

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, DC 20549

---

**FORM 8-K**

---

**CURRENT REPORT**

**Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): January 16, 2006**

---

**Celsion Corporation**

(Exact Name of Registrant as Specified in Charter)

---

**Delaware**  
(State or other jurisdiction  
of incorporation)

**000-14242**  
(Commission File Number)

**52-1256615**  
(IRS Employer  
Identification No.)

**10220-L Old Columbia Road, Columbia, Maryland**  
(Address of principal executive office)

**21046-2364**  
(Zip Code)

**Registrant's telephone number, including area code: (410) 290-5390**

**N/A**

(Former name or former address, if changed since last report)

---

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.135-4(c))
- 

**Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.**

## **Item 1.01 Entry into a Material Definitive Agreement**

### **Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers**

On January 16, 2006, Celsion Corporation (the "Company") contributed to its wholly-owned subsidiary, Celsion (Canada) Limited ("Canada"), all of the Company's assets relating to its Adaptive Phased Array ("APA") technology for the treatment of breast cancer. Also on that date, the Company entered into a Stock Purchase Agreement with the Company's founder and former officer and director, Dr. Augustine Y. Cheung, whereby the Company sold to Dr. Cheung all of the issued and outstanding shares of capital stock of Canada. The Company also agreed to provide certain services to Canada pursuant to a Transition Services Agreement between the Company and Canada.

On January 16, 2006, Dr. Cheung resigned his positions as Chief Scientific Officer and a director of the Company. He and the Company entered into a Separation Agreement and General Release, and a Consulting Agreement, all effective January 16, 2006.

The following is a summary of the terms of the Stock Purchase Agreement, Transition Services Agreement, Separation Agreement and General Release, and Consulting Agreement that are material to the Company, which summary is qualified in its entirety by reference to the forms of these agreements which are filed as, respectively, Exhibits 10.1, 10.2, 10.3 and 10.4 to this Current Report and incorporated by reference herein.

#### **Stock Purchase Agreement**

The Stock Purchase Agreement was entered into effective January 16, 2006 by and among Dr. Cheung, the Company and Canada. Pursuant to the Stock Purchase Agreement, all of the capital stock of Canada was transferred to Dr. Cheung in exchange for:

- a promissory note made by Dr. Cheung in favor of the Company in the principal amount of One Million Five Hundred Thousand Dollars (\$1,500,000) to be paid over a period of up to seventy-eight (78) months and secured by a pledge of one million five hundred eight thousand fifty (1,508,050) shares of Celsion common stock owned by Dr. Cheung and his wife; and
- the commitment of Canada to pay a 5% royalty on the net sales of certain products sold by and patent royalties received by Canada and its successors and assigns, of up to Eighteen Million Five Hundred Thousand Dollars (\$18,500,000).

The Stock Purchase Agreement contains indemnification rights. The Company, on the one hand, and Canada and Dr. Cheung, on the other hand, have agreed that they will indemnify, defend, protect and hold harmless the other party from and against all claims and expenses incurred by such other party resulting from or arising out of such party's breach of any representations and warranties or any agreement of such party contained in the Stock Purchase Agreement. The maximum aggregate indemnification liability of the Company is equal to 50% of all payments actually received by the Company under the Stock Purchase Agreement. No party under the Stock Purchase Agreement is required to make any indemnification payment until the total amount of all damages suffered by an indemnified party exceeds \$50,000. If the total damages exceed \$50,000, the indemnified party will be entitled to be indemnified for the amount of damages that are greater than \$50,000.

In addition, the Stock Purchase Agreement contains a covenant not to compete and a non-solicitation agreement. The covenant not to compete restricts Dr. Cheung and Canada from developing pharmaceutical products. The non-solicitation agreement restricts the Company, on the one hand, and Dr. Cheung and Canada, on the other hand, from soliciting or attempting to solicit any employees of the other to leave such other party or hire any person employed by such other party.

### **Transition Services Agreement**

The Transition Services Agreement was entered into effective January 16, 2006 by and between the Company and Canada. The Company agreed to provide to Canada, for the periods set forth below and in a manner consistent with past practices, the following:

- sublease of space in the Company's offices for use by Canada to carry on its business, for a period of up to six (6) months from the date of the agreement
- administrative support services as needed in the operation of Canada's business for the period of the sublease
- payment of salary and health and dental insurance of each of Dr. Cheung and of John Mon, as employees of Canada, and salaries of two additional employees of Canada, totaling in the aggregate approximately forty-five thousand dollars (\$45,000) per month, for the shorter of the period ending June 30, 2006 and the date of closing by Canada of a transaction involving the merger of Canada into a newly created Canadian Capital Pool Company and a simultaneous funding through a private placement of shares under terms approved by the Toronto Stock Exchange (the "Canada Transaction")
- reimbursement to Canada for expenses reasonably incurred in connection with the operation of Canada's business, for the shorter of the period ending June 30, 2006 and the date of closing by Canada of the Canada Transaction; provided that the aggregate reimbursement will not exceed one hundred thousand dollars (\$100,000)

Within ten (10) days after the closing of the Canada Transaction, in return for the services summarized above, Canada will pay the Company (1) sixteen dollars and eighty-two cents (\$16.82) per square foot of subleased space plus two hundred dollars (\$200) for each month or portion of a month during which Canada occupies the subleased space, and (2) the amount equal to all payments made by or on behalf of Celsion to Canada or its employees for salaries, health and dental insurance and expenses incurred in connection with the operation of Canada's business. If Canada fails to close the Canada Transaction, Celsion will not be paid under this agreement.

Canada agreed to limit the Company's liability under the agreement, and to indemnify the Company, its subsidiaries, affiliates, directors, officers, employees, agents and permitted assigns from and against all damages cause by or arising in connection with this agreement or the performance (or non-performance) of the services there under, subject to certain conditions.

### **Separation Agreement and General Release**

The Separation Agreement and General Release (the "Separation Agreement") was entered into effective January 16, 2006 between the Company and Dr. Cheung. The Separation Agreement provides that Dr. Cheung's employment as Chief Scientific Officer and his position as a director of the Company voluntarily terminated effective January 16, 2006.

The Company agreed to release Dr. Cheung from certain restrictive covenants, contained in the Employment Agreement dated as of January 1, 2004 between the Company and Dr. Cheung (the "Employment Agreement"), relating to the formation of a business and provision of services to a business insofar as the restrictions relate to the APA technology transferred by the Company to Canada. In addition, the Company agreed that the stock options granted to Dr. Cheung as described in the Employment Agreement vested immediately on January 16, 2006 and will remain fully exercisable in accordance with their respective terms.

Dr. Cheung agreed that, other than as set forth above, the Company does not owe him any wages, benefits,

compensation, property, stock or money of any kind relating to his employment with the Company. The Company agreed that Dr. Cheung has fully performed his obligations under the terms of the Employment Agreement and that, except with respect to the restrictive covenants in the Employment Agreement that were not modified and which remain in effect, he does not owe the Company any further performance under the Employment Agreement

The Separation Agreement provides for the general release by Dr. Cheung of the Company from any and all claims that he has had, currently has or has in the future arising from or relating to any act, occurrence or transaction before the date of the Separation Agreement, including, without limitation, Dr. Cheung's separation of employment. The Separation Agreement also provides for the general release by the Company of Dr. Cheung from all claims which it has ever had, now has or could have with respect to Dr. Cheung, arising from or relating to his employment with or separation from the Company.

### **Consulting Agreement**

The Consulting Agreement was entered into by and between the Company and Dr. Cheung effective as of January 16, 2006. The Consulting Agreement provides that Dr. Cheung will provide to the Company advice, guidance and counsel regarding microwave and other thermotherapy technologies, as requested by the Company (the "Consulting Services"). Dr. Cheung's compensation during the term of the Consulting Agreement for providing the Consulting Services will be:

- an annual retainer of One Hundred Thousand Dollars (\$100,000.00);
- Two Thousand Dollars (\$2,000) per day for a minimum of thirty (30) days per year; and
- reimbursement for all reasonable expenses arising from Dr. Cheung's performance of the Consulting Services.

The compensation for Consulting Services is in addition to, and separate from, amounts advanced by the Company to Canada under the Transition Services Agreement in respect of the salary payable by Canada to Dr. Cheung for Dr. Cheung's services as an officer and employee of Canada. The term of the Consulting Agreement continues until January 16, 2008. The Consulting Agreement may be terminated by the mutual written agreement of the parties.

The Consulting Agreement also provides that during the term of Dr. Cheung's engagement, Dr. Cheung shall not:

- solicit or canvas any customers of the Company; or
- accept competitive business from any customers of the Company.

### **Cautionary Statements**

The Stock Purchase Agreement has been filed as an exhibit to provide information regarding its terms. Except for its status as the contractual document that establishes and governs the legal relations among the parties with respect to the transactions described above, the Stock Purchase Agreement is not intended to be a source of factual, business or operational information about the Company. Such information can be found in the public filings the Company makes with the Securities and Exchange Commission, which are available without charge at [www.sec.gov](http://www.sec.gov).

The representations, warranties and covenants made by the Company in the Stock Purchase Agreement are qualified, including by information in the schedules referenced in the Stock Purchase Agreement. As permitted by the federal securities laws, these schedules have not been filed with this Form 8-K. Furthermore, the representations and warranties may be subject to standards of materiality applicable to the contracting parties, which may differ from those applicable to investors. The subject matter of these

representations and warranties may have changed since the date of the Stock Purchase Agreement, which later information may or may not be fully reflected in the Company's public disclosures. Accordingly, a reader should not rely on the representations and warranties as characterizations of the actual state of facts, since they may be modified by the schedules, materiality standards, and changes in actual circumstances over time.

**Item 8.01 Other Events.**

On January 17, 2006, the Company issued a press release announcing the sale of the Company's APA technology through the sale of the capital stock of Canada to Dr. Cheung and Dr. Cheung's resignation from his positions as Chief Scientific Officer and as a member of the Board of Directors of the Company.

The Company's press release is attached hereto as Exhibit 99.1 and is incorporated in this report by reference.

**Item 9.01 Financial Statements and Exhibits**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Stock Purchase Agreement made January 16, 2006, by and among Dr. Augustine Y. Cheung, Celsion Corporation and Celsion (Canada) Limited
10.2	Transition Services Agreement effective January 16, 2006, by and between Celsion Corporation and Celsion (Canada) Limited
10.3	Separation Agreement and General Release effective January 16, 2006, by and between Celsion Corporation and Dr. Augustine Y. Cheung
10.4	Consulting Agreement effective January 16, 2006, by and between Celsion Corporation and Dr. Augustine Y. Cheung
99.1	Press Release issued by Celsion Corporation on January 17, 2006

**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 hereunto duly authorized.

CELSION CORPORATION

Date: January 16, 2006

By: /s/ Anthony P. Deasey

---

Executive Vice President, Chief Financial Officer and  
Chief Operating Officer

S-1

---

## Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
10.1	Stock Purchase Agreement made January 16, 2006, by and between Dr. Augustine Y. Cheung, Celsion Corporation and Celsion (Canada) Limited
10.2	Transition Services Agreement effective January 16, 2006, by and between Celsion Corporation and Celsion (Canada) Limited
10.3	Separation Agreement and General Release effective January 16, 2006, by and between Celsion Corporation and Dr. Augustine Y. Cheung
10.4	Consulting Agreement effective January 16, 2006, by and between Celsion Corporation and Dr. Augustine Y. Cheung
99.1	Press Release issued by Celsion Corporation on January 17, 2006

## STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this "Agreement") is made this 16<sup>th</sup> day of January, 2006, by and between Dr. Augustine Y. Cheung, a Maryland resident (the "BUYER"), Celsion Corporation, a Delaware corporation (hereinafter, the "SELLER") and Celsion (Canada) Limited, an Ontario, Canada Corporation ("CANADA").

### EXPLANATORY STATEMENT

WHEREAS, SELLER is the owner of 100 shares of the capital stock (the "Shares") of CANADA, representing all of the outstanding capital stock of CANADA; and

WHEREAS, the BUYER desires to buy, and the SELLER desires to sell, the Shares on the terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

### DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth hereinbelow:

"Affiliates" or "Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with, the person or entity specified. For purposes of this definition, "control" means the power to direct or cause the direction of the management and policies of another person or entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Assets" has the meaning set forth in Section 1.7(a)(v).

"Balance Sheet Date" means January 16, 2006.

"BUYER" has the meaning set forth in the first paragraph of this Agreement.

"BUYER's Closing Documents" has the meaning set forth in Section 1.7(b).



“CANADA” has the meaning set forth in the first paragraph of this Agreement.

“CANADA Asset Transfer Documents” has the meaning set forth in Section 1.7(a)(iv).

“CANADA Charter Documents” has the meaning set forth in Section 2.1.

