Stabilization & other	—	453	—	—	453
Government	—	—	185	—	185
	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Total Revenue	2,814	1,620	1,625	—	6,059
Expenses	—	565	2,433	1,242	4,240
	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Operating income (loss)	2,814	1,055	(808)	(1,242)	1,819
Other income				423	423
Income tax provision				(832)	(832)
					<u>      </u>
Net income					\$1,410
					<u>      </u>
<b>Three Months Ended December 31, 2000</b>					
Revenue:					
PhotoLink	\$1,786	\$ 723	\$ 709	\$ —	\$3,218
Diagnostic	632	—	—	—	632
Stabilization & other	—	834	—	—	834
Government	—	—	73	—	73
	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Total Revenue	2,493	1,557	782	—	4,757
Expenses	—	608	1,775	1,118	3,501
	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Operating income (loss)	2,493	949	(993)	(1,118)	1,256
Other income				781	781
Income tax provision				(712)	(712)
					<u>      </u>
Income before cumulative effect of a change in accounting principle					\$1,325
					<u>      </u>



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Included in other assets at December 31, 2001 was a \$4.0 million equity investment in Novocell, Inc. On December 7, 2001, the Company announced an alliance with the privately held Irvine, California based biotech firm that is developing a potential cure for diabetes. The Company's investment represents an ownership in Novocell of less than 15%.

**(6) Comprehensive Income**

The components of comprehensive income for the three-month periods are as follows:

	Three months ended December 31,	
	2001	2000
	<i>(dollars in thousands)</i>	
Net income (loss)	\$1,410	\$(380)
Other comprehensive income:		
Unrealized holding gains on available-for-sale securities arising during the period, net of tax	13	375
Less reclassification adjustment for realized gains included in net income , net of tax	(4)	(150)
Other comprehensive income	9	225
Comprehensive income (loss)	\$1,419	\$(155)

**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS****General**

SurModics, Inc. (the "Company") develops, manufactures and markets innovative surface modification solutions to the medical device industry. The Company's revenue is derived from the following sources: fees from licensing its patented technology to customers; royalties received from licensees; the sale of reagent chemicals to licensees, stabilization products to the diagnostic industry and coated glass slides to the genomics market; and research and development fees generated on projects for commercial customers and government grants. The Company markets its products through a direct sales force primarily in the United States and certain international markets.

**Results of Operations****Three Months Ended December 31, 2001 and 2000**

*Revenues.* The Company's revenues were \$6.1 million for the first quarter of fiscal 2002, an increase of \$1.3 million, or 27%, over the same period of fiscal 2001. The revenue components were as follows (in thousands):

	2001	2000	\$ Increase (Decrease)	% Increase (Decrease)
<b>PhotoLink revenue:</b>				
Royalties	\$2,221	\$1,426	\$ 795	56%
License fees	79	360	(281)	(78%)
Reagent sales	1,167	723	444	61%
Commercial development	1,440	709	731	103%
	<u>          </u>	<u>          </u>	<u>          </u>	
Total PhotoLink revenue	4,907	3,218	1,689	52%
<b>Other revenue:</b>				
Diagnostic royalties	514	632	(118)	(19%)
Stabilization & other products	453	834	(381)	(46%)
Government research	185	73	112	153%
	<u>          </u>	<u>          </u>	<u>          </u>	
Total revenue	\$6,059	\$4,757	\$1,302	27%

First quarter revenue growth was primarily the result of a 52% increase in PhotoLink revenue. Commercial development revenue increased 103% to over \$1.4 million, a quarterly record. Most of this increase was due to the work on the drug delivery stent for Johnson & Johnson's Cordis division. PhotoLink royalties were \$2.2 million, a 56% increase, due mostly to increased sales of coated products by the Company's licensees. Reagent chemical sales (those chemicals used by licensees in the coating process) increased 61% to nearly \$1.2 million. A single client purchased more than half of the reagents sold during the first quarter.

Diagnostic royalty revenue declined 19% as payments from certain sub-licensees were not received prior to quarter end. Stabilization and other product revenue fell 46%. Most of this decrease is attributed to slower sales of genomics slides to Motorola. Slide sales are expected to bounce-back to historical levels in the second quarter.

SurModics signed one new PhotoLink license agreement during the first quarter of fiscal 2002. Prorata income from the new license fee and for previously executed license fees combined for total license fee revenue of \$79,000. Historically, the Company recognized license fee revenue upon

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execution of the license. Effective October 1, 2000, the Company now defers up-front license payments and recognizes revenue over the term of the agreement. The Company has license agreements with 51 companies covering over 100 different product applications.

Overall, management expects revenue growth to be in the 20% to 25% range in the second quarter. Once again, this growth should be led by increases in Photolink revenue.

*Product costs.* The Company's product costs were \$565,000 for the first quarter of fiscal 2002, a decrease of \$43,000, or 7%, over the same period of fiscal 2001. Overall product margins increased to 65% in the first quarter of fiscal 2002 from 61% in the same period of fiscal 2001, since higher margin reagent product sales constituted a greater percentage of total product sales. The Company expects that product margins will be in the 62% to 63% range for the balance of the fiscal year.

*Research and development expenses.* Research and development expenses were \$2.4 million for the first quarter of fiscal 2002, an increase of \$655,000, or 37%, over the same period of fiscal 2001. The increase was primarily due to compensation and benefits associated with technical personnel added by the Company over the last year and higher patent fees, depreciation and facilities costs. The Company expects that the growth of research and development expenses will slow to produce an overall increase of 18% to 20% over fiscal 2001.

*Sales and marketing expenses.* Sales and marketing expenses were \$351,000 for the first quarter of fiscal 2002, a \$54,000 or 13% decrease from the same period of fiscal 2001. Most of the difference was due to a decrease in business travel and a reduction in promotional expenses. Sales and marketing expenses in fiscal 2000 are expected to be fairly flat with last year.

*General and administrative expenses.* General and administrative expenses were \$894,000 for the first quarter of fiscal 2002, an increase of \$181,000, or 25%, over the same period of fiscal 2001. The increase was the result of additional facilities costs associated with property recently acquired for expansion, legal fees and higher compensation and benefit costs. The Company expects that general and administrative expenses will show a similar percent increase over the rest of the year due to added facility costs.

*Income from operations.* The Company's income from operations was \$1.8 million for the first quarter of fiscal 2002, an increase of \$563,000, or 45%, over the same period of fiscal 2001.

*Other income, net.* The Company's other income was \$423,000 for the first quarter of fiscal 2002, a decrease of \$358,000, or 46%, over the same period of fiscal 2001. The decrease in investment income was a result of lower investment yields and a nearly 15% decrease in cash and investment balances from last year's first quarter. In addition, in fiscal 2001, the Company sold and reinvested a portion of its bond portfolio to take advantage of a tax capital loss carryforward, generating realized gains of \$150,000. The Company expects that other income will remain at a similar level for the remainder of fiscal 2002.

*Income tax expense.* The Company's income tax provision was \$832,000 (an effective tax rate of 37%) for the first quarter of fiscal 2002 versus \$712,000 (an effective rate of 35%) in the same period of fiscal 2001. The increase in the effective rate was due to the recognition of the capital loss carryforwards in fiscal 2001.