“Change of Control” means:

(i) An acquisition (other than directly from CANADA) of any shares of the Common Stock of CANADA (“Common Shares”) or other voting securities of CANADA by any “Person” (for purposes of this definition only, as the term “person” is used for purposes of Section 13(d) or 14(d) of the Securities Exchange Act of 1934 (the “Exchange Act”)), immediately after which such Person has “Beneficial Ownership” (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of thirty-five percent (35%) or more of either (i) the then outstanding Common Shares or (ii) the combined voting power of CANADA’s then outstanding voting securities entitled to vote for the election of directors, trustees or their equivalent (the “Voting Securities”); or

(ii) The individuals who, immediately prior to the effective date of the Change of Control, are members of the Board of CANADA (the “Incumbent Board”), (i) cease for any reason (including, without limitation, any increase or decrease in the size of the Board) to constitute at least a majority of the members of the Board, or (ii) following a Merger (as hereinafter defined), do not constitute at least a majority of the Board of Directors or its equivalent of (x) the surviving corporation, if fifty percent (50%) or more of the combined voting power of the then outstanding voting securities of the surviving corporation is not Beneficially Owned, directly or indirectly by a parent corporation, or (y) if there is one or more parent corporations, the ultimate parent corporation; provided, however, that if the election, or nomination for election by CANADA’s common shareholders, of any new director was approved by a vote of at least a majority of the Incumbent Board, such new director shall be considered as a member of the Incumbent Board; provided, further, however, that no individual shall be considered a member of the Incumbent Board if such individual initially assumed office as a result of an actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board of Directors of CANADA (a “Proxy Contest”), including by reason of any agreement intended to avoid or settle any Proxy Contest; or

(iii) The consummation of:

(A) A merger, consolidation, reorganization or joint venture with or into CANADA or a direct or indirect subsidiary of CANADA or in which securities of CANADA are issued (a "Merger"), and immediately after which the BUYER no longer holds at least fifty percent (50%) of the outstanding Common Shares and the combined voting power of CANADA;

(B) A complete liquidation or dissolution of CANADA; or

(C) The sale or other disposition of all or substantially all the assets of CANADA and its subsidiaries taken as a whole to any Person or group of Persons in a single transaction or series of transactions.

For purposes of the definition of Change of Control, CANADA means CANADA and any successor and assign of CANADA.

Notwithstanding the foregoing, a Change of Control shall not be deemed to occur solely because (1) BUYER transfers up to fifty percent (50%) of the Common Shares prior to the Qualifying Transaction, (2) BUYER transfers Common Shares in connection with, or no longer holds at least fifty percent (50%) of the Common Shares as a result of, the closing of a Qualifying Transaction, or (3) any Person acquired Beneficial Ownership of more than the permitted amount of the then outstanding Common Shares or Voting Securities as a result of the acquisition of Common Shares or Voting Securities by CANADA which, by reducing the number of Common Shares or Voting Securities then outstanding, increases the proportional number of shares Beneficially Owned by the subject Persons; provided, that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of Common Shares or Voting Securities by CANADA, and after such share acquisition by CANADA, the subject Person becomes the Beneficial Owner of any additional Common Shares or Voting Securities which increases the percentage of the then outstanding Common Shares or Voting Securities Beneficially Owned by the subject Person, then a Change of Control shall occur.

"Closing" has the meaning set forth in Section 1.6.

"Closing Date" has the meaning set forth in Section 1.6.

“Code” means the Internal Revenue Code of 1986, as amended.

“Contribution Agreement” has the meaning set forth in Section 1.7(a)(iv).

“Expiration Date” has the meaning set forth in Section 2.

“Financial Statement” has the meaning set forth in Section 2.4.

“Governmental Authority” means any governmental, regulatory or administrative body, agency, subdivision or authority, any court or judicial authority, or any public, private or industry regulatory authority, whether national, federal, state, local or otherwise.

“Indemnifying Party” has the meaning set forth in Section 7.3.

“Indemnified Party” has the meaning set forth in Section 7.3.

“IP Transfer Documents” has the meaning set forth in Section 1.7(a)(iv).

“Knowledge,” “knowledge,” “the best knowledge of,” “known to” or words of similar import used herein with respect to CANADA or SELLER shall mean the actual knowledge of CANADA or SELLER and with respect to BUYER shall mean the actual knowledge of BUYER. With regard to CANADA or SELLER, “actual knowledge” shall mean the actual knowledge of the current Chief Executive Officer and Chief Financial Officer of SELLER.

“Laws” has the meaning set forth in Section 2.13.

“Material Adverse Effect” means, with respect to any Person, any event or occurrence which would have a material adverse effect on such Person’s business, condition (financial or other), properties, business prospects or financial results.

“Material Contract” means any lease, instrument, agreement, license or permit or any other material agreement to which CANADA is a party or by which its properties are bound.

“MIT License” shall mean the current License Agreement between SELLER and Massachusetts Institute of Technology dated October 24, 1997, as amended.

“MIT License Transfer Documents” has the meaning set forth in Section 1.7(a)(iv).

“Net Sales” shall mean gross royalties received on the Patents and gross sales invoiced from the sale of Product, less: (a) refunds for rejected or returned Product; (b) normal discounts, rebates or trade allowances directly related to the sale of Product; (c) cost of transportation and delivery included as such on invoices; (d) sales taxes, duties and other government charges paid for and separately identified on the invoice; and (e) uncollected gross sales reduced by items, (a), (b), (c) and (d) of this definition as they pertain to such uncollected gross sales. For purposes of this Section “uncollected gross sales” shall be those sales written off by the seller as uncollectible under the seller’s regular accounting practices, reduced by the amount of any subsequent bad debt recovery payment from the customer.

“Patents” means those patents set forth in Exhibit B of the Contribution Agreement of even date between SELLER and CANADA.

“Patent License Agreement” has the meaning set forth in Section 1.7(a)(viii).

“Person” means any natural person, corporation, partnership, proprietorship, other business organization, trust, union, association or Governmental Authority.

“Product” or “Products” means any device that has been developed or is under development by SELLER, BUYER or CANADA prior to the date of this Agreement and any product that is developed following this Agreement by BUYER or CANADA, which utilizes the Adaptive Phased Array technology.

“Purchase Price” has the meaning set forth in Section 1.2.

“Qualifying Transaction” means the merger of Canada into a Capital Pool Company (creating “NewCo”) listed on the Venture Exchange of the Toronto Stock Exchange (“TSX”) simultaneously funded by a private placement of the shares of NewCo under terms approved by the TSX.

“Regulatory Approval” has the meaning set forth in Section 1.7(a)(iv)(4).

“Regulatory Approval Transfer Documents” has the meaning set forth in Section 1.7(a)(iv)(4).

“Returns” has the meaning set forth at the end of Section 2.14.

“Schedule” means each Schedule attached hereto, which shall reference the relevant sections of this Agreement, on which parties hereto disclose information as part of their respective representations, warranties and covenants.

“SELLER” has the meaning set forth in the first paragraph of this Agreement.

“SELLER’s Business” has the meaning set forth in Section 9.1.

“SELLER’s Closing Documents” has the meaning set forth in Section 1.7(a).

“Statutory Liens” has the meaning set forth in Section 4.2(e).

“Stock Pledge Agreement” has the meaning set forth in Section 1.7(a)(vi).

“Tax” or “Taxes” means any amount imposed, assessed or collected by or under the authority of any governmental body including all income, franchise, capital, sales, use, gross receipts, licenses, goods and services, real property, tangible personal property, intangible personal property, machinery and tools, business and excise duties, withholding, payroll, employer health tax, and statutory pension and employment taxes.

## **1. SALE AND TRANSFER OF STOCK; CLOSING**

1.1 **Purchase of the Shares.** Subject to the terms and conditions of this Agreement, at Closing, SELLER will sell and transfer the Shares to BUYER, and BUYER will purchase the Shares from the SELLER.

1.2 **Purchase Price.** The purchase price (the “Purchase Price”) for the Shares will be TWENTY MILLION DOLLARS (US) (\$20,000,000).

1.3 **Payment of the Purchase Price.** The Purchase Price will be paid to SELLER as follows:

(a) A royalty of 5% of the Net Sales of CANADA and its Affiliates shall be paid by CANADA to SELLER, and CANADA hereby agrees to pay such royalty to SELLER, under the terms of Section 1.4 until the cumulative amount of \$18,500,000 (US) shall have been paid to SELLER by CANADA, at which point the royalty shall be fully paid and shall terminate with no further action by the parties; provided, that any and all successors and assigns of CANADA or its Affiliates and/or any successor owner of the rights to the MIT License and the

assets transferred by the IP Transfer Documents shall be obligated hereby to pay a royalty of 5% of Net Sales until the aggregate cumulative amount of \$18,500,000 (US) shall have been paid to SELLER by CANADA and any successors and assigns of CANADA, its Affiliates and/or the Assets; and

(b) \$1.5 Million (US) shall be paid by BUYER to SELLER and BUYER hereby agrees to pay such amount to SELLER, pursuant to the terms of the Secured Promissory Note attached as Exhibit 1.3 (the "Note"), which shall be secured pursuant to the terms of the Stock Pledge Agreement; provided, however, that upon any Change of Control of CANADA that occurs prior to full payment of all outstanding principal under the Note, then all outstanding principal and any interest then accrued and unpaid shall become immediately due and payable by BUYER to SELLER.

**1.4 Payment of Royalty.**

(a) CANADA shall report NET SALES on a calendar quarterly basis to SELLER. Reports shall be provided within thirty (30) days of the end of each quarter, together with payment for royalties accrued and payable for the quarter. The royalty report will be developed to the reasonable satisfaction of both parties to provide sufficient detail to determine compliance with this Agreement, including accounting information on sales of PRODUCT on an item by item gross sales basis and the detail of deductions from gross sales for each PRODUCT item to calculate NET SALES for each PRODUCT item.

(b) AUDIT RIGHTS – CANADA shall keep books and records in sufficient detail to permit SELLER to verify items including, but not limited to, Net Sales. SELLER shall have the right, at its expense and upon reasonable notice and during normal business hours, but in no event more frequently than twice during any twelve (12) month period or more than two (2) years after the close of any CANADA fiscal year, to audit, or have audited by a Certified Public Accountant, the relevant books and accounts of CANADA to verify the accuracy of the Net Sales. In the event such audit reveals that CANADA has underpaid the aggregate royalty payments under Section 1.3(a) due as of the date of such audit by more than two percent (2%), CANADA, in addition to paying or reimbursing any additional amounts due, shall pay the reasonable costs associated with such audit. The parties shall maintain the results of any such audit in confidence. Any royalties due from CANADA to SELLER as the result of an audit shall be paid within 30 days of the conclusion of the audit and bear interest at the rate of 1% per month from the date such royalties should have been paid until the date such royalties are actually paid.

**1.5 Royalty Payments of Successors and Assigns.** Section 1.3(a) and 1.4 shall apply to any and all successors and assigns of CANADA and/or any successor owner of all the Assets or the rights to the MIT License and the assets transferred by the IP Transfer Documents in the same manner and to the same extent as such sections apply to CANADA and prior to any assignment, sale, transfer, lease or other disposition of the Assets or the rights to the MIT License and the assets transferred by the IP Transfer Documents to a third party, whether by sale, merger or otherwise, CANADA shall obtain a written acknowledgment that under this Agreement such third party is obligated to make the royalty payments provided for in Section 1.3(a) above and to comply with Section 1.4.

**1.6 Closing.** The purchase and sale of the Shares (the "Closing") provided for in this Agreement shall take place on January 16, 2006, or such other date as the parties shall mutually determine (the "Closing Date"), but no later than June 30, 2006.

**1.7 Closing Obligations.** At the Closing:

(a) SELLER shall deliver or cause to be delivered to BUYER the following ("SELLER'S Closing Documents"):

(i) stock certificates representing all of the Shares duly endorsed (or accompanied by duly executed stock powers) for transfer to BUYER;

(ii) a certificate executed by SELLER to the effect that (A) except as otherwise stated in such certificate, SELLER's representations and warranties in this Agreement were accurate in all respects as of the date of this Agreement and are accurate in all respects as of the Closing Date as if made on the Closing Date; and (B) SELLER has performed and complied with all covenants and conditions required to be performed or complied with by the SELLER prior to or at the Closing;

(iii) a Good Standing Certificate of CANADA as of a recent date from the Corporate Charter Department of the Province of Ontario, CANADA and from all states in which CANADA has registered to do business;

(iv) a certified copy of (1) the Contribution Agreement made by and

between SELLER and CANADA dated as of January 16, 2006, relating to the contribution by SELLER to CANADA of those assets described in **Schedule 1.7(a)(iv)(1)** (the "Contribution Agreement"), (2) the documentation evidencing the assignment of the MIT License (the "MIT Transfer Documents"), (3) the documentation evidencing the assignment of the patents, patent rights and trademarks described in **Schedule 1.7(a)(iv)(3)** (the "IP Transfer Documents"), and (4) the documentation evidencing the assignment of all regulatory approval (the "Regulatory Approval") held by SELLER set forth in **Schedule 1.7(a)(iv)(4)** (the "Regulatory Approval Transfer Documents," and collectively with the Contribution Agreement, the MIT Transfer Documents and the IP Transfer Documents, the "Canada Asset Transfer Documents");

(v) a certificate executed by SELLER to the effect that the MIT License, the Regulatory Approval and the assets described in **Schedules 1.7(a)(iv)(1) and (3)** (collectively, the "Assets") have been duly assigned to CANADA;

(vi) the Stock Pledge Agreement executed by SELLER substantially in the form provided in Exhibit 1.7(a)(vi) hereto (the "Stock Pledge Agreement");

(vii) a certified copy of the Transition Services Agreement made by and between SELLER and CANADA of even date herewith;

(viii) a certified copy of the Patent License Agreement made by and between SELLER and CANADA of even date herewith;

(ix) a Separation Agreement and General Release in the form attached hereto as Exhibit 1.7(a)(ix) (the "Separation Agreement"), executed by SELLER; and

(x) a Consulting Agreement in the form attached hereto as Exhibit 1.7(a)(x) (the "Consulting Agreement"), executed by SELLER.

(b) BUYER shall deliver or cause to be delivered to SELLER the following ("BUYER'S Closing Documents"):

(i) a certificate executed by BUYER to the effect that (A) except as otherwise stated in such certificate, BUYER's representations and warranties in this Agreement were accurate in all material respects as of the date of this Agreement and are accurate in all material respects as of the Closing Date as if made on the Closing Date; and (B) BUYER has performed and complied with all covenants and conditions required to be performed or complied with by it prior to or at the Closing;



(ii) the Note, executed by BUYER;

(iii) the Stock Pledge Agreement executed by BUYER accompanied by certificates for shares pledged under said agreement and stock powers relating to such shares endorsed in blank;

(iv) [INTENTIONALLY DELETED];

(v) the Separation Agreement, executed by Buyer;

(vi) the Consulting Agreement, executed by Buyer; and

(vii) a letter from John Mon resigning from his position with the SELLER.

(c) CANADA shall deliver or cause to be delivered to SELLER the following (“CANADA’S Closing Documents”):

(i) a certificate executed by CANADA to the effect that (A) except as otherwise stated in such certificate, CANADA’s representations and warranties in this Agreement were accurate in all material respects as of the date of this Agreement and are accurate in all material respects as of the Closing Date as if made on the Closing Date; and (B) CANADA has performed and complied with all covenants and conditions required to be performed or complied with by it prior to or at the Closing; and

(ii) a certificate of an officer of CANADA dated as of the Closing Date certifying that attached thereto is a true and complete copy of the resolutions duly adopted by the board of directors of CANADA authorizing the execution, delivery and performance of this Agreement and the other agreements executed by CANADA in connection herewith and that such resolutions have not been modified, rescinded or amended and are in full force and effect.

(d) BUYER, CANADA, and SELLER shall each also deliver such other documents, instruments, certificates, and opinions as may be required by this Agreement or as otherwise necessary to consummate the transactions contemplated hereby.

## 2. REPRESENTATIONS AND WARRANTIES OF SELLER

The SELLER represents and warrants to BUYER that all of the following representations and warranties in this Section 2 are true and correct at the date of this Agreement and shall be true and correct at the time of the Closing Date, and that such representations and warranties shall survive the Closing Date for a period of twelve (12) months (the last day of such period being the “Expiration Date”), except that the representations and warranties set forth in Sections 2.14 hereof shall survive until such time as the statute of limitations period has run for all tax periods ended on or prior to the Closing Date, which shall be deemed to be the Expiration Date for Sections 2.14.

2.1 **Due Organization and Qualification.** CANADA is a corporation duly incorporated, validly existing and in good standing under the laws of Ontario, Canada, and is duly authorized and qualified to do business under all applicable laws, regulations, ordinances and orders of public authorities in the places and in the manner as now conducted. True, complete and correct copies of the Articles of Incorporation and By-laws, each as amended, of CANADA (the “CANADA Charter Documents”) will be delivered to BUYER pursuant to Section 6.4 hereof. The minute books and stock records of CANADA, as heretofore made available to BUYER, are correct and complete in all material respects.

2.2 **SELLER’s Title; Authority Relative to Agreement, Etc.** SELLER represents and warrants that all of the Shares are free and clear of all liens, security interests, pledges, charges, voting trusts, restrictions, encumbrances and claims of every kind. There are no agreements (oral or written) to which the SELLER is a party involving the voting or sale of any of the Shares. The SELLER has the full legal right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the valid and binding obligation of the SELLER, enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditor’s rights generally, and except insofar as the availability of equitable remedies may be limited by applicable law. SELLER does not have, or hereby waives, any preemptive or other right to acquire shares of CANADA capital stock that the SELLER has or may have had, subject to any and all rights provided in the Stock Pledge Agreement.

**2.3 Capital Stock and Capital Structure of CANADA.** The authorized capital stock of CANADA is as set forth in **Schedule 2.3**. All of the issued and outstanding shares of capital stock of CANADA are owned by SELLER. All of the issued and outstanding shares of CANADA capital stock have been duly authorized and validly issued, and are fully paid and nonassessable. None of the shares of CANADA capital stock were issued in violation of the preemptive rights of any past or present stockholders. CANADA does not have outstanding any stock or securities convertible or exchangeable for any shares of its capital stock, nor does it have outstanding any rights or options to subscribe for or to purchase any capital stock or any capital stock or securities convertible into or exchangeable for any capital stock. Except as disclosed on **Schedule 2.3**, CANADA is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of its capital stock. CANADA has no shares of capital stock held as treasury shares. There are no outstanding warrants, options, rights, calls or other commitments of any nature relating to the capital stock of CANADA. There are no agreements, commitments, restrictions or arrangements relating to ownership (including, without limitation, repurchase or redemption), voting or receipt of dividends or distributions in respect of any shares of CANADA capital stock.

**2.4 Financial Statements.** The SELLER has delivered to BUYER copies of the following financial statements: unaudited internally prepared balance sheet of CANADA at January 16, 2006 (the "Financial Statement"). The Financial Statement has been prepared by SELLER. The Financial Statement is consistent with the books and records of CANADA (which, in turn, are accurate and complete in all material respects) and fairly presents CANADA's financial condition, assets and liabilities.

**2.5 No Breach; Consents.** Except as set forth in **Schedule 2.5** attached hereto, the negotiation, execution, delivery and performance of this Agreement by the SELLER and the consummation of the transactions contemplated hereby (a) do not and will not conflict with or result in any breach of any of the provisions of, constitute a default under, result in a violation of, result in the creation of any lien, security interest, charge, encumbrance or other restriction upon the assets of CANADA under or require any authorization, consent, approval, exemption or other action by or notice to any third party under the provisions of the Articles of Incorporation or by-laws of CANADA or any license, indenture, mortgage, lease, loan agreement or other agreement (oral or written) or instrument to which CANADA is a party or under which its properties are bound or to which SELLER is a party and (b) to SELLER's Knowledge, does not require any authorization, consent, approval, exemption or other action by or notice to any court or governmental body under any law, statute, rule, regulation or decree to which either SELLER or CANADA is subject.

**2.6 Liabilities and Obligations.** The Financial Statement accurately reflects as of the Balance Sheet Date all liabilities of CANADA. **Schedule 2.6** lists, as of the Balance Sheet Date, all loan agreements, indemnity or guaranty agreements, bonds, mortgages, liens, pledges or other security agreements to which CANADA is a party. Except as set forth on **Schedule 2.6**, since the Balance Sheet Date, CANADA has not incurred any material liabilities of any kind, character and description, whether accrued, absolute, secured or unsecured, contingent or otherwise. The SELLER has also set forth on **Schedule 2.6**, in the case of those contingent liabilities related to pending litigation, or other liabilities which are not fixed or are being contested, the following information:

(a) a summary description of the liability, together with: (i) copies of all relevant documentation relating thereto; (ii) amounts claimed and any other action or relief sought; and (iii) name of claimant and all other parties to the claim, suit or proceeding;

(b) the name of each court or agency before which such claim, suit or proceeding is pending;

(c) the date such claim, suit or proceeding was instituted; and

(d) a good faith and reasonable estimate of the maximum amount, if any, which is likely to become payable with respect to each such liability. If no estimate is provided, the estimate shall for purposes of this Agreement be deemed to be zero.

**2.7 No Material Adverse Change.** Since the Balance Sheet Date there has been no material adverse change in the financial condition, properties, operating results, relations with suppliers, customer relations or business prospects of CANADA.

**2.8 Personal Property.** **Schedule 2.8** lists all personal property which is included in “depreciable plant, property and equipment” (or similarly named line item) on the Financial Statement.

**2.9 Intangible Property.** **Schedule 2.9** lists (1) all currently effective trademark registrations owned by CANADA and the jurisdiction in or by which such trademark registrations have been registered, filed or issued, all currently effective trademark registrations owned by CANADA and the jurisdiction in or by

which such trademark registrations have been registered, filed or issued, (2) all patents and patent applications owned by CANADA and the jurisdiction in or by which such patents or patent applications have been, filed or issued, (3) licenses granted to or by CANADA pursuant to written agreements pertaining to patents, patent applications, proprietary technology, inventions, trademarks, service marks, trade names and copyrights, (4) all trade names owned or used by CANADA, (5) all material contracts, agreements or understandings to which CANADA is a party, (6) all material contracts, agreements or understandings pursuant to which CANADA has authorized any person to use or, to the Knowledge of SELLER, any person has the right to use, in any business or commercial activity, any of the items listed in clauses (1), (2) and (3) above, and (7) all other Intellectual Property owned by CANADA. CANADA has not received and, to the Knowledge of SELLER, is not the subject of any claim alleging that CANADA has infringed upon or otherwise violated the intellectual property rights of third parties. To the Knowledge of SELLER, no third party is infringing upon or otherwise violating the intellectual property rights of CANADA.

2.10 **Insurance.** Schedule 2.10 lists all policies of life, fire, worker's compensation, general liability, and other forms of insurance owned or maintained by CANADA (including applicable premiums and deductible amounts as to which CANADA self-insures). Such policies are in full force and effect and to SELLER'S Knowledge, CANADA is not in default under any of them.

2.11 **Compensation; Employment Agreements; Organized Labor Matters.** CANADA has had no employees in the course of its existence.

2.12 **Leases.** Schedule 2.12 lists all leases to which CANADA is a party, and all such leases are fully paid to the current date and have no charges or assessments now due or becoming due that relate to periods prior to the Balance Sheet Date. SELLER has delivered to Buyer copies of all leases included on Schedule 2.12

2.13 **Conformity with Law; Litigation.** Except as set forth on Schedule 2.13, CANADA has complied with all laws, rules, regulations, writs, injunctions, decrees, and orders applicable to it or to the operation of its Business (collectively, "Laws"), except where failure to comply would not have a Material Adverse Effect, and has not received any notice of any alleged claim or threatened claim, violation of, liability or potential responsibility under, any such Law which has not heretofore been cured and for which there is no remaining liability.

Except to the extent set forth on **Schedule 2.6** (which shall disclose the parties to, nature of, and relief sought for each matter to be disclosed on **Schedule 2.6**):

(a) There is no suit, action, proceeding, claim, order or, to CANADA's knowledge, investigation pending or, to CANADA's knowledge, threatened, against either CANADA or any of the officers, directors or employees of CANADA with respect to its business or proposed business activities or to which CANADA is otherwise a party before any court, or before any Governmental Authority (collectively, "Claims"); nor, to CANADA's Knowledge, is there any basis for any such Claims.

(b) CANADA is not subject to any judgment, order or decree of any court or Governmental Authority. CANADA is not engaged in any legal action to recover monies due it or for damages sustained by it.

**Schedule 2.13** lists all closed litigation matters to which CANADA was a party preceding the Closing, the date such litigation was commenced and concluded, and the nature of the resolution thereof (including amounts paid in settlement or judgment).

2.14 **Taxes.** Except as set forth on **Schedule 2.14**, all Tax returns ("Returns") required to have been filed by or with respect to CANADA have been duly filed, and each such Return correctly and completely reflects the Tax liability and all other information required to be reported thereon. All Taxes with respect to items or periods covered by all such Returns (whether or not shown on any Return) owed by CANADA have been paid.

2.15 **No Violations.** CANADA is not in violation of any CANADA Charter Document nor is CANADA in default under any Material Contract; and, except as set forth on **Schedule 2.15**, the execution of this Agreement and the performance by SELLER of their obligations hereunder and the consummation by the SELLER of the transactions contemplated hereby will not (i) result in any violation or breach of, or constitute a default under, any of the terms or provisions of the Material Contracts or CANADA Charter Documents, or (ii) to SELLER'S Knowledge, require the consent, approval, waiver of any acceleration, termination or other right or remedy or action of or by, or make any filing with or give any notice to, any other party. Except as set forth on **Schedule 2.15**, none of the Material Contracts requires notice to, or consent or approval of, any Governmental Authority or other third party with respect to any of the transactions contemplated hereby in order to remain in full force and effect and consummation of the transactions contemplated hereby will not give rise to any right to termination, cancellation or acceleration or loss of any material right or benefit.