## **Liquidity and Capital Resources**

As of December 31, 2001, the Company had working capital of \$8.2 million and cash, cash equivalents and investments totaling \$34.7 million. The Company's investments principally consist of U.S. government and government agency obligations and investment grade, interest-bearing corporate debt securities with varying maturity dates, the majority of which are five years or less. The Company generated positive cash flows from operating activities of \$2.1 million in the first three months, which was an increase of 70% from the same period of last year, primarily due to the increase in net income.

On October 1, 2001, the Company purchased a 135,000 square foot facility on 27 acres of land in Bloomington, Minnesota for approximately \$7.1 million through a wholly-owned subsidiary entity. The Company intends to gradually move a portion of its operations into this facility, before completely occupying the facility in 2003. Prior to acquiring the Bloomington facility, the Company acquired real property for approximately \$2.5 million through another wholly-owned subsidiary entity. The Company now intends to sell this property and expand into the Bloomington location. The Company continues to own and occupy its current facility in Eden Prairie, Minnesota.

On December 7, 2001, the Company announced an alliance with privately held Novocell, Inc. an Irvine, California based biotech firm that is developing a potential cure for diabetes. The Company's investment of \$4.0 million represents less than 15% ownership of Novocell.

As of December 31, 2001, the Company had no debt, nor did it have any credit agreements. The Company believes that its existing capital resources will be adequate to fund the Company's operations into the foreseeable future.

## **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

SurModics' investment policy requires investments with high credit quality issuers and limits the amount of credit exposure to any one issuer. The Company's investments principally consist of U.S. government and government agency obligations and investment-grade, interest-bearing corporate debt securities with varying maturity dates, the majority of which are five years or less. Because of the credit criteria of the Company's investment policies, the primary market risk associated with these investments is interest rate risk. SurModics does not use derivative financial instruments to manage interest rate risk or to speculate on future changes in interest rates. A 10% increase in interest rates would result in an approximate \$165,000 decrease in the fair value of the Company's available-for-sale securities as of December 31, 2001, but no material impact on the results of operations or cash flows. Management believes that a reasonable change in raw material prices would not have a material impact on future earnings or cash flows because the Company's inventory exposure is not material. Also, the Company's foreign currency exposure is not significant.

**Forward Looking Statements**

The statements contained in this quarterly report relating to future revenue growth and expense levels are based on current expectations and involve a number of risks and uncertainties. These statements are forward looking and are made pursuant to the safe harbor provisions of the Private Securities Reform Act of 1995. The following factors could cause royalty revenue to materially and adversely differ from that anticipated: the ability of the Company's licensees to successfully gain regulatory approval for, market and sell products incorporating the Company's technology; the amount and timing of resources devoted by the Company's licensees to market and sell products incorporating the Company's technology; the Company's ability to attract new licensees and to enter into agreements for additional applications with existing licensees; the Company's ability to maintain a competitive position in the development of technologies and products in its areas of focus; and business and general economic conditions. Investors should consider these risks and other risks identified in the Company's filings with the SEC when making investment decisions. Shareholders and other readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date on which they are made. SurModics undertakes no obligation to update publicly or revise any forward-looking statements.

**PART II — OTHER INFORMATION**

**Item 1. Legal Proceedings**

None.

**Item 2. Changes in Securities and Use of Proceeds**

None.

**Item 3. Defaults Upon Senior Securities.**

None.

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

(a) The Company held its Annual Meeting of Shareholders on January 28, 2002.

(b) Proxies were solicited pursuant to Regulation 14A under the Securities Act of 1934. The shareholders voted on two matters: (i) to set the number of directors at eight (8) and (ii) to elect Class III directors. The shareholders approved both matters by the following votes:

	Votes For	Votes Against	Votes Abstained	Broker Non-Votes
(i) Set the number of directors at eight (8)	13,701,083	13,454	12,916	—
	Votes For	Votes Withheld		Broker Non-Votes
(ii) Elect Class III directors				
Dale R. Olseth	12,266,526	1,460,927		—
Kenneth H. Keller	11,315,825	2,411,628		—
David A. Koch	13,708,276	19,177		—

**Item 5. Other Information.**

None.

**Item 6. Exhibits and Reports on Form 8-K.**

(a) Exhibits –

- 10.1 Purchase agreement by and between Seagate Technology, LLC and DRB#10, LLC (a wholly-owned subsidiary entity of the Company)
- 10.2 Series C Preferred Purchase Agreement between Novocell, Inc. and the Company dated December 10, 2001

(b) Reports on Form 8-K — None

**SIGNATURES**

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

February 13, 2002

**SurModics, Inc.**

By: /s/ Stephen C. Hathaway

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Stephen C. Hathaway  
Vice President & CFO  
(Principal Financial Officer)



Seller: Seagate Technology LLC  
 -----  
 Buyer: DRB #10, LLC  
 -----  
 Purchase Price: \$7,150.00  
 -----  
 Agreement Date: August 15, 2001  
 -----  
 Earnest Money: \$100,000  
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PURCHASE AGREEMENT

THIS AGREEMENT, is made as of the Agreement Date between Seller and Buyer and, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller agrees to sell the Property (as hereinafter defined) and Buyer agrees to purchase the Property, upon the following terms and conditions:

1. Property. The "Property" consists of approximately 27 acres of land located at the intersection of Lyndale Avenue and 107th Street, Bloomington, Hennepin County, Minnesota, as well as the building located thereon and the fixtures, tangible personal property, and equipment located in such building (or on such land) as of the Agreement Date; provided, however, that the Property shall not include the "Non-Purchased Excluded Assets" described on Exhibit A of Attachment 1 hereto; and, further provided, however, that the Property shall specifically include the items described on Exhibit B to Attachment 1 hereto.

2. No Warranties. The entire agreement between the Seller and Buyer with respect to the Property and the sale thereof is expressly set forth in this Agreement. The parties are not bound by any agreements, understandings, provisions, conditions, representations or warranties (whether written or oral and whether made by Seller or any agent, employee or principal of Seller or any other party) other than as are expressly set forth and stipulated in this Agreement. Without in any manner limiting the generality of the foregoing, Buyer acknowledges that it and its representatives have or before closing will have fully inspected the Property or will be provided with an adequate opportunity to do so, are or will be fully familiar with the financial and physical (including without limitation environmental) condition thereof, and that the Property has been purchased by Buyer in an "AS IS" and "WHERE IS" condition and with all existing defects as a result of such inspections and investigations and not in reliance on any agreement, understanding, condition, warranty (including, without limitation warranties of habitability, merchantability or fitness for a particular purpose) or representation made by Seller or any agent, employee or principal of Seller or any other party (except as expressly elsewhere provided in this Agreement) as to the financial or physical (including, without limitation environmental) condition of the Property or the soils, geology and groundwater of the Property or areas surrounding the Property, as to any matter, including without limitation as to any permitted use thereof, the zoning classification thereof, the existence, quality, nature, adequacy and physical condition of utilities servicing the Property, or compliance thereof with federal, state or local laws, as to the income or expense in connection therewith, or as to any other matter

in connection therewith. Buyer acknowledges that neither Seller, or any agent or employee of Seller nor any other party acting on behalf of Seller has made or shall be deemed to have made any such agreement, condition, representation or warranty either expressed or implied. This Section 2 shall survive closing, and shall be deemed incorporated by reference and made a part of all documents delivered by Seller to Buyer in connection with the sale of the Property.