2.16 **Government Contracts.** Except as set forth on **Schedule 2.16**, CANADA is not a party to any governmental contract subject to price redetermination or renegotiation.

2.17 **Deposit Accounts; Powers of Attorney.** **Schedule 2.17** lists, as of the date of this Agreement:

- (a) the name of each financial institution in which CANADA has accounts or safe deposit boxes;
- (b) the names in which the accounts or boxes are held;
- (c) the type of account and account number; and
- (d) the name of each person authorized to draw thereon or have access thereto.

**Schedule 2.17** also sets forth the name of each person, corporation, firm or other entity holding a general or special power of attorney from CANADA and a description of the terms of such power of attorney.

2.18 **Relations with Governments.** CANADA has not made, offered or agreed to offer anything of value to any governmental official, political party or candidate for government office nor has it otherwise taken any action which would cause CANADA to be in violation of the Foreign Corrupt Practices Act of 1977, as amended, or any law of similar effect.

2.19 **Prohibited Activities.** Except as set forth on **Schedule 2.19**, CANADA has not, between the Balance Sheet Date and the Closing Date hereof, taken any of the actions set forth in Section 4.2.

2.20 **Disclosure.** None of the representations and warranties of SELLER set forth in this Agreement or in any of the certificates, schedules, exhibits, lists, documents, exhibits, or other instruments delivered, or to be delivered, by SELLER to BUYER as contemplated by any provision hereof, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

### 3. REPRESENTATIONS OF BUYER

BUYER represents and warrants to SELLER that all of the following representations and warranties in this Section 3 are true and correct at the date of this Agreement and shall be true and correct on the Closing Date, and that such representations and warranties shall survive the Closing Date for a period of twelve (12) months.

3.1 **Authorization.** BUYER has the authority to execute and deliver this Agreement and to bind BUYER to perform its obligations hereunder. The execution and delivery of this Agreement by BUYER and the performance by BUYER of its obligations under this Agreement and the consummation by BUYER of the transactions contemplated hereby have been, or will have been on or before the date of the Closing, duly authorized in accordance with applicable law. This Agreement constitutes the valid and binding obligation of BUYER, enforceable in accordance with its terms.

3.2 **Transaction Not a Breach.** Neither the execution and delivery of this Agreement by BUYER nor its performance will violate, conflict with, or result in a breach of any provision of any Law, rule, regulation, order, permit, judgment, injunction, decree or other decision of any court or other tribunal or any Governmental Authority binding on BUYER or conflict with or result in the breach of any of the terms, conditions or provisions of any contract, agreement, mortgage or other instrument or obligation of any nature to which BUYER is a party or by which BUYER is bound.

3.3 **Misrepresentation.** None of the representations and warranties set forth in this Agreement or in any of the certificates, schedules, exhibits, lists, documents, exhibits, or other instruments delivered, or to be delivered, by BUYER to SELLER as contemplated by any provision hereof, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

3.4 **Legal and Governmental Proceedings and Judgments.** There is no legal action, proceeding or investigation pending or, to the Knowledge of BUYER, threatened against BUYER, nor is there any judgment outstanding against BUYER or to or by which BUYER is subject or bound that would have a Material Adverse Affect on the ability of BUYER to consummate any of the transactions contemplated hereby.



3.5 **Acquisition for Own Account.** BUYER is acquiring the Shares for BUYER'S own account for investment only, and not with a view towards their distribution, except to the extent that a distribution would be permitted under applicable securities laws.

3.6 **BUYER'S Knowledge.** BUYER has no Knowledge that any representation or warranty of CANADA or SELLER set forth in Section 2 is materially untrue.

3.7 **BUYER'S Financial Resources.** BUYER has the necessary financial resources to make payments under the Note as they become due and his aggregate net worth exceeds the principal amount of the Note.

### **3A. REPRESENTATIONS OF CANADA**

3A.1 **Authorization.** CANADA has the authority to execute and deliver this Agreement and to bind CANADA to perform its obligations hereunder. The execution and delivery of this Agreement by CANADA and the performance by CANADA of its obligations under this Agreement and the consummation by CANADA of the transactions contemplated hereby have been, or will have been on or before the date of the Closing, duly authorized in accordance with applicable law. This Agreement constitutes the valid and binding obligation of CANADA, enforceable in accordance with its terms.

3A.2 **Transaction Not a Breach.** Neither the execution and delivery of this Agreement by CANADA nor its performance will violate, conflict with, or result in a breach of any provision of any Law, rule, regulation, order, permit, judgment, injunction, decree or other decision of any court or other tribunal or any Governmental Authority binding on CANADA or conflict with or result in the breach of any of the terms, conditions or provisions of any contract, agreement, mortgage or other instrument or obligation of any nature to which CANADA is a party or by which CANADA is bound.

3A.3 **Misrepresentation.** None of the representations and warranties set forth in this Agreement or in any of the certificates, schedules, exhibits, lists, documents, exhibits, or other instruments delivered, or to be delivered, by CANADA to SELLER as contemplated by any provision hereof, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

#### 4. COVENANTS PRIOR TO CLOSING

4.1 **Conduct of Business Pending Closing.** Between the date of this Agreement and the Closing Date, SELLER will cause CANADA to:

(a) carry on its business in the ordinary course substantially as conducted heretofore and not introduce any new method of management, operation or accounting;

(b) maintain its properties and facilities, including those held under leases, in as good working order and condition as at present, ordinary wear and tear excepted;

(c) perform in all material respects its obligations under agreements relating to or affecting its assets, properties or rights;

(d) keep in full force and effect present insurance policies or other comparable insurance coverage;

(e) maintain and preserve its business organization intact and use its best efforts to retain relationships with suppliers, customers and others having business relations with CANADA;

(f) maintain compliance with all permits, laws, rules and regulations, consent orders, and all other orders of applicable courts, regulatory agencies and similar Governmental Authorities; and

(g) maintain present debt and lease instruments in accordance with their respective terms and not enter into new or amended debt or lease instruments, provided that debt and/or lease instruments may be replaced if such replacement instruments are on terms at least as favorable to CANADA as the instruments being replaced.

4.2 **Prohibited Activities.** Except as specifically contemplated hereby, between the date hereof and the Closing Date, SELLER will cause CANADA to refrain from taking any of the following actions or engaging in any of the following without the prior written consent of BUYER:

(a) making any change in its Certificate or Articles of Incorporation or By-laws;

(b) granting or issuing any securities, options, warrants, calls, conversion rights or commitments of any kind relating to its securities of any kind;

(c) declaring or paying any dividend, or making any distribution in respect of its stock whether now or hereafter outstanding, or purchasing, redeeming or otherwise acquiring for value any shares of its stock;

(d) entering into any contract or commitment or incurring or agreeing to incur any liability or make any capital expenditure, except if it is in the ordinary course of business (consistent with past practice);

(e) creating, assuming or permitting to exist any mortgage, pledge or other lien or encumbrance upon any assets or properties whether now owned or hereafter acquired, except (1) liens for Taxes either not yet due or being contested in good faith and by appropriate proceedings (and for which adequate reserves have been established and are being maintained) or (2) materialmen's, mechanics', workers', repairmen's, employees' or other like liens arising in the ordinary course of business (the liens set forth in clause (2) being referred to herein as "Statutory Liens"), or (3) liens set forth on **Schedule 2.6** hereto;

(f) selling, assigning, leasing or otherwise transferring or disposing of any property or equipment except in the ordinary course of business;

(g) negotiating for the acquisition of any business or the start-up of any new business;

(h) merging or consolidating or agreeing to merge or consolidate with or into any other corporation;

(i) waiving any material right or claim of CANADA;

(j) committing a material breach, materially amending or terminating any Material Contract;

(k) entering into any other transaction outside the ordinary course of its business or prohibited hereunder; or

(l) except in the ordinary course of business or as required by Law or contractual obligations, CANADA will not (i) increase in any manner the base

compensation of, or enter into any new bonus or incentive agreement or arrangement with, any of the employees engaged in CANADA's business, (ii) pay or agree to pay any additional pension, retirement allowance or other employee benefit to any such employee, whether past or present, (iii) enter into any new employment, severance, consulting, or other compensation agreement with any existing employee engaged in CANADA's business, or (iv) amend or enter into a new benefit plan (except as required by Law and except for transactions relating to the spin-off of a portion of BUYER to form a new profit sharing plan) or amend or enter into a new collective bargaining agreement.

**4.4 Notification of Certain Matters.** The SELLER shall give prompt notice to BUYER of (a) the occurrence or non-occurrence of any event of which the SELLER has knowledge, the occurrence or non-occurrence of which would cause any representation or warranty of the SELLER contained herein to be untrue or inaccurate in any material respect at or prior to the Closing, and (b) any material failure of the SELLER to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied hereunder. BUYER shall give prompt notice to the SELLER of (a) the occurrence or non-occurrence of any event of which BUYER has knowledge, the occurrence or non-occurrence of which would cause any representation or warranty of BUYER or SELLER contained herein to be untrue or inaccurate in any material respect at or prior to the Closing, and (b) any material failure of BUYER or SELLER to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder. The delivery of any notice pursuant to this Section 4.4 shall not be deemed to (a) modify the representations or warranties hereunder of the party delivering such notice, which modification may only be made pursuant to Section 4.5, (b) modify the conditions set forth in Sections 5 and 6, or (c) limit or otherwise affect the remedies available hereunder to the party receiving such notice.

**4.5 Amendment of Schedules.** Each party hereto agrees that, with respect to the representations and warranties of such party contained in this Agreement, such party shall have the continuing obligation until the Closing Date to supplement or amend promptly the Schedules hereto with respect to any matter hereafter arising or discovered which, if existing or known at the date of this Agreement, would have been required to be set forth or described in the Schedules. No supplement or amendment to a Schedule shall be deemed to cure any breach of any representation and warranty by either party made in this Agreement, provided that if the party to whom a supplemental or amending disclosure was made proceeds to Closing, that party shall be deemed to have waived such breach of representation and warranty and any remedies which might have been available with respect thereto.

4.6 **Further Assurances.** The parties hereto agree to execute and deliver, or cause to be executed and delivered, such further instruments or documents or take such other action as may be reasonably necessary or convenient to carry out the transactions contemplated hereby.

## 5. CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligations of the SELLER with respect to actions to be taken on the Closing Date are subject to the satisfaction or waiver on or prior to the Closing Date of all of the conditions set forth in this Section 5. As of the Closing Date, all conditions not satisfied shall be deemed to have been waived by the SELLER unless they have objected by notifying BUYER in writing of such objection on or before the consummation of the transactions on the Closing Date, except that no such waiver shall be deemed to affect the survival of the representations and warranties of BUYER contained in Section 3 hereof.

5.1 **Representations and Warranties.** All representations and warranties of BUYER and CANADA contained in the Agreement shall be true and correct in all material respects as of the Closing Date; and BUYER and CANADA shall have executed and delivered to the SELLER their respective certificates dated the Closing Date to such effect.

5.2 **Performance of Obligations.** All of the terms, covenants and conditions of this Agreement to be complied with and performed by BUYER and CANADA on or before the Closing Date shall have been duly complied with and performed in all material respects on or before the Closing Date; and the BUYER and CANADA shall have executed and delivered to the SELLER their respective certificates dated the Closing Date to such effect.

5.3 **No Litigation.** No action or proceeding before a court or any other Governmental Authority or body shall have been instituted or threatened to restrain or prohibit the performance of this Agreement or the consummation of the transactions contemplated herein.

5.4 **BUYER's and CANADA'S Closing Documents.** BUYER and CANADA shall have executed and delivered BUYER's Closing Documents and CANADA'S Closing Documents, respectively.

## 6. CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligations of BUYER with respect to actions to be taken on the Closing Date, are subject to the satisfaction or waiver on or prior to the Closing Date, as the case may be, of all of the conditions set forth in this Section 6. As of the Closing Date all conditions not satisfied shall be deemed to have been waived by BUYER unless it has objected by notifying the SELLER in writing of such objection on or before the consummation of the transactions on the Closing Date, except that no such waiver shall be deemed to affect the survival of the representations and warranties of the SELLER contained in Section 2 hereof.

6.1 **Representations and Warranties.** All the representations and warranties of the SELLER contained in this Agreement shall be true and correct in all material respects as of the Closing Date; and the SELLER shall have executed and delivered to BUYER a certificate dated the Closing Date to such effect.

6.2 **Performance of Obligations.** All of the terms, covenants and conditions of this Agreement to be complied with or performed by the SELLER on or before the Closing Date shall have been duly performed or complied with in all material respects on or before the Closing Date; and the SELLER shall have executed and delivered to BUYER a certificate dated the Closing Date to such effect.

6.3 **No Litigation.** No action or proceeding before a court or any other Governmental Authority or body shall have been instituted or threatened to restrain or prohibit the performance of this Agreement or the consummation of the transactions contemplated herein.

6.4 **Certificates.** BUYER shall have received a copy of CANADA's Articles of Incorporation, and all amendments thereto, certified by the Corporate Charter Department of Ontario, CANADA, and a copy of CANADA's By-Laws, and all amendments thereto, certified by CANADA's corporate secretary.

6.5 **No Material Adverse Change.** As of the Closing Date, no event or circumstance shall have occurred after the Balance Sheet Date with respect to CANADA which would constitute a Material Adverse Effect on CANADA, and CANADA shall not have suffered any material loss or damages to any of its properties or assets, whether or not covered by insurance, which change, loss or damage materially affects or impairs the ability of CANADA to conduct its business.

6.6. **Termination of Agreements.** All existing agreements between CANADA and the SELLER, and all agreements granting options to purchase shares of CANADA's capital stock by the SELLER, shall have been terminated, canceled or otherwise released prior to or as of the Closing Date; except the agreements entered into in connection with the transactions contemplated by this Agreement.

6.7. **Consents and Approvals.** All necessary consents and approvals of third parties, including those listed on **Schedule 2.5**, shall have been obtained.

6.8. **SELLER's Closing Documents.** The SELLER and CANADA shall have executed and delivered the SELLER's Closing Documents.

## 7. INDEMNIFICATION

The SELLER, BUYER and CANADA, agree as follows:

7.1 **Indemnification by SELLER.** The SELLER covenants and agrees that it will indemnify, defend, protect and hold harmless BUYER and CANADA at all times, from and after the date of this Agreement until the Expiration Date, from and against all claims, damages, actions, suits, proceedings, demands, assessments, adjustments, costs and expenses (including specifically, but without limitation, reasonable attorneys' fees and reasonable expenses of investigation) incurred by BUYER and/or CANADA as a result of or arising from (a) any breach of the representations and warranties of the SELLER set forth herein or on the schedules or certificates delivered in connection herewith; or (b) any breach of any agreement on the part of the SELLER under this Agreement.

7.2 **Indemnification by BUYER.** BUYER and CANADA covenant and agree that they will indemnify, defend, protect and hold harmless SELLER at all times from and after the date of this Agreement until the Expiration Date, from and against all claims, damages, actions, suits, proceedings, demands, assessments, adjustments, costs and expenses (including specifically, but without limitation, reasonable attorneys' fees and expenses of investigation) incurred by the SELLER as a result of or arising from (a) any breach by BUYER or CANADA of either of their representations and warranties set forth herein or on the schedules or certificates delivered in connection herewith, or (b) any breach of any agreement on the part of BUYER or CANADA under this Agreement.

7.3 **Procedure.** A party required under this Section 7 to furnish indemnity (the "Indemnifying Party") shall satisfy its obligation of indemnification under this

Section 7 within forty-five (45) days after written notice thereof from any person entitled to such indemnity hereunder (the "Indemnified Party") to the Indemnifying Party.

(a) As soon as practicable after obtaining knowledge thereof, any Indemnified Party shall notify the Indemnifying Party of any claim, assessment or demand which the Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement. A failure to give such notice shall not negate a right to indemnification hereunder; provided, however, that the Indemnified Party shall bear any amount of Loss resulting directly from a failure to give a timely notice.

(b) If such claim, assessment or demand relates to a claim, assessment or demand asserted by a third party (including without limitation any governmental agency or body) against the Indemnified Party and if the Indemnifying Party acknowledges its obligations to indemnify and hold harmless under this Section 7, the Indemnifying Party shall have the right to employ such counsel as is reasonably acceptable to the Indemnified Party to defend any such claim, assessment or demand asserted against the Indemnified Party.

(c) The Indemnified Party shall have the right to participate in the defense of any said claim, assessment or demand at its own cost and expense, provided that unless the Indemnified Party bears a greater risk of loss than the Indemnifying Party, the Indemnifying Party shall control the defense of said claim, assessment or demand. So long as the Indemnifying Party is defending in good faith any such claim, assessment or demand, (i) the Indemnified Party shall not settle such claim, assessment or demand and (ii) any settlement of such claim, assessment or demand made without the consent of the Indemnifying Party shall not be subject to indemnity under this Section 7.

(d) The Indemnified Party shall make available to the Indemnifying Party or its representatives all records and other materials required for use in contesting any claim, assessment or demand asserted by a third party against any Indemnified Party. Whether or not the Indemnifying Party so elects to defend any such claim, assessment or demand, the Indemnified Party shall not have any obligation to do so and the Indemnified Party shall not waive any rights it may have against the Indemnifying Party under this Section 7 with respect to any such claim, assessment or demand by electing or failing to elect to defend any such claim, assessment or demand, provided that the Indemnified Party against which a claim, assessment or demand is asserted in the first instance shall file in a timely manner any answer or pleading with respect to a suit or proceeding in such action as is necessary to avoid default or other adverse results.



#### **7.4 Limits on Indemnification.**

(a) The indemnification provided in this Section 7 shall constitute the exclusive remedy for breach of representation and warranties in this Agreement, regardless of whether any claims or causes of action asserted with respect to such matters are brought in contract, tort or any other legal theory whatsoever; provided, however, that only in the case of fraud, the indemnification provisions in this Section 7 are in addition to, and not in derogation of, any statutory, equitable or common law remedy any party may have for breach of any representation or warranty. The maximum aggregate indemnification liability of SELLER shall be equal to 50% of the aggregate amount of all payments actually received by SELLER pursuant to Section 1.3 of this Agreement as of the time such Indemnified Party has the right to be indemnified.

(b) Notwithstanding any other provisions of this Agreement, no party shall be liable under this Section 7 for an amount to the extent, if any, that any damages giving rise to such amount results from a failure on the part of the Indemnified Party to exercise good faith in not jeopardizing or prejudicing the interests of the Indemnifying Party.

(c) No Indemnified Party shall seek or be entitled to incidental, indirect or consequential damages or damages for lost profits in any claim for indemnification under this Section 7, nor shall it accept payment of any award or judgment for such indemnification to the extent that such award or judgment includes such party's incidental, indirect or consequential damages or damages for lost profits.

(d) All damages to which an Indemnified Party may be entitled pursuant to the provisions of this Section 7 shall be net of any insurance coverage with respect thereto and any tax benefits realizable by the Indemnified Party.

(e) The Indemnifying Party shall not be required to make any indemnification payment pursuant to this Section 7 until such time as the total amount of all damages that have been directly or indirectly suffered or incurred by an Indemnified Party, or to which an indemnified party has or have otherwise become subject, exceeds \$50,000. If the total amount of such damages exceeds \$50,000, the Indemnified Party shall be entitled to be indemnified against and compensated and reimbursed for the amount of such Damages exceeding \$50,000.

## 8. TERMINATION OF AGREEMENT

8.1 **Termination.** This Agreement may be terminated at any time prior to the Closing Date solely:

(a) by mutual consent of BUYER, CANADA and SELLER;

(b) by the SELLER on the one hand, or by BUYER, on the other hand, if a material breach or default shall be made by the other party in the observance or in the due and timely performance of any of the covenants, agreements or conditions contained herein, and the curing of such default shall not have been made on or before the Closing Date.

(c) by BUYER in the event of the death or disability of BUYER prior to the Closing Date.

8.2 **Liabilities in Event of Termination.** The termination of this Agreement will in no way limit any obligation or liability of any party based on or arising from a breach or default by such party with respect to any of its representations, warranties, covenants or agreements contained in this Agreement, including, but not limited to, legal and audit costs and out of pocket expenses.

## 9. COVENANT NOT TO COMPETE AND NON-SOLICITATION AGREEMENT

9.1 **Covenant Not to Compete.** For a period of two (2) years from the date of Closing, BUYER agrees that it shall not and it shall not allow or cause CANADA to in any manner directly or indirectly, enter into the development of or develop pharmaceutical products (the "SELLER'S Business") or own, manage, operate, control or have any proprietary interest in any corporation, partnership, joint venture, other entity or individual engaged in the SELLER'S Business; provided, however, that BUYER shall not be prevented from providing heat activation devices to companies engaged in the SELLER'S Business or engaging in working relationships with such companies for the purpose of developing or providing heat activation devices. Nothing contained herein shall be construed as preventing SELLER from owning less than 5% of the common stock of any publicly traded corporation. In the event that any court shall finally hold that any provision stated in this Section 9.1 constitutes an unreasonable restriction upon SELLER, the parties hereby expressly agree that the provisions of this Section 9.1 shall not be rendered void but shall

apply as to time and territory or to such other extent as such court may judiciously determine or indicate constitutes a reasonable restriction under the circumstances involved. It is further understood and agreed that the remedy of law in the event of a breach of this Section 9.1 is not adequate, and SELLER shall be entitled, in the event of such a breach by BUYER to an injunction and other equitable remedies as a matter of right. In the event that any provision of this Section 9.1 is found by a court of competent jurisdiction to be invalid or unenforceable as against public policy, such court shall exercise its discretion in reforming such provision to the end that BUYER shall be subject to such restrictions and obligations as are reasonable under the circumstances and enforceable by SELLER.

**9.2 Non-Solicitation Agreement.**

(a) For a period of two (2) years from the date of Closing, SELLER shall not directly or indirectly solicit or induce, or attempt to solicit or induce, any person employed by CANADA and any of its subsidiaries and divisions to leave CANADA and any of its subsidiaries and divisions for any reason whatsoever or hire any person employed by CANADA.

(b) For a period of two (2) years from the date of Closing, BUYER shall not, through CANADA or otherwise, directly or indirectly solicit or induce, or attempt to solicit or induce, any person employed by SELLER and any of its subsidiaries and divisions to leave SELLER and any of its subsidiaries and divisions for any reason whatsoever or hire any person employed by SELLER.

**10. GENERAL**

10.1 **Cooperation.** SELLER and BUYER shall each deliver or cause to be delivered to the other on the Closing Date, and at such other times and places as shall be reasonably agreed to, such additional instruments as the other may reasonably request for the purpose of carrying out this Agreement. SELLER will cooperate and use its reasonable efforts to have the present officers, directors and employees of CANADA cooperate with BUYER on and after the Closing Date in furnishing information, evidence, testimony and other assistance in connection with any Tax Return filing obligations, actions, proceedings, arrangements or disputes of any nature with respect to matters pertaining to all periods prior to the Closing Date.

10.2 **Successors and Assigns.** Except with regard to the obligations of successors and assigns as provided in Sections 1.3(a), 1.4 and 1.5 hereof, this Agreement and the rights of the parties hereunder may not be assigned (including by

operation of law) without the consent of the other party and shall be binding upon and shall inure to the benefit of the parties hereto, the successors of SELLER and CANADA, and the heirs and legal representatives of BUYER.

10.3 **Entire Agreement.** This Agreement (including the Schedules, exhibits and annexes attached hereto) and the documents delivered pursuant hereto constitute the entire agreement and understanding among the SELLER and BUYER and supersede any prior agreement and understanding relating to the subject matter of this Agreement. This Agreement, upon execution, constitutes a valid and binding agreement of the parties hereto enforceable in accordance with its terms and may be modified or amended only by a written instrument executed by the SELLER and BUYER.

10.4 **Counterparts; Facsimile Signatures.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Signatures may be exchanged by telecopy, and each party agrees that it will be bound by its telecopied signature and that it accepts the telecopied signatures of the other parties to this Agreement.

10.5 **Brokers and Agents.** Each party represents and warrants that it employed no broker or agent in connection with this transaction, except as set forth in **Schedule 10.5**, and agrees to indemnify the other parties hereto against all loss, cost, damages or expense arising out of claims for fees or commissions of brokers employed or alleged to have been employed by such indemnified party.

10.6 **Expenses.** Each party shall bear its own expenses incurred in connection with the transactions contemplated by this Agreement.

10.7 **Notices.** All notices or communications required or permitted hereunder shall be in writing and shall be deemed to have been given when personally delivered or upon receipt if sent by first class certified mail, return receipt requested or the next business day if sent by telex or telecopy (receipt confirmed and followed up by one of the other delivery methods discussed herein as well), or upon delivery if sent by express mail or overnight delivery service, in each case postage prepaid and addressed as follows:

- (a) If to BUYER:  
Dr. Augustine Y. Cheung  
512 Grand Cypress Ct.  
Silver Spring, MD 20905

- (b) If to the SELLER:  
Lawrence S. Olanoff, President  
Celsion Corporation  
10220 Old Columbia Road  
Columbia, MD 21046
- (c) If to CANADA:  
Celsion (Canada) Limited  
Attention: President  
10220 Old Columbia Road  
Columbia, MD 21046

or to such other address or counsel as any party hereto shall specify pursuant to this Section 10.7 from time to time.

10.8 **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Maryland, without reference to conflicts of laws principles.