a. Condition of Delivery. Seller has no obligation to deliver the Property in a "broom clean" condition if it is currently not in broom clean condition, and at closing Seller may leave in the subject property all items of personal property and equipment, partitions and debris as are now presently therein, except as otherwise provided with respect to the Non-Purchased Excluded Assets and as provided in Sections 18 and 19 hereof.

b. Seller Repairs. Between the Agreement Date and the closing, Seller shall perform all customary repairs to the Property as Seller has customarily previously performed to maintain them in the same condition as they are as of the Agreement Date, as said condition shall be changed by wear and tear, damage by fire or other casualty, or vandalism. Notwithstanding the foregoing, Seller shall have no obligation to make any structural or extraordinary repairs or capital improvements.

c. Release. Notwithstanding anything to the contrary contained in this Agreement, Buyer hereby releases Seller and (as the case may be) Seller's officers, directors, shareholders, trustees, partners, employees, managers and agents from any and all claims, demands, causes of actions, losses, damages, liabilities, costs and expenses (including attorney's fees whether the suit is instituted or not) whether known or unknown, liquidated or contingent (hereinafter collectively called the "Claims") arising from or relating to: (i) any defects, errors or omissions in the design or construction of the improvements which are part of the Property, whether the same are the result of negligence or otherwise; or (ii) any other conditions, including environmental and other physical conditions, affecting the Property whether the same are a result of negligence or otherwise. The release set forth in this section specifically includes, without limitation, any claims under any environmental laws of the United States (including, without limitation, claims for contribution under Section 113 of the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C.A. 9613]), the State of Minnesota or any political subdivision thereof or under the Americans with Disabilities Act of 1990, as any of those laws may be amended from time to time and any regulations, orders, rules of procedure or guidelines promulgated in connection with such laws, regardless of whether they are in existence on the Agreement Date. Buyer acknowledges that Buyer has been represented by independent legal counsel of Buyer's selection and Buyer is granting this release of its own volition and after consultation with Buyer's counsel.

d. Seller Reports. Buyer acknowledges that Seller makes no warranties or representations regarding the adequacy, accuracy or completeness of Seller's

environmental or other materials relating to the subject property made available to Buyer (collectively the "Reports") or other documents relating to the Property, and Buyer shall have no claim against Seller based upon the Reports or such other documents relating to the Property or Seller's failure to deliver any documents relating to the Property to Buyer. Buyer further acknowledges that Buyer has had full opportunity to perform such physical inspections, environmental and engineering investigations, and appraisals as Buyer deems appropriate.

e. Effect of Disclaimers. Buyer acknowledges and agrees that the Purchase Price has been negotiated to take into account that the Property is being sold subject to the provisions of this Section of this Agreement and that Seller would have charged a higher purchase price if the provisions in this Section were not agreed upon by Buyer.

3. Closing. Buyer shall pay the Purchase Price to Seller (with due credit for the Earnest Money) at the closing which shall occur 30 days after Seller has delivered to Buyer a fully-executed counterpart of this Agreement and amounts owing by Buyer at the closing shall be paid in collected funds.

4. Prorations; Costs.

a. Seller shall pay all real estate taxes due and payable in years prior to the closing and those payable in the year of closing shall be prorated based on the number of days in the calendar year of closing prior to the closing and those days after the closing.

b. All levied, deferred, and pending assessments shall be paid by Seller.

c. Buyer will reduce its payment at closing to Seller by the cost of preparation of a title commitment respecting the Property (but not the cost of title insurance), as well as \$3.40 for each \$1,000 of the Purchase Price and Buyer will bear all other costs of deed taxes and recording fees for all documents necessary to vest title in the Property in Buyer. Buyer and Seller will each pay one-half of closing fees charged by a title company.

5. Examination of Title. Seller shall promptly provide at its cost to Buyer a commitment for title insurance certified to the current date and the Property shall be conveyed by Seller to Buyer by limited warranty deed, subject to Section 17 hereof.

6. Contingencies. Unless waived by Buyer in writing, Buyer's obligation to purchase the Property shall be subject to: (i) performance of Seller's obligations hereunder; (ii) the continued accuracy of Seller's representations and warranties set forth in Section 8 of this Agreement; and (iii) Buyer's satisfaction, in Buyer's sole discretion as to the contingencies described in this Section 6.

a. Physical Condition. On or before date of Closing, Buyer shall have satisfied itself, at Buyer's sole discretion, with the physical condition of the Property; provided, however, that following 10 days after Seller has delivered to Buyer a fully-executed counterpart of this Agreement, Buyer shall not be entitled to a refund of any of the Earnest Money if Buyer is not satisfied with the physical condition of the Property.

b. Environmental Condition. On or before date of Closing, Buyer shall have satisfied itself, in Buyer's sole discretion, with the environmental condition of the Property; provided, however, that following 30 days after Seller has delivered to Buyer a fully-executed counterpart of this Agreement, Buyer shall not be entitled to a refund of any of the Earnest Money if Buyer is not satisfied with the environmental condition of the Property.

c. Title. Buyer receives from Seller marketable title to the Property without exception except as set forth on Attachment 2 (which sets forth the "Permitted Encumbrances") of this Agreement.

7. Inspection. Buyer and Buyer's representatives, at Buyer's sole cost and expense, shall have the right to enter upon the Property for the purposes of viewing the Property and making such other physical inspection as Buyer shall deem appropriate. Buyer shall repair and restore any damage to the Property caused by or occurring during Buyer's testing and return the Property to substantially the same condition as existed prior to such entry. Buyer shall have the right to review any documents in Seller's possession related to the Property. If Buyer consummates acquisition of the Property, Buyer shall own all such documents described in the preceding sentence and Seller consents to any professional (being non-employees of Seller such as surveyors or architects) who provided services to Seller in connection with such documents being employed by Buyer (and in connection therewith, using any file materials in such professional's possession).

8. Seller's Representations and Warranties. To induce Buyer to: (i) enter into this Agreement; (ii) purchase the Property; and (iii) consummate the transaction contemplated by this Agreement, Seller hereby warrants and represents to Buyer, as follows:

a. Governmental Matters. Seller has not received written notice of: (i) any pending or contemplated annexation or condemnation proceedings, or purchase in lieu of the same, affecting or which may affect all or any part of the Property, (ii) any proposed or pending proceeding to change or redefine the zoning classification of all or any part of the Property; (iii) any proposed change(s) in any road patterns or grades which would adversely and materially affect access to the roads providing a means of ingress or egress to or from the Property; or (iv) any uncured violation of any legal requirement, restriction, condition, covenant or agreement affecting the Property or the use, operation, maintenance, or management of the Property.

b. Title. Seller represents and warrants to Buyer that, to Seller's actual knowledge as of the date of this Agreement, without investigation of any kind or nature whatsoever, Seller will at the closing hereunder be the sole owner of the Property and

will transfer to Buyer at the closing good and marketable title to the Property subject only to the Permitted Encumbrances described in Attachment 2 and, specifically, but not by way of limitation: (i) there shall be no leases, tenancies, agreements or other contracts of any nature or type affecting or serving the Property as of the closing except service contracts which are readily terminable without penalty; and (ii) the Property is not subject to any other contracts for sale, options, rights of first refusal or similar contract rights or restrictions which limit Seller's right to sell the Property to Buyer. Notwithstanding the preceding sentence, it is acknowledged Seller is party to an agreement with another potential purchaser; in respect thereof, Seller represents that any of its obligations to such other potential purchaser will not limit Seller's right to consummate the transaction contemplated hereby, and convey marketable title (so long as the closing occurs before September 28, 2001); Seller shall indemnify, defend, and hold Buyer harmless from any cost, expense, or liability in connection with such other purchaser's agreements in respect of the Property.