10.9 **Exercise of Rights and Remedies.** Except as otherwise provided herein, no delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of any similar breach or default occurring later; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

10.10 **Reformation and Severability.** In case any provision of this Agreement shall be invalid, illegal or unenforceable, it shall, to the extent possible, be modified in such manner as to be valid, legal and enforceable but so as to most nearly retain the intent of the parties, and if such modification is not possible, such

provision shall be severed from this Agreement, and in either case the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

10.11 **Remedies Cumulative.** No right, remedy or election given by any term of this Agreement shall be deemed exclusive but each shall be cumulative with all other rights, remedies and elections available at law or in equity.

10.12. **Captions.** The headings of this Agreement are inserted for convenience only, shall not constitute a part of this Agreement or be used to construe or interpret any provision hereof.

10.13 **Amendments and Waivers.** Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived only with the written consent of BUYER, CANADA and SELLER. Any amendment or waiver effected in accordance with this Section 10.13 shall be binding upon each of the parties hereto and their successors or assigns.

*{signatures on the following page}*

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

BUYER:

SELLER:

/s/ Augustine Y. Cheung

CELSION CORPORATION

By: /s/ Lawrence S. Olanoff

\_\_\_\_\_  
Dr. Augustine Y. Cheung

\_\_\_\_\_  
Lawrence S. Olanoff, President and  
Chief Executive Officer

CANADA:

Celsion (Canada) Limited

By: /s/ Augustine Y. Cheung

\_\_\_\_\_  
Dr. Augustine Y. Cheung, President

**Stock Purchase Agreement**

S-1

## TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (this "Agreement") is made and entered into as of January 16, 2006, by and between **CELSION CORPORATION**, a Delaware corporation ("**CELSION**") and **CELSION (CANADA) LIMITED**, an Ontario, Canada corporation ("**CANADA**"). The parties hereto are sometimes referred to collectively herein as the "Parties" and individually as a "Party".

### Recitals

A. Celsion and Canada are parties to a Contribution Agreement dated as of January 16, 2006 whereby Celsion has contributed certain assets to Canada. Canada has requested that Celsion continue to provide the services described herein to Canada during the term of this Agreement in order to provide Canada with an opportunity to obtain such services from third parties or to begin to provide such services itself.

B. Celsion, Canada and Dr. Augustine Y. Cheung, a Maryland resident ("Buyer"), intend to enter into a stock purchase agreement (the "Stock Purchase Agreement") whereby Celsion will sell and transfer one hundred (100) shares of the capital stock of Canada (the "Shares"), representing all of the outstanding capital stock of Canada.

C. Celsion, Canada and Buyer intend that the payments due and payable by Canada pursuant to Section 4 below shall be secured by shares of common stock, par \$0.01, of Celsion, which are being pledged by Buyer as collateral (the "Collateral") pursuant to a Stock Pledge Agreement in the form attached hereto as Exhibit A.

D. Following the execution of closing of the transactions contemplated by the Stock Purchase Agreement, Canada plans to sell approximately an 80% interest in Canada to investors through the process of Canada being merged into a Capital Pool Company ("CPC"). The transaction contemplates a two phase process, phase 1 being the establishment and registration of the CPC and phase 2 the merger of Canada into the CPC simultaneously funded by a private placement of shares of the merged corporation. Phase 2 is hereinafter referred to as the "Qualifying Transaction."

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### 1. COMMENCEMENT AND TERM OF AGREEMENT.

(a) Beginning as of the date hereof (the "Effective Date"), Celsion shall provide to Canada in a manner consistent with past practices those services set forth in Section 2 of this Agreement ("Transition Services") for the period provided with regard to each Transition Service in Section 2 below.



(b) This Agreement and the provision of any or all of the Transition Services hereunder may be terminated by mutual agreement of the Parties or by either Party in the event that the other Party hereto has breached this Agreement and fails to cure such breach within thirty (30) days following written notice setting forth the nature of such breach.

## **2. TRANSITION SERVICES.**

The Transition Services provided under this Agreement and the term for the provision of such services (the "Term") will be as follows:

- a) for a period of up to six (6) months from the Effective Date, Celsion will sublease (the "Sublease") to Canada space in which Canada may carry on its business at 10220 Old Columbia Road, Columbia, Maryland 21046 subject to the terms set forth in Exhibit B ("Facilities Services")
- b) for so long as Canada is occupying the space described in Section 2(a) above pursuant to the Sublease, Celsion shall provide reasonable administrative support services as needed in the operation of Canada;
- c) for the shorter of the period ending (1) June 30, 2006 and (2) the date of the closing of a Qualifying Transaction, Celsion shall pay the reasonable: salary and health and dental insurance of Buyer, salary and dental insurance of John Mon, and salaries of Charles Shelton and Stephen Shelton (together, the "Canada Employees"), totaling, in the aggregate, approximately forty-five thousand dollars (\$45,000.00) per month; and
- d) for the shorter of the period ending (1) June 30, 2006 and (2) the date of the closing of a Qualifying Transaction, Celsion shall reimburse Canada for expenses reasonably incurred in connection with the operation of its business; provided that Canada shall submit, in accordance with Celsion's policies and procedures, appropriate vouchers, receipts or other substantiating evidence acceptable to Celsion for such expenses before reimbursement will be made hereunder and the aggregate reimbursement under this Section 2(d) shall not exceed One Hundred Thousand Dollars (\$100,000.00).

## **3. PROVISION OF PAYROLL AND HUMAN RESOURCES PROCESSING**

Celsion shall not be responsible for providing payroll and human resources processing for Canada from and after the Effective Date, except in connection with amounts that Celsion pays pursuant to Section 2(c) hereof. In no event shall Celsion be responsible for any reporting relating to any time periods later than June 30, 2006.

## **4. COSTS AND FEES FOR TRANSITION SERVICES.**

Within ten (10) days of the closing of a Qualifying Transaction, in return for Transition Services provided hereunder, Canada shall pay Celsion as follows:

- a) the amount equal to the sum of (i) Sixteen Dollars and Eighty-Two Cents (\$16.82) per square foot of space subleased by Canada pursuant to Section 2(a) hereof, plus (ii) Two-Hundred Dollars fees for each month (or portion of a month) during which Canada occupies the space provided pursuant to the Facilities Services; and

b) the amount equal to all payments made by or on behalf of Celsion to Canada or the Canada Employees pursuant to Sections 2(c) and 2(d) above.

In the event that any payment due under this Section 4 is not made within ten (10) days after the closing of a Qualifying Transaction, interest shall accrue on amounts outstanding at the rate of Prime plus one percent (1%). In the event that amounts due hereunder plus accrued interest thereon have not been paid in full on the first anniversary of the closing of a Qualifying Transaction such failure shall be deemed to be an "Event of Default" hereunder. Celsion shall have the right to sell the Collateral as set forth in Section 7.3 of the Stock Pledge Agreement upon the occurrence of an Event of Default.

**5. COOPERATION.**

Celsion and Canada shall cooperate with each other with respect to all provisions of this Agreement and the Transition Services provided hereunder. Celsion may agree, in writing, to provide additional Transition Services at its discretion and for such additional fees as the Parties may agree.

**6. LIMITATION OF LIABILITY.**

CELSION, ITS SUBSIDIARIES, AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND PERMITTED ASSIGNS (EACH, A "CELSION PARTY") SHALL NOT BE LIABLE TO CANADA, ANY SUBSIDIARY OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, AGENT OR PERMITTED ASSIGN OF CANADA OR ANY OF ITS SUBSIDIARIES, (EACH, A "CANADA PARTY") FOR ANY LIABILITIES, CLAIMS, DAMAGES, LOSSES OR EXPENSES ("DAMAGES"), OF A CANADA PARTY ARISING IN CONNECTION WITH THIS AGREEMENT OR THE PROVISION OF OR FAILURE TO PROVIDE ANY TRANSITION SERVICES. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR AS A RESULT OF INCORRECT DATA), WHETHER IN AN ACTION OR PROCEEDING FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHER TORT OR BASED ON ANY OTHER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CELSION'S TOTAL LIABILITY TO CANADA UNDER THIS AGREEMENT SHALL NOT EXCEED, IN TOTAL AGGREGATE AMOUNT, THE AMOUNT OF FEES PAID TO CELSION PURSUANT TO THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION ON LIABILITY WAS AN ESSENTIAL ELEMENT IN CELSION'S DETERMINATION TO ENTER INTO THIS AGREEMENT AND IN SETTING THE FEES AND OTHER CONSIDERATION PROVIDED UNDER THIS AGREEMENT. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**7. CANADA INDEMNIFICATION.**

Canada shall indemnify, defend and hold harmless each of the Celsion Parties, from and against all Damages of any kind or nature, caused by or arising in connection with this Agreement or the performance (or non-performance) of the Transition Services so long as (i) Celsion acted in good faith pursuant to and within the scope of authority granted to it by this Agreement and in a manner it believed to be in the best interest of Canada and (ii) Celsion's conduct did not constitute gross negligence or willful misconduct. In the event that Celsion has actual knowledge of a claim that may be the subject of indemnification under this Section 7, it shall promptly notify Canada of such claim and Canada shall defend such claim or, with the consent of Celsion (which consent shall not be unreasonably withheld) settle such claim.

**8. INFORMATION.**

Subject to applicable law, each Party hereto covenants and agrees to provide the other Party with all information regarding itself and transactions under this Agreement as are required by such other Party to comply with all applicable federal, state, county and local laws, ordinances, regulations and codes, including, but not limited to, securities laws and regulations.

**9. FURTHER ASSURANCE.**

Each of the Parties will make execute, acknowledge and deliver such other instruments and documents, and take all such other actions, as the other Party may reasonably request and as may reasonably be required in order to effectuate the purposes of this Agreement and to carry out the terms hereof.

**10. SUCCESSORS AND ASSIGNS.**

This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties hereto, provided that this Agreement, or any of the rights or duties under this Agreement, may not be assigned or transferred to any person or entity without the prior written consent of the other Party.

**11. NOTICES.**

Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing will be duly given upon delivery, by hand, or facsimile transmission or five (5) days after posting if sent by U.S. mail, return receipt requested to the following addresses:

If to Celsion: Celsion Corporation  
Attention: Anthony P. Deasey, Chief Financial Officer  
10220 Old Columbia Road  
Columbia, Maryland 21046

If to Canada: Celsion (Canada) Limited  
Attention: Augustine Y. Cheung, President  
10220 Old Columbia Road  
Columbia, Maryland 21046

or to such other address as either Party may have furnished to the other in writing in accordance with this Section 11.

**12. GOVERNING LAW.**

This Agreement shall be construed in accordance with and governed by the laws of the State of Maryland except its choice of law rules.

**13. SUSPENSION.**

The obligations of any Party to perform any acts hereunder may be suspended if such performance is prevented by fires, strikes, embargoes, riot, invasions, governmental interference, inability to secure goods or materials, or other circumstances outside the reasonable control of the Parties.

**14. SEVERABILITY.**

If any provision of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not render the entire Agreement invalid. Rather, the Agreement shall be construed as if not containing the particular invalid or unenforceable provision, and the rights and obligations of each Party shall be construed and enforced accordingly.

**15. RIGHTS UPON ORDERLY TERMINATION; SURVIVAL.**

Upon termination of this Agreement by mutual agreement of the Parties or expiration or termination of the Term of any of the Transition Services described herein, each Party shall, upon request, forthwith return to the other Party: (1) in the event of termination of this Agreement, all such reports, papers, materials and other information required to be provided to the other Party by this Agreement; and (2) in the event of the expiration or termination of the Term of a Transition Service, all reports, paper, materials and other information relating to such Transition Service required to be provided to the other Party by this Agreement in connection with such Transition Service. In addition, each Party shall assist the other in the orderly termination of this Agreement or any of the Transition Services described herein. Notwithstanding any termination of this Agreement, the obligations of the Parties hereto to make payments hereunder and the provisions of Sections 6 (Limitation on Liability) and 7 (Canada Indemnification) shall survive. Anything to the contrary herein notwithstanding, Celsion shall have no obligation under this Agreement to provide any Transition Services or other services following the expiration or termination of this Agreement.

**16. AMENDMENT.**

This Agreement may only be amended by a written agreement executed by all of the Parties hereto.

**17. NO REPRESENTATIONS; HEADINGS.**

Neither Party makes any representation or warranty to the other Party except as expressly set forth herein. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

**18. ENTIRE AGREEMENT; NATURE OF RELATIONSHIP.**

This Agreement constitutes the entire agreement between the Parties, and supersedes all prior agreements, representations, negotiations, statements or proposals related to the subject matter hereof. The Parties' relationship is that of an independent contractor and nothing in this Agreement is intended to, or should be construed to, create a partnership, joint venture, or employer-employee relationship.

**19. COUNTERPARTS.**

This Agreement may be executed in separate counterparts, each of which deemed an original and all of which, when taken together, shall constitute one agreement.