#### 9. Environmental Matters.

a. Representations by Seller. Seller represents and warrants to Buyer that, to Seller's actual knowledge as of the date of this Agreement without investigation of any kind or nature whatsoever: (i) there are no material Hazardous Substances located on the Property, except as disclosed in the environmental reports which Seller delivers to Buyer within five days after Seller signs the Agreement; and (ii) the Property has not been used by Seller in connection with the generation, disposal, storage, treatment or transportation of material Hazardous Substances except as disclosed in the environmental reports described above. Notwithstanding the preceding provisions of this Section 9(a), it is understood that certain of the Non-Purchased Excluded Assets may be Hazardous Substances but will be removed by Seller from the Property. It is also understood that there are certain supplies used in the normal operation of the Property (such as fuel oil, lubricants and gasoline) which may Hazardous Substances.

b. "Hazardous Substance" Definition. For purposes of this Agreement, the term "Hazardous Substance" includes, but is not limited to, substances defined as "hazardous substances", "toxic substances", or "Hazardous waste" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 USC Section 9601, et seq., and substances defined as "hazardous waste", "hazardous substances", or "pollutants or contaminants" in the Minnesota Environmental Response and Liability Act, Minn. Stat. Section 115B.02. The term "Hazardous Substance" shall also include polychlorinated biphenyls, petroleum, including crude oil or any fraction thereof, petroleum products, heating oil, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel.

10. Default. Either Buyer or Seller shall be in default under this Agreement if either party fails to observe, perform or comply with any term, condition or obligation of this Agreement within the time period(s) described in this Agreement. In the event of default, the parties shall have the rights described as to such default in this Agreement, provided, however, that nothing herein shall deprive either party of any rights or remedies available to such party at law or in equity, including the right of enforcing the specific performance of this Agreement,

provided action to enforce the specific performance of this Agreement shall be commenced within six months after such right of action shall arise.

11. Termination of Agreement. In the event of termination of this Agreement for any reason described in this Agreement which entitles Buyer to a return of the Earnest Money (including those described in Section 6), Buyer specifically agrees that the Earnest Money shall not be returned to Buyer unless and until Buyer provides Seller with a recordable Quit Claim Deed to the Property executed by Buyer.

12. Risk of Loss. Between the date of this Agreement and the closing, the risk of ownership and loss of the Property shall belong solely to Seller. If, prior to closing, all or any portion of the Property is condemned, taken by eminent domain, damaged by fire or by any other cause of any nature, Seller shall, to the extent Seller receives knowledge of the same, immediately give Buyer notice of such condemnation, taking or damage. After receipt of notice of such condemnation, taking or damage (from Seller or otherwise), Buyer shall have the option either: (i) to require Seller to convey the Property at closing to Buyer in its damaged condition, upon and subject to all of the other terms and conditions of this Agreement without reduction of the Purchase Price (in which case Buyer shall be entitled to the proceeds of any recovery relating to such damage or taking from parties other than Seller, including, without limitation insurance or eminent domain proceeds); or (ii) to terminate this Agreement by giving notice of such termination to Seller, whereupon this Agreement shall be terminated, the Earnest Money shall be returned to Buyer, provided, however, that the terms and conditions of Section 11 shall apply, and thereafter neither party shall have any further obligations or liabilities to the other. The right to terminate this Agreement shall be exercised within 10 business days of the date of notice of the event giving rise to such notice and if not exercised by Buyer within said time period such right shall be deemed to have been waived.

13. Successors and Assigns. The terms, conditions and covenants hereof shall extend to, be binding upon and inure to the benefit of the successors and assigns of the parties to this Agreement.

14. Survival of Covenants. All agreements, and all warranties, representations and indemnities specifically set forth in this Agreement shall survive the closing and shall bind the parties subsequent to the closing as fully as if new agreements were entered into at closing, any rule of law to the contrary notwithstanding.

15. Leaseback. At the closing, Seller and Buyer shall enter into the Leaseback Agreement as set forth on Attachment 3.

16. {INTENTIONALLY OMITTED}

17. Transfer to Owned Entity. At Buyer's request, Seller will, prior to the closing hereunder, transfer the Property (by way of a deed in the form described above) to a Minnesota limited liability company owned wholly by Seller, and at the closing hereunder, transfer to Buyer all ownership interests in such entity (which entity Seller represents and warrants will have no assets other than the Property and no liabilities).

18. Removal of Non-purchased Excluded Assets. When Seller's occupancy of the Property terminates (being at the end of the term of Seller's leaseback), Seller will remove all Non-Purchased Excluded Assets from the Property.

19. Clean Up. When Seller's occupancy of the Property terminates (being at the end of the term of Seller's leaseback), Seller will remove all chemicals or hazardous substances used in its business operations and clean any piping, vats, or ducts used in connection therewith. If appropriate in connection with such materials, Seller shall obtain a licensed contractor to perform such activities and certify the completion thereof.

IN WITNESS WHEREOF, the parties have executed this Purchase Agreement as of the day and year first above written.

SELLER:

BUYER:

SEAGATE TECHNOLOGY LLC

DRB #10, LLC

By /s/ Jeffrey B. Nelson

By /s/ David R. Busch

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Its Vice President  
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-----  
Its Authorized Officer  
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## NOVOCELL, INC.

## SERIES C PREFERRED STOCK PURCHASE AGREEMENT

THIS SERIES C REFERRED STOCK PURCHASE AGREEMENT (the "Agreement") is made as of December 10, 2001 between Novocell, Inc., a Delaware corporation (the "Company"), and the purchasers listed on the Schedule of Purchasers ("Schedule of Purchasers") attached hereto as Exhibit A (the "Purchasers"). The parties hereby agree as follows:

1. Authorization and Sale of the Preferred Shares.

1.1 Authorization. The Company has authorized the issuance and sale pursuant to the terms and conditions hereof of up to 1,250,000 shares of its Series C Preferred Stock (the "Series C Shares"), having the rights, restrictions, privileges and preferences as set forth in the Restated Certificate of Incorporation of the Company (the "Restated Certificate") attached hereto as Exhibit B.

1.2 Sale and Issuance of the Shares. Subject to the terms and conditions hereof, at the Closing, the Company will issue and sell to each Purchaser and each Purchaser will purchase from the Company that number of Series C Shares set forth opposite such Purchaser's name on Exhibit A hereto at a purchase price of \$4.00 per share. Subject to Section 6.1(f) hereof, the Company's agreement with each of the Purchasers hereunder is a separate agreement, the sale of the Series C Shares to each of the Purchasers is a separate sale and the closing of each sale is not conditional upon the closing of other sales. No Purchaser shall be liable for any breach of this Agreement by any other Purchaser.

2. Closing Date; Delivery.

2.1 Closing Date. The closing comprising the purchase by the Purchasers and sale by the Company of the Shares (the "Closing") shall be held at the offices of Crosby, Heafey, Roach & May, Professional Corporation, 1901 Avenue of the Stars, Suite 700, Los Angeles, California 90067 at 10:00 a.m., local time, on December 10, 2001 or at such other place and time as the Company and the Purchasers shall mutually agree (the "Closing Date").

2.2 Delivery. Subject to the terms of this Agreement, at the Closing, the Company will deliver to each Purchaser a stock certificate registered in such Purchaser's name representing the number of Series C Shares purchased at the Closing by such Purchaser as set forth opposite such Purchaser's name on the Exhibit A, against delivery by each Purchaser to the Company, by check or wire transfer, of payment for the Shares being purchased at the Closing in the amount set forth opposite such Purchaser's name on Exhibit A.

3. Representations and Warranties of the Company. Except as set forth in the Schedule of Exceptions attached hereto as Exhibit C (the "Schedule of Exceptions") (which exceptions shall be exceptions to the Sections of this Agreement referenced in the Schedule of Exceptions; provided; however, that the Purchasers agree that the inadvertent omission of a reference in the Schedule of Exceptions to a specific Section or Sections herein shall not be or be



deemed to be a breach of this Agreement if the disclosure is such that it is understandably applicable to any other Section or Sections of this Section 3 the reference(s) to which were so omitted), the Company hereby represents and warrants to each Purchaser that:

3.1 Organization and Standing. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its businesses as now conducted and as proposed to be conducted. The Company is qualified or licensed to do business as a foreign corporation in all jurisdictions where such qualification or licensing is required, except where the failure to so qualify would not have a material adverse effect upon the Company's business, properties or financial condition (a "Material Adverse Effect").

3.2 Corporate Power. The Company has all requisite corporate power necessary for the authorization, execution and delivery of this Agreement and the Second Amended and Restated Rights Agreement in substantially the form attached hereto as Exhibit D (the "Second Amended and Restated Rights Agreement"). This Agreement is, and the Second Amended and Restated Rights Agreement, when executed and delivered, will be, a valid and binding obligation of the Company enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, moratorium, and other laws of general application affecting the enforcement of creditors' rights and/or by public policy considerations.

3.3 Capitalization. The authorized capital stock of the Company consists of 10,000,000 shares of Common Stock, and 6,400,115 shares of Preferred Stock, of which 1,685,000 shares have been designated Series A Preferred Stock, 3,255,813 shares have been designated Series B Preferred Stock, 209,302 shares have been designated Series B-1 Nonvoting Preferred Stock, and 1,250,000 have been designated Series C Preferred Stock. As of immediately prior to the Closing, there are or will be no shares of the Company's Common Stock, 1,685,000 shares of the Series A Preferred Stock, 3,046,511 shares of the Series B Preferred Stock, 209,302 shares of the Series B-1 Nonvoting Preferred Stock and no shares of Series C Preferred Stock issued and outstanding. The outstanding capital stock of the Company has been validly issued in accordance with applicable law. There are no outstanding securities of the Company other than the 1,685,000 issued and outstanding shares of Series A Preferred Stock, the 3,046,511 issued and outstanding shares of Series B Preferred Stock and the 209,302 issued and outstanding shares of Series B-1 Nonvoting Preferred Stock and options for 500,766 shares of Common Stock issued and outstanding under the Company's Stock Option Plan. Except as provided under the Existing Rights Agreement (as defined below), there are no outstanding preemptive or other rights, plans, options, warrants, conversion rights or agreements for the purchase or acquisition from or repurchase (other than pursuant to the Company's Stock Option Plan and the Exchange Agreement described and defined in the Schedule of Exceptions) by the Company of any securities of the Company, except that 1,078,699 shares of Common Stock have been or will be reserved for issuance under the Company Stock Option Plan to management, employees, prospective employees, consultants, directors, and the like (whether issued outright, as restricted stock or pursuant to options, warrants or other rights to acquire securities), 1,685,000 shares of Common Stock have been reserved for issuance upon conversion of the Series A Preferred Stock, an aggregate of 3,255,813 shares of Common Stock have been reserved for issuance upon conversion of the outstanding shares of the Series B Preferred Stock and/or shares of the Series B-1 Nonvoting Preferred Stock and 1,250,000 shares of Common

Stock have been reserved for issuance upon conversion of the Series C Shares being sold hereby. Notwithstanding the foregoing, and assuming that the transactions contemplated by the Exchange Agreement in the form provided to the Purchasers are consummated subsequent to the Closing and in accordance with the terms of such form of the Exchange Agreement, then, immediately after such consummation, there will be 3,255,813 shares of Series B Preferred Stock and no shares of Series B-1 Nonvoting Preferred Stock issued and outstanding. Attached hereto as Exhibit F is a capitalization chart, which capitalization chart sets forth a true and accurate list of the stockholders of the Company (by affiliated fund name or affiliated group) as of the date hereof (without giving effect to the consummation of any of the transactions contemplated hereby or by the Exchange Agreement).

#### 3.4 Authorization.

(a) Corporation Action. All corporate action on the part of the Company, its officers, directors and stockholders necessary for the sale and issuance of the Series C Shares, the issuance of the Common Stock issuable upon conversion of the Series C Shares, the approval and filing of the Restated Certificate and the authorization, execution and delivery, and the performance of the Company's obligations under, this Agreement and the Second Amended and Restated Rights Agreement, has been taken or will be taken prior to the Closing. This Agreement has been duly executed and delivered on behalf of the Company.

(b) Valid Issuance. The Series C Shares when issued in compliance with the provisions of this Agreement, and the shares of Common Stock issued upon conversion of the Shares when issued in accordance with the provisions of the Restated Certificate, will be validly issued, fully paid and nonassessable and will be free of any liens or encumbrances; provided, however, that all such shares may be subject to restrictions on transfer under state and/or federal securities laws as set forth therein, and as may be required by future changes in such laws. The rights, preferences, privileges and restrictions of the Series C Shares are as set forth in the Restated Certificate.

3.5 No Preemptive Rights. No person has any right of first refusal or any preemptive rights in connection with the issuance of the Series C Shares, the issuance of the Common Stock upon conversion of the Series A Preferred Stock, the Series B Preferred Stock or the Series B-1 Nonvoting Preferred Stock or any future issuances of securities by the Company except as set forth in that certain Amended and Restated Rights Agreement dated as of April 25, 2000 between the Company and its stockholders as amended by a First Amendment to Amended and Restated Rights Agreement (as amended, the "Existing Rights Agreement"), and as proposed to be amended and restated in its entirety by the Second Amended and Restated Rights Agreement.

3.6 Disclosure. No representation or warranty by the Company in this Agreement, or in any document or certificate furnished or to be furnished to the Purchasers pursuant hereto or in connection with the transactions contemplated hereby, when taken together, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements made herein and therein, in the light of the circumstances under which they were made, not misleading. The Company has fully provided the Purchasers with all the information which the Purchasers have requested for deciding

whether to purchase the Shares and all other material information known to the Company regarding the business of the Company which the Company believes is reasonably necessary to enable the Purchasers to make such decision.