**{SIGNATURES APPEAR ON THE FOLLOWING PAGE}**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be signed by their duly authorized representatives.

**CELSION (CANADA) LIMITED**

By: /s/ Anthony P. Deasey

---

Name: Anthony P. Deasey

Title: Treasurer

**CELSION CORPORATION**

By: /s/ Lawrence S. Olanoff

---

Name: Lawrence S. Olanoff

Title: President and Chief Executive Office

---

**Exhibit A**

**Form of Stock Pledge Agreement**

---

**Exhibit B**

**Facilities Services**

1. Celsion will make up to one thousand (1,000) square feet of office space (including an allocation of common space) available to Canada.
2. Additional offices services that will be included with the provision of office space will include coffee service, security services and janitorial services.



**SEPARATION AGREEMENT AND GENERAL RELEASE**

This Separation Agreement and General Release (hereinafter "Agreement") is hereby entered into effective this 16th day of January 2006, between Celsion Corporation (hereinafter "Celsion") and Dr. Augustine Cheung (hereinafter "Dr. Cheung"), who are collectively referred to herein as the "Parties."

WHEREAS the Parties desire and agree to fully and finally resolve any and all existing or potential issues, claims, causes of action, grievances and disputes that do, or could relate thereto or arise out of their employment relationship or severance thereof, without any admission of liability or finding or admission that any of Dr. Cheung's or Celsion's rights, under any statute, claim or otherwise, were in any way violated. In consideration of the mutual promises contained herein, and other good and valuable consideration as hereinafter recited, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. The Parties agree that Dr. Cheung's employment as the Chief Science Officer and his position as a Director of Celsion voluntarily terminate effective January 16, 2006. The Parties further agree that they will cooperate regarding all announcements of the Dr. Cheung's decision to depart from Celsion and that neither party will issue any release without consulting with and obtaining the consent of the other Party regarding the statements to be contained therein. The Parties agree that they will not unreasonably withhold consent to such announcements.

2. In consideration of Dr. Cheung's promises in this Agreement, Celsion agrees that the provisions of paragraphs 5(b)(1) and (4) of Dr. Cheung's January 1, 2004 Employment Agreement will not be enforced by it against Dr. Cheung, and he will be released from his obligations thereunder, solely insofar as the restrictions contained in those paragraphs relate to the Adaptive Phased Array ("APA") technology being transferred by Celsion to Celsion (Canada) Limited for the treatment of breast cancer. In all other respects, the provisions of Paragraph 5 of Dr. Cheung's Employment Agreement are incorporated herein as if written here in full and remain in effect.

3. As further consideration for this Agreement, Celsion agrees that Dr. Cheung's stock options, as described in Paragraph 3(c) of his January 1, 2004 Employment Agreement with Celsion, shall vest immediately and remain fully exercisable in accordance with their respective terms.

4. Dr. Cheung agrees and acknowledges that Celsion owes him no wages, benefits, compensation, property, stock or money of any kind or nature relating to his employment with Celsion under the terms of his January 1, 2004 Employment Agreement with Celsion, except as expressly provided herein.

5. Celsion agrees that Dr. Cheung has fully performed his obligations under the terms of his January 1, 2004 Employment Agreement with it and that, except as provided herein with respect to Paragraph 5 thereof, he does not owe Celsion further performance thereunder.

6. Dr. Cheung agrees that upon the separation of his employment with Celsion, he will surrender to Celsion every item and every document that is Celsion's property (including but not limited to keys, records, vehicles, computers, peripherals, computer files and disks, notes, memoranda, software, data, inventory and equipment) or contains Company information, in whatever form. All of these materials are the sole and absolute property of Celsion.

7. Dr. Cheung hereby agrees that he will, and hereby does, forever and irrevocably release and discharge Celsion, its officers, directors, employees, agents, affiliates, parents, subsidiaries, divisions, predecessors, purchasers, assigns, representatives, successors, successors in interest, and customers from any and all grievances, claims, demands, debts, defenses, actions or causes of action, obligations, contracts, promises, damages, judgments, expenses, and liabilities, known or unknown, whatsoever which he now has, has had, or may have, whether the same be at law, in equity, or mixed, in any way arising from or relating to any act, occurrence, or transaction before the date of this Agreement, including without limitation his separation of employment. This is a General Release. Dr. Cheung expressly acknowledges that this General Release includes, but is not limited to, Dr. Cheung's intent to release Celsion from any claim relating to his employment at Celsion, including, but not limited to, tort and contract claims, arbitration claims, statutory claims, claims under any state or federal wage and hour law or wage collection law, and claims of age, race, color, sex, religion, handicap, disability, national origin, ancestry, citizenship, marital status, retaliation, or any other claim of employment discrimination under the Age Discrimination in Employment Act (29 U.S.C. §§ 626 et seq., "ADEA"), Title VII of the Civil Rights Acts of 1964 and 1991 as amended (42 U.S.C. §§ 2000e et seq.), the Employee Retirement Income Security Act (29 U.S.C. §§ 1001 et seq.), the Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. §§ 1161 et seq.), the Americans With Disabilities Act (42 U.S.C. §§ 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. §§ 701 et seq.), the Family and Medical Leave Act (29 U.S.C. §§ 2601 et seq.), the Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.), the Annotated Codes of Maryland, and any other law prohibiting employment discrimination.

8. Dr. Cheung agrees not to sue Celsion or to join in any lawsuit against Celsion, or any other person or entity specified in Paragraph 7, concerning any matter which arose prior to the date of this Agreement.

Dr. Cheung further agrees and covenants not to make, file, assist or encourage others in making or filing any lawsuits, complaints, or other proceedings, including but not limited to any suits in the local or state courts, the United States federal District Courts or any other court, against Celsion, or any other person or entity specified in Paragraph 7, and that, as to any such lawsuits, complaints, or other proceedings which have already been made or filed by or on behalf of Dr. Cheung, Dr. Cheung agrees to withdraw or dismiss with prejudice immediately all such lawsuits.

9. Celsion hereby forever releases and irrevocably discharges Dr. Cheung from any and all claims, demands, debts, actions, causes of action, obligations, damages and liabilities which it has ever had, now has or could have with respect to him, arising from or relating in any way, directly or indirectly, to his employment with or separation from Celsion, Celsion expressly acknowledges that this constitutes a General Release in tort, contract and under any federal, state or local law with respect to such matters.

10. Dr. Cheung agrees that neither this Agreement nor the negotiations in pursuance thereof shall be construed or interpreted to render him a prevailing party for any reason, including but not limited to an award of attorney's fees or costs under any statute or otherwise.

11. Dr. Cheung represents that he has not heretofore assigned or transferred, or purported to assign or transfer, to any person or entity, any claim against Celsion or portion thereof or interest therein, and that any such claim is not assignable or transferable.

12. The Parties further agree that this Agreement shall be binding upon and inure to the benefit of the assigns, personal representatives, heirs, executors, and administrators of Dr. Cheung and the assigns, personal representatives, heirs, executors, administrators, affiliates, successors, predecessors, subsidiaries, divisions, officers, purchasers, agents, representatives, directors and employees of Celsion, that this Agreement contains and comprises the entire agreement and understanding of the Parties, that there are no additional promises or terms among the Parties other than those contained herein, and that this Agreement shall not be modified except in writing signed by each of the Parties hereto.

13. The Parties further agree that this Agreement and the rights and obligations hereunder shall be governed by, and construed in accordance with, the laws of the State of Maryland regardless of any principles of conflicts of laws or choice of laws of any jurisdiction. The state courts of Maryland and, if the jurisdictional prerequisites exist at the time, the United States District Court for the District of Maryland, shall have sole and exclusive jurisdiction to hear and determine any dispute or controversy arising under or concerning this Agreement.

14. If any terms of the above provisions of this Agreement are found null, void or inoperative, for any reason, the remaining provisions will remain in full force and effect. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either of the Parties.

15. If Celsion seeks a restraining order, injunction or any other relief, including but not limited to damages, against Dr. Cheung as a result of his breach of any provision of this Agreement, and recovers any such relief, Dr. Cheung shall reimburse Celsion for the attorney's fees, costs and other expenses it incurred obtaining that relief (even if other relief were denied).

16. Dr. Cheung represents that he has read this Agreement, that he understands all of its terms, that he had a reasonable amount of time to consider his decision to sign it, that he had the opportunity to discuss the terms of this Agreement with an attorney of his choice, that in executing this Agreement he does not rely and has not relied upon any representation or statements made by any of Celsion's agents, representatives, or attorneys with regard to the subject matter, basis, or effect of the Agreement, and that he enters into this Agreement voluntarily, of his own free will and with knowledge of its meaning and effect.

17. Dr. Cheung understands that he has had twenty-one (21) days from the date of his receipt of this Agreement, to consider his decision to sign it with respect to claims arising under the ADEA. Dr. Cheung expressly agrees that any changes made will not restart the 21 day period for considering whether to sign this Agreement as to such claims. By signing this Agreement, Dr. Cheung expressly acknowledges that his decision to sign this Agreement was knowing and voluntary, not induced by fraud, misrepresentation, or improper means, and of his own free will.

18. Dr. Cheung acknowledges that he may revoke this Agreement only as it pertains to claims under the ADEA for up to and including seven (7) days after his execution of this Agreement, and that the aspects of this Agreement regarding his release of claims under the ADEA shall not become effective until the expiration of seven (7) days from the date of his execution of this Agreement. This provision regarding revocation shall have no effect on the validity and enforceability of any other term, condition or provision of this Agreement, which becomes effective when signed.

19. Celsion hereby advises Dr. Cheung to consult with an attorney prior to executing this agreement.

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

/s/ Augustine Cheung

1-16-06

\_\_\_\_\_  
Dr. Augustine Cheung

\_\_\_\_\_  
Date

/s/ Lawrence S. Olanoff

1-16-06

\_\_\_\_\_  
Dr. Lawrence S. Olanoff  
For: Celsion Corporation

\_\_\_\_\_  
Date

## CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (this “**Agreement**”), dated effective as of January 16, 2006 (the “**Effective Date**”), is entered into by and between CELSION CORPORATION (“**Celsion**”), and DR. AUGUSTINE CHEUNG (“**Dr. Cheung**”). Celsion and Dr. Cheung are hereinafter sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, Celsion is desires to obtain certain consulting services from Dr. Cheung, and Dr. Cheung desires to provide such services to Celsion, on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

**ARTICLE 1**  
**CONSULTING SERVICES AND COMPENSATION**

**1.1 Consulting Services.** During the “Term” (as defined in Section 2.1 hereof), Dr. Cheung agrees to provide to Celsion, and Celsion agrees to engage Dr. Cheung to provide, the consulting services described on Schedule A attached hereto and made a part hereof (collectively, the “Consulting Services”), on the terms and subject to the conditions set forth in this Agreement. Except as otherwise provided in this Agreement, Dr. Cheung has the express authority to control and direct the means, manner and methods of the Consulting Services provided, however, that such Consulting Services shall be performed in compliance with all applicable federal, state and local laws and regulations.

**1.2 Compensation.** In consideration of the Consulting Services to be provided or procured by Dr. Cheung hereunder, Celsion agrees to pay a consulting fee to Dr. Cheung calculated in the manner (and payable at such times as) set forth on Schedule B attached hereto and made a part hereof (collectively, the “Consulting Services Fee”). Dr. Cheung acknowledges and agrees that as an independent contractor to Celsion, no federal, state or local taxes or social security withholdings will be made by Celsion from the payments referenced in this Section 1.2. Dr. Cheung shall report and pay any contributions for taxes, unemployment insurance, social security and other benefits for himself. Dr. Cheung hereby agrees to indemnify, defend and hold Celsion harmless from and against any and all liabilities, obligations, claims, penalties, fines or losses resulting from or in any way related to Dr. Cheung’s failure to pay any of the above. Dr. Cheung acknowledges and agrees that as an independent contractor he is not entitled to and waives any right to claim workers compensation benefits as a result of services rendered to Celsion. Dr. Cheung further acknowledges and agrees that he is not entitled to or eligible to participate in Celsion’s life, health and dental insurance programs or other benefits, if any.

**1.3 Non-Exclusivity.** Celsion acknowledges and agrees that the Consulting Services to be provided or procured hereunder by Dr. Cheung are not exclusively for Celsion, and Dr. Cheung shall have the right to provide Consulting Services to any and all other Persons at any time and from time to time, without notice to Celsion.

## **ARTICLE 2 TERM AND TERMINATION**

**2.1 Term.** Unless terminated earlier in accordance with the provisions of this Article 2, the term of this Agreement shall commence as of the Effective Date and shall continue until January 16, 2008.

**2.2 Termination By Mutual Agreement.** The Parties may terminate this Agreement (and the Term) at any time by mutual written agreement.

**2.3 Effect of Termination.** Upon termination of this Agreement (and the Term), Celsion shall pay to Dr. Cheung (on or prior to the effective date of such termination) the full amount of the Consulting Services Fee due and payable to Dr. Cheung for Consulting Services rendered on and prior to the effective date of such termination.