3.7 Properties and Assets; Liens, etc. The Company has good and marketable title to its properties and assets and good title to all its leasehold estates, in each case subject to no mortgage, pledge, lien, encumbrance or charge, other than liens resulting from taxes which have not yet become delinquent and liens and encumbrances which do not in any case materially detract from the value of the property subject thereto or materially impair the operations of the Company, and which have not arisen otherwise than in the ordinary course of business.

3.8 Proprietary Rights. As of the date hereof, the Company has sufficient right, title and ownership of all patents, trademarks, service marks, trade names, copyrights, licenses, information and other proprietary rights, or adequate licenses, rights or purchase options with respect thereto, necessary for its business as now conducted, or will be able to obtain on terms which will not have a Material Adverse Effect, all necessary permits, licenses and other authority with respect thereto without any conflict with or infringement of the rights of others. To the Company's knowledge, as of the date hereof, the Company will be able to obtain, on terms which will not have a Material Adverse Effect, those proprietary rights which the Company reasonably believes are necessary for the conduct of its business as presently proposed to be conducted. To the Company's knowledge, the Company does not require any permit, license or authority with respect to any proprietary right of any third party which is necessary for its business as currently conducted other than such permits, licenses or authorities that have already been obtained by the Company or which the Company reasonably believes it will be able to obtain on terms which will not have a Material Adverse Effect. The Company has not received any written communications alleging that the Company has violated any of the patents, trademarks, service marks, trade names, copyrights, trade secrets or other proprietary rights of any person or entity.

3.9 Compliance with Other Instruments; None Burdensome, etc. The Company is not in violation, default or breach of any term of its present Restated Certificate of Incorporation or its Bylaws, as the same may be amended to date, or any mortgage, indenture, contract, agreement, instrument, judgment, decree or order by which the Company is bound or to which its properties are subject or, any statute, rule, or regulation applicable to the Company where such violation, default or breach would materially and adversely affect the business, assets, liabilities, financial condition or operations of the Company. The execution, delivery and performance by the Company of and compliance by the Company with this Agreement and the Second Amended and Restated Rights Agreement, and the transactions contemplated hereby and thereby, will not result in any such violation and will not be in conflict with or constitute a default or breach under any of the foregoing and will not result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of the properties or assets of the Company pursuant to any of the foregoing.

3.10 Employees. To the Company's knowledge, no employee of the Company is in violation of any term of any employment contract, patent disclosure agreement or any other contract or agreement relating to the right of any such employee to be employed by the Company because of the nature of the business conducted or proposed to be conducted by the Company or

for any other reason, and the continued employment by the Company of its present employees will not result in any such violations.

3.11 Litigation, etc. There are no actions, suits, or proceedings pending or, to the Company's knowledge, threatened (nor does the Company have knowledge of any inquiries or investigations pending or threatened) against the Company, nor, to the Company's knowledge, is there any basis therefor, which, either in any case or in the aggregate, could be reasonably expected to result in any material adverse change in the business, prospects, affairs or operations of the Company or in any of its properties or assets, or in any material impairment of the right or ability of the Company to carry on its business as now conducted or as proposed to be conducted, or in any material liability on the part of the Company, and none which questions the validity of this Agreement or any action taken or to be taken in connection herewith or therewith. The Company is not a party or subject to any writ, order, decree or judgment and there is no action, suit, proceeding, arbitration or investigation by the Company currently pending or which the Company intends to originate. The Company has complied with all laws, rules, regulations and orders applicable to its business, operations, properties and assets except where the failure to so comply would not have a Material Adverse Effect.

3.12 Registration Rights. Except as provided in this Agreement and in the Existing Rights Agreement, the Company is not under any obligation to register any presently outstanding securities, or any securities which may hereafter be issued, under the Securities Act of 1933, as amended (the "Securities Act").

3.13 Qualified Small Business. As of the date of issuance hereunder of the Series C Shares to be issued at the Closing, (i) the Company is or will be a "qualified small business" and meets or will meet the "active business" requirements, as such terms are used in Internal Revenue Code ("IRC") Section 1202, and (ii) the Series C Shares will qualify as "qualified small business stock", as defined in IRC Section 1202. The Company further represents and warrants that it has made no "significant redemptions" within the meaning of Section 1202(c)(3)(B) of the IRC.

3.14 Consents, etc. No consent, approval or authorization of, or registration, declaration or filing with, any governmental authority or third party on the part of the Company is required in connection with the valid execution and delivery of this Agreement or the Second Amended and Restated Rights Agreement or, as of the date hereof, the offer, sale or issuance of the Series C Shares or the consummation of any other transaction contemplated hereby, except those imposed under the Existing Rights Agreement and filings under the Securities Act, the California Corporate Securities Law of 1968, as amended (the "California Law"), and any other applicable state securities laws which will be made and will be effective within the time periods required by law.

3.15 No Broker. No broker, agent or other intermediary has been retained by the Company in connection with the transactions contemplated hereby.

3.16 Use of Proceeds. The proceeds received by the Company from the sale of the Series C Shares shall only be used by the Company for working capital and general corporate purposes.

3.17 Subsidiaries. The Company does not own or control, directly or indirectly, any interest in any other corporation, partnership, limited liability company, association, or other business entity. The Company is not a participant in any joint venture, partnership, or similar arrangement.

3.18 Related Party Transactions. No employee, officer, stockholder or director of the Company or member of his or her immediate family is indebted to the Company, nor is the Company indebted (or committed to make loans or extend or guarantee credit) to any of them, other than (i) for payment of salary for services rendered, (ii) reimbursement for reasonable expenses incurred on behalf of the Company, and (iii) for other standard employee benefits made generally to all employees. To the Company's knowledge, except for an equity ownership in one or more stockholders of the Company, no employee, officer or director has any direct or indirect ownership interest in any firm or corporation with which the Company is Affiliated (as defined below) or with which the Company has a business relationship, or any firm or corporation that competes with the Company, except that employees, officers, or directors of the Company and members of their immediate families may own stock in publicly traded companies that may compete with the Company. To the Company's knowledge, no officer, stockholder, director or any member of their immediate families is, directly or indirectly, interested in any material contract with the Company (other than such contracts as relate to any such person's ownership of capital stock or other securities of the Company). For purposes of this Agreement, a corporation or other legal or natural person is an "Affiliate" of another or is "Affiliated" with another if the corporation or other legal or natural person controls or is controlled by or under common control with the other corporation or other legal or natural person. "Control" means possessing the ability to influence the management or policies of a corporation or other legal or natural person.

3.19 Permits; Compliance. The Company has all franchises, permits, licenses, and any similar authority necessary for the conduct of its business as now being conducted by it, the lack of which could reasonably be expected to have a Material Adverse Effect. The Company is not in default in any material respect under any of its present franchises, permits, licenses or other similar authority.

3.20 Tax Return, Payments, and Elections. The Company has timely filed all tax returns (federal, state and local) required to be filed by it and all taxes, including, without limitation, income, excise, property, sales, transfer, use, franchise, payroll, employees' income withholding and social security taxes imposed or assessed by the United States or by any state, municipality, subdivision or instrumentality of the United States shown on such returns to be due or payable by the Company, and all interest, penalties and additions thereon, have been paid in full or, if not yet payable, have been adequately accrued on the Company's books and records. The Company is not the beneficiary of any extension of time within which to file any such returns. The Company has no tax deficiency or claim outstanding, assessed or, to the best of its knowledge, proposed against it. No issues have been raised in writing to the Company or are currently pending by the Internal Revenue Service or any other taxing authority in connection with any of such tax returns, and no waivers of statutes of limitations have been given or requested with respect to the Company in connection therewith. The Company has not elected pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), to be treated as an S corporation or a collapsible corporation pursuant to Section 1362(a) or Section 341(f) of the Code, respectively, nor has it made any other elections pursuant to the Code (other than elections

that relate solely to methods of accounting, depreciation, or amortization) that are expected to have a Material Adverse Effect.

3.22 Securities Laws. Subject in part to the truth and accuracy of each Purchaser's representations set forth in this Agreement, the offer, issuance and sale of the Series C Shares are, and the issuance of the Common Stock upon the conversion thereof will be (based on existing law), exempt from the registration and prospectus delivery requirements of the Securities Act, and upon making the required "Blue Sky" filings (if any) in the applicable jurisdictions, will have been registered or qualified (or are exempt from registration and qualification) under the registration, permit or qualification requirements of all applicable state securities laws. The Company has not issued any securities in violation of Section 5 of the Securities Act or the registration, permit or qualification requirements of any state securities laws (other than those for which the statute of limitations has expired).

3.23 Insurance. The Company has in full force such types of insurance issued by issuers of recognized responsibility insuring the Company, with respect to its liability, workers' compensation, business and properties, in such amounts and against such losses and risks as are customarily maintained by entities operating businesses and properties of the type operated by the Company.

3.24 Employee Benefit Plans; Unions. Each employee benefit plan (as such term is defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) maintained by the Company has been administered and operated in all material respects in compliance with its terms. The Company does not maintain nor is it a party to (or ever maintained or was a party to ) any "employee pension benefit plan," as defined in Section 3(2) of ERISA, and the Company does not contribute to any "multiemployer plan" as defined in Section 3(37) of ERISA. The Company does not have any employees that are represented by a union with respect to the Company and its business or operations. The Company is not a party to any collective bargaining agreement and, to the best of the Company's knowledge, no organizational efforts are presently being made with respect to any of its employees.

3.25 Books and Records. The minute books of the Company contain complete and accurate records in all material respects of all meetings and other corporate actions of the Company's stockholders, Board of Directors and all committees, if any, appointed by its Board of Directors. To the best of the Company's knowledge, the Company's stock ledger is complete and reflects all issuances, transfers, repurchases and cancellation of shares of the capital stock of the Company. The books of account, ledgers, records and documents of the Company accurately reflect all material information relating to its business, the nature, acquisition, maintenance, location and collection of its assets and the nature of all transactions giving rise to its obligations and its accounts receivable.

3.26 Assumptions, Guaranties, Etc. of Indebtedness of Other Persons. The Company has not assumed, guaranteed, endorsed or otherwise become directly or contingently liable on any indebtedness of any other person (including, without limitation, liability by way of agreement, contingent or otherwise, to purchase, to provide funds for payment, to supply funds to or otherwise invest in the debtor, or otherwise to assure the creditor against loss), except for

guaranties by endorsement of negotiable instruments for deposit or collection in the ordinary course of business consistent with past practice.

4. Covenant of the Company; Qualified Small Business. The Company will use its best efforts to comply with the reporting and recordkeeping requirements of IRC Section 1202, any regulations promulgated thereunder and any similar state laws and regulations, and agrees, unless otherwise approved by the Board of Directors, not to repurchase or redeem any stock of the Company if such repurchase or redemption would cause any of the Series C Shares not to so qualify as "Qualified Small Business Stock" ("QSBS"). The Company further covenants to submit to its stockholders and to state and federal taxation authorities such forms and filings as may be required to document such compliance, including the California Franchise Tax Board Form 3565, Small Business Stock Questionnaire, with its franchise or income tax return for the current income year. Until such time as Treasury Regulations or other tax authority pronouncements are issued which clarify the meaning of QSBS, the Company will in good faith treat and report the Series C Shares as QSBS for all purposes as long as there is a reasonable basis for such treatment. Within forty-five (45) days of the receipt of a written request for information from a Purchaser regarding the status of such Purchaser's Series C Shares as QSBS, the Company shall provide such Purchaser a certification setting forth the Company's good faith judgment regarding the QSBS status of such Series C Shares, provided that the Company shall not be liable to such Purchaser in the event such Series C Shares are later determined not to be QSBS.

5. Representations and Warranties of Purchasers and Restrictions on Transfer Imposed by the Securities Act.

5.1 Representations and Warranties by the Purchasers. Each Purchaser, severally and not jointly, represents and warrants to the Company as follows:

(a) Investment Intent. This Agreement is made with the Purchaser in reliance upon such Purchaser's representation to the Company, evidenced by Purchaser's execution of this Agreement, that Purchaser is and will be acquiring the Series C Shares to be acquired by it pursuant hereto and the Common Stock issuable upon conversion thereof (collectively the "Securities") at the Closing for such Purchaser's own account, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act. Purchaser has the full right, power and authority to enter into and perform this Agreement and the Second Amended and Restated Rights Agreement and this Agreement constitutes, and, upon execution and delivery, the Second Amended and Restated Agreement will constitute, a valid and binding obligation upon it, except as the same may be limited by bankruptcy, insolvency, moratorium, and other laws of general application affecting the enforcement of creditors' rights and/or by public policy considerations.

(b) Shares Not Registered. Purchaser understands and acknowledges that the offering of the Series C Shares pursuant to this Agreement has not been and will not be registered under the Securities Act or qualified or registered under applicable blue sky laws on the grounds that the offering and sale of the Securities contemplated by this Agreement are exempt from registration under the Securities Act and exempt from qualification or registration under exemptions available under applicable blue sky laws, and that the Company's reliance

upon such exemptions is predicated upon such Purchaser's representations set forth in this Agreement. Purchaser acknowledges and understands that the Securities must be held indefinitely unless the Securities are subsequently registered under the Securities Act and qualified under applicable blue sky laws or an exemption from such registration and such qualification is available.

(c) No Transfer. Purchaser covenants that in no event will such Purchaser dispose of any of the Securities (other than in conjunction with an effective registration statement for the Securities under the Securities Act or in compliance with Rule 144 promulgated under the Securities Act) unless and until (i) such Purchaser shall have notified the Company of the proposed disposition and shall have furnished the Company with a statement of the circumstances surrounding the proposed disposition, and (ii) if reasonably requested by the Company, such Purchaser shall have furnished the Company with an unqualified written opinion of legal counsel who shall be reasonably satisfactory to the Company, addressed to the Company and reasonably satisfactory in form and substance to the Company's counsel, to the effect that (x) such disposition will not require registration under the Securities Act and (y) appropriate action necessary for compliance with the Securities Act and other applicable state, local or foreign law has been taken. It is agreed that the Company will not require opinions of counsel for transactions made pursuant to Rule 144.

(d) Permitted Transfers. Notwithstanding the provisions of subsection (c) above, no registration statement or opinion of counsel shall be necessary for a transfer by a Purchaser which is a partnership to a partner of such partnership or a former partner of such partnership who leaves such partnership after the date hereof, or to the estate of any such partner or former partner or the transfer by gift, will or intestate succession of any partner to his spouse or lineal descendants or ancestors, if the transferee agrees in writing to be bound by the terms of this Agreement to the same extent as if the transferee were an original Purchaser hereunder.

(e) Knowledge and Experience. Purchaser (i) is an "accredited investor" as that term is defined in Rule 501 of Regulation D promulgated under the Securities Act; (ii) has the ability to bear the economic risks of such Purchaser's prospective investment, including a complete loss of Purchaser's investment, in the Securities; (iii) has been furnished with and has had access to such information as such Purchaser has considered necessary to make a determination as to the purchase of the Securities together with such additional information as is necessary to verify the accuracy of the information supplied; (iv) has had all questions which have been asked by such Purchaser satisfactorily answered by the Company; and (v) has not been offered the Securities by any form of advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any such media.

(f) Not Organized to Purchase. Purchaser has not been organized for the purpose of purchasing the Securities.



5.2 Legends. Each certificate representing the Securities may be endorsed with the following legends:

(a) Federal Legend. THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, THE TRANSFER IS MADE IN COMPLIANCE WITH RULE 144 PROMULGATED UNDER SUCH ACT OR THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT.

(b) Other Legends. Any other legends which the Company believes should be placed thereon with regard to applicable state corporate and/or securities laws.

The Company need not register a transfer of legended Securities, and may also instruct its transfer agent not to register the transfer of the Securities, unless the conditions specified in each of the foregoing legends are satisfied.

5.3 Removal of Legend and Transfer Restrictions. Any legend endorsed on a certificate pursuant to subsection 5.2(a) and the stop transfer instructions with respect to such legended Securities shall be removed, and the Company shall issue a certificate without such legend to the holder of such Securities if such Securities are registered under the Securities Act and a prospectus meeting the requirements of Section 10 of the Securities Act is available or if such holder satisfies the requirements of Rule 144(k).

## 6. Conditions to Closing.

6.1 Conditions to Purchasers' Obligations. The obligation of each Purchaser to purchase its Series C Shares at the Closing is subject to the fulfillment to the Purchaser's satisfaction, on or prior to the Closing Date, of the following conditions, any of which may be waived by such Purchaser:

(a) Consents and Waivers. The Company shall have obtained in a timely fashion any and all consents, permits and waivers necessary or appropriate for consummation of the transactions contemplated by this Agreement.

(b) Restated Certificate. The Restated Certificate shall have been filed with the Delaware Secretary of State, and the same shall be effective as of the Closing Date and not rescinded or amended, and evidence of such filing shall have been delivered to the Purchasers.

(c) Amended Agreement. The Company and each of the parties to the Existing Rights Agreement and each of the Purchasers shall have executed and delivered the Second Amended and Restated Rights Agreement.

(d) Representations and Warranties Correct; Performance of Obligations. The representations and warranties made by the Company in Section 3 hereof shall be true and correct when made and shall be true and correct in all material respects on the Closing Date (subject to changes thereto in the ordinary course of business) with the same force and effect as if they had been made on and as of the Closing Date. The Company shall have performed in all material respects all obligations and conditions herein required to be performed or observed by it on or prior to the Closing Date and there shall be no order, decree of injunction shall have been issued which prohibits such purchase and no proceeding shall be pending or threatened seeking to prohibit such purchase.

(e) Legal Investment. At the time of the Closing, the purchase of the Shares by the Purchasers hereunder shall be legally permitted by all laws and regulations to which the Purchasers and the Company are subject.

(f) Payment for Series C Shares. Each of the Purchasers shall have delivered to the Company the purchase price for the Series C Shares to be acquired by it at the Closing.

(g) Officer's Certificate. The Company shall have delivered to each Purchaser a certificate, dated as of the Closing Date, executed by the President of the Company, certifying to the satisfaction of the conditions specified in Sections 6.1 (a) through (d) herein.

(h) Opinion of Counsel. The Company shall have delivered to the Purchasers an opinion of counsel to the Company, addressed to the Purchasers and dated as of the Closing Date, in substantially the form attached hereto as Exhibit E.

6.2 Conditions to Obligations of the Company. The Company's obligation to sell and issue the Series C Shares at the Closing is subject to the fulfillment to the satisfaction of the Company on or prior to the date of Closing Date of the following conditions, any of which may be waived by the Company:

(a) Representations and Warranties Correct. The representations and warranties made by each Purchaser in Section 5 hereof shall be true and correct when made and shall be true and correct on the Closing Date with the same force and effect as if they had been made on and as of the Closing Date. Each Purchaser shall have performed in all material respects all obligations and conditions herein required to be performed or observed by it on or prior to the Closing Date and there shall be no order, decree of injunction shall have been issued which, prohibits such purchase and no proceeding shall be pending or threatened seeking to prohibit such purchase.

(b) Consents and Waivers. The Company shall have obtained in a timely fashion any and all consents, permits and waivers necessary or appropriate for consummation of the transactions contemplated by this Agreement.

(c) Incorporation of Conditions. The conditions set forth in Section 6.1(c) and Section 6.1(e) (other than as the foregoing relate to actions of the Company) shall have been fulfilled.

(d) Payment for Series C Shares. As to any Purchaser, that Purchaser shall have delivered to the Company the purchase price for the Series C Shares to be acquired by it at the Closing, such delivery of the purchase price to be made in the manner specified in Section 2.2 hereof.

7. Miscellaneous.

7.1 Governing Law. This Agreement shall be governed in all respects by the laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within California.

7.2 Survival. The representations, warranties, covenants and agreements made herein shall survive the Closing of the transactions contemplated hereby.

7.3 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

7.4 Entire Agreement. This Agreement and the other documents delivered pursuant hereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof and thereof and they supersede, merge and render void every other prior written and/or oral understanding or agreement among or between the parties hereto.

7.5 Notices, etc. All notices and other communications required or permitted hereunder shall be in writing and shall be delivered personally, mailed by first class mail, postage prepaid, or delivered by courier or overnight delivery, addressed (a) if to a Purchaser, at such Purchaser's address set forth in the Schedule of Purchasers, or at such other address as such Purchaser shall have furnished to the Company in writing or (b) if to the Company, at such address as the Company shall have furnished to the Purchasers in writing. Notices that are mailed shall be deemed received five (5) days after deposit in the United States mail.

7.6 Severability. In case any provision of this Agreement shall be found by a court of law to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

7.7 Expenses. The Company and the Purchasers shall each bear their own expenses and legal fees in connection with the consummation of this transaction.

7.8 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

7.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

7.10 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to the Company or to any holder of any securities issued or to be issued

hereunder shall impair any such right, power or remedy of the Company or such holder, nor shall it be construed to be a waiver of any breach or default under this Agreement, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any delay or omission to exercise any right, power or remedy or any waiver of any single breach or default be deemed a waiver of any other right, power or remedy or breach or default theretofore or thereafter occurring. All remedies, either under this Agreement, or by law otherwise afforded to the Company or any holder, shall be cumulative and not alternative.

IN WITNESS WHEREOF, the parties hereto have executed this Series C Preferred Stock Purchase Agreement as of the date first written above.

NOVOCELL, INC.

By: /s/ Paul Latta

-----  
Paul Latta, President & CEO

"PURCHASER"

SurModics, Inc.

-----  
(Print or type name of Purchaser)

By: /s/ James C. Powell

-----  
(Signature)

If signing on behalf of an entity:

Name of Signatory: -----

Title of Signatory: -----