**2.4 Survival.** Notwithstanding anything herein to the contrary, Articles 3 and 4 of this Agreement shall survive the termination of this Agreement (and the Term).

## **ARTICLE 3 SOLICITATION AND CONFIDENTIAL INFORMATION**

**3.1 Non-Solicitation.** During the Term of Dr. Cheung's engagement with Celsion, Dr. Cheung shall not directly or indirectly: (i) solicit or canvas any customers of Celsion or its subsidiaries or affiliates on behalf of himself or any other person, firm or entity (including, without any limitation, any competitor of Celsion or its subsidiaries or affiliates) or (ii) accept competitive business from any customers of Celsion or its subsidiaries or affiliates for or on behalf of himself or any other person, firm or entity (including, without any limitation, any competitor of Celsion or its subsidiaries or affiliates). As used herein, "competitive business" shall mean any business which sells or provides or attempts to sell or provide products or services the same as or substantially similar to the products or services sold or provided by Celsion.

**3.2 Confidential Information.** Dr. Cheung shall maintain in strict secrecy any and all information in any way concerning, or relating to, the business of Celsion or any of its subsidiaries or affiliates. Dr. Cheung will not at any time, directly or indirectly, use, misappropriate or disclose to others, or permit the use by or disclosure to others of any confidential and/or proprietary information or trade secrets or any other information in any way concerning, or relating to, the business of Celsion or any of its subsidiaries or affiliates (together "Confidential Information"), whether oral, written, computerized, digitized or otherwise, regarding, in any way concerning, or relating to, the business of Celsion or any of its subsidiaries or affiliates, including, without

limitation of the foregoing, information regarding intellectual property inventions, systems, processes, procedures, tests, experiments, results, data, specifications, technical knowledge, know-how, techniques, products, sales and market, costs, prices, earnings, business plans, financial information and forecasts, prospects, contracts, business arrangements, customers, vendors, suppliers, licensors and licensees, operating policies and procedures, methods of operation and business strategies, regardless of whether such information is deemed "confidential information" and/or "trade secrets" under Maryland law. Confidential Information, for purposes of this Agreement, does not include information that prior to its disclosure is within the public domain, available to the trade or public, or is otherwise made known to Dr. Cheung through no breach of duty, provided Dr. Cheung had no actual knowledge of any duty on the part of the source to maintain the confidentiality of the information disclosed. Dr. Cheung shall be permitted to disclose any Confidential Information at such times and in such manner as is required by law or any relevant regulatory authority, or as is required to perform its obligations under this Agreement, provided that in such circumstances the Dr. Cheung shall notify Celsion at least fifteen (15) days prior to disclosure of any Confidential Information, and shall limit such disclosure to what is absolutely required under the circumstances. Dr. Cheung shall also notify in writing, with a copy to Celsion, any third party to whom Confidential Information is disclosed of the confidential nature of such disclosure.

#### **ARTICLE 4 MISCELLANEOUS**

**4.1 Relationship of the Parties.** Each party is and shall perform its obligations under this Agreement as an independent contractor, and as such, shall have and maintain complete control over all of their respective employees, agents and operations. Neither party nor anyone employed by it shall be, represent, purport to act or be deemed to be the agent, representative, employee or servant of the other party. Nothing herein shall create or constitute, or be deemed to create or constitute, a joint venture, partnership, association, agency or other relationship between the parties, or to impose any obligation or liability upon either of the parties based upon such relationship.

**4.2 Force Majeure.** Dr. Cheung shall not be deemed in default hereunder, nor shall it be held responsible, for any cessation, interruption or delay in the provision or procurement of the Consulting Services under this Agreement due to causes beyond its reasonable control, including without limitation, any fire, flood, earthquake or other natural disaster, act of God, war or armed conflict (whether or not officially declared), strikes, labor difficulties, riot, civil disturbance, accident, disruption of the public markets or the failure of any supply, transportation, telecommunications, power or other essential commodity or service required in the conduct of its business, and other similar causes to those listed, in each case where failure to perform is beyond the reasonable control of Dr. Cheung.



**4.3 Further Assurances.** The Parties will, from time to time, without further consideration, do such further acts and deliver all such further assurances, deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of this Agreement.

**4.4 Notices.** All notices, requests, demands, waivers, and other communications required or permitted hereunder must be in writing and will be deemed to have been duly given: (i) when delivered by hand or confirmed facsimile transmission; (ii) one day after delivery by receipted overnight delivery; or (iii) four days after being mailed by certified or registered mail, return receipt requested, with postage prepaid to the Person, address and/or facsimile number set forth on the signature page to this Agreement, or to such other Person, address and/or facsimile number as either Party shall furnish to the other Party in writing pursuant to this Section 4.4.

**4.5 Entire Agreement.** The terms and conditions set forth in this Agreement, and the Schedules attached hereto and incorporated herein by reference, constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous and contemporaneous agreements and understandings, whether oral or written, between the Parties with respect to the subject matter hereof.

**4.6 Assignment.** Dr. Cheung shall not assign or delegate this Agreement.

**4.7 Amendment.** No alteration, amendment, waiver, cancellation or any other change in any term or condition of this Agreement (including, without limitation, Schedule A and Schedule B hereto) shall be valid or binding on either Party unless mutually assented to in writing by both Parties.

**4.8 No Waiver.** The failure of any Party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by any Party of any of the provisions of this Agreement, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of a Party to enforce each and every such provision thereafter. The express waiver by any Party of any provision, condition or requirement of this Agreement will not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

**4.9 Governing Law.** The laws of the State of Maryland (irrespective of its choice of law principles) govern the validity of this Agreement, the construction of its terms and the interpretation and enforcement of the rights and duties of the Parties. The Parties irrevocably consent and agree to the exclusive jurisdiction of the Circuit Court for Howard County and the United States District Court for the District of Maryland, and to the service of process for it and on its behalf, for resolution of all matters involving this Agreement or the transactions contemplated hereby. EACH PARTY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING HEREUNDER.

**4.10 Interpretation.** In the event of any conflict between the terms of this Agreement and any Schedule hereto, the terms of this Agreement shall govern, unless the terms of such Schedule are expressly stated to override the terms of this Agreement. This Agreement is not intended to, and shall not, confer upon any Person (other than the Parties) any rights or remedies with respect to the

subject matter hereof. For purposes of this Agreement, the term "Person" means any natural person, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, proprietorship, trust, union, association, court, tribunal, agency, government, department, commission, self-regulatory organization, arbitrator, board, bureau, instrumentality or other entity, enterprise, authority or business organization.

**4.11 Severability.** If, for any reason, a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be invalid or unenforceable, such provision of the Agreement shall be deemed modified with retroactive effect to render such provision valid and enforceable to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect. If such court will not so modify such provision, the Parties agree to negotiate in good faith an enforceable substitute provision for any invalid or unenforceable provision that most nearly achieves the intent and economic effect of such provision.

**4.12 Counterparts.** This Agreement may be executed in counterparts or duplicate originals, all of which shall be regarded as one and the same instrument.

**4.13 Captions and Headings.** The captions and headings used in this Agreement are used for convenience only and are not to be given any legal effect.

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, each of the undersigned has caused this Agreement to be executed by its duly authorized officer as of the Effective Date.

**ATTEST:**

/s/ Charles C. Shelton  
\_\_\_\_\_ (SEAL)

/s/ Anthony P. Deasey  
\_\_\_\_\_ (SEAL)

**DR. AUGUSTINE CHEUNG.**

By: /s/ Augustine Cheung  
\_\_\_\_\_ (SEAL)

**CELSION, INC.**

By: /s/ Lawrence S. Olanoff  
\_\_\_\_\_ (SEAL)

Name: Dr. Lawrence S. Olanoff  
Title: President and CEO

[Signature Page to Consulting Services Agreement]

---

**SCHEDULE A**

**CONSULTING SERVICES**

1. Advice, guidance and counsel regarding microwave and other thermotherapy technologies, as requested by Celsion from time to time.

**SCHEDULE B**

**CONSULTING SERVICES FEE**

Celsion agrees to pay Dr. Cheung a consulting services fee calculated as follows:

- Celsion will pay Dr. Cheung an annual retainer in the amount of One Hundred Thousand Dollars (\$100,000.00).
- Celsion will pay a fee of Two Thousand Dollars (\$2000.00) per day for a minimum of Thirty (30) days per year during the term of this Agreement.
- Celsion will reimburse Dr. Cheung for all reasonable expenses arising from performance of the services during the Term of this Agreement. All such expenses must be pre-approved by Celsion in writing or the expense will not be reimbursed. Celsion will reimburse Dr. Cheung for such pre-approved expenses within thirty (30) days following Celsion's receipt of an expense summary and supporting receipts showing the expenses.

*For Further Information Contact:*

Tony Deasey  
 Celsion Corporation  
 410.290.5390  
[tony@celsion.com](mailto:tony@celsion.com)

General Info: Marilyn Meek  
 Financial Relations Board  
 212-827-3773  
[mmeek@financialrelationsboard.com](mailto:mmeek@financialrelationsboard.com)  
 Investor Info: Susan Garland  
 212-827-3775  
[sgarland@financialrelationsboard.com](mailto:sgarland@financialrelationsboard.com)

**CELSION SELLS BREAST CANCER TREATMENT SUBSIDIARY TO FORMER CEO IN  
 TRANSACTION VALUED AT UP TO \$20 MILLION**

**Celsion announces Augustine Cheung, its founder and Chief Scientific Officer has  
 resigned as an officer and director of the company and has acquired Celsion's  
 breast cancer treatment company, Celsion (Canada) Limited**

**Columbia, MD – January 17, 2006: CELSION CORPORATION (AMEX: CLN)** today announced that Augustine Cheung, Ph.D., its founder and Chief Scientific Officer, had resigned his positions as Chief Scientific Officer and a member of the Board of Directors. The Company also announced that Dr. Cheung has acquired 100% of the outstanding shares of Celsion (Canada) Limited, a wholly owned subsidiary of Celsion Corporation, which holds the license to and all the assets associated with Celsion's Adaptive Phased Array (APA) technology, for the purpose of further developing this technology for the treatment of breast cancer. The APA technology is licensed from Massachusetts Institute of Technology (MIT).

Dr. Cheung has agreed to purchase the shares of Celsion (Canada) Limited for \$1.5 million and has committed Celsion (Canada) Limited to payment of a royalty of up to an additional \$18.5 million on future sales of products developed on the APA technology platform. Celsion has agreed to defer receipt of the initial \$1.5 million over a period of up to 78 months. Dr. Cheung has secured the deferred payment by a pledge of 1.5 million shares of Celsion stock owned by Dr. Cheung. Dr. Cheung has committed to obtain additional funding through selling up to 80% of his holding to a Capital Pool Company (CPC) on the Toronto Venture Exchange and to later seek additional funding through a listing on the Toronto Stock Exchange (TSX).

Dr. Cheung said, "I have decided to leave Celsion to take advantage of the opportunity to develop the APA technology. When we established our current strategy in 2001, to move from a primary focus of device development to drug development, I was aware that a new and different type of expertise would be needed to lead the company into the future. To this purpose we recruited Dr Lawrence Olanoff to become the new President and CEO of Celsion in July 2005 and I am very confident that Dr. Olanoff has all the skills required to lead Celsion as a pure drug development enterprise.

"I am very excited by Celsion's outlook as I believe the company is financially secure and its drug development program, which I have long regarded as its most valuable asset, is gaining momentum through the advancement of ThermoDox™ into late stage clinical cancer programs.

"When I founded Celsion my goal was to make microwave technology an important component in the treatment of breast and other cancers. Over the years Celsion has seen promising results from

several clinical studies involving microwave thermotherapy but has lacked the resources to bring those technologies to market in addition to the development of its other projects. I intend to optimize the APA technology and further demonstrate its clinical efficacy.”

Dr. Lawrence Olanoff, Celsion’s Chief Executive Officer, commented, “This transaction is in line with our announced strategy to divest our medical device technologies and is consistent with our commitment to focus entirely on drug development. We are convinced that we can build a portfolio of oncology applications by using our heat activated drug delivery technology as a platform and thus create greater shareholder value. We are pleased to sell our breast cancer device business to Dr. Cheung, who is very motivated to advance this device through the completion of its development, and as an expert in the field of thermotherapy will have the greatest opportunity to commercialize the technology. We are also interested in the independent development of new thermotherapy technologies in order to broaden the range of devices available to optimally provide the heat source necessary to target our heat activated drug delivery systems.”

Dr. Max Link, Celsion’s Chairman, added, “On behalf of the Board of Directors and the stockholders of Celsion I would like to extend to Dr. Cheung our thanks for his many contributions to Celsion. It is only as a result of his vision and efforts that we have obtained the development and commercial rights to our current heat activated liposomal drug delivery technology from which we hope to build a meaningful oncology company. We wish him all the best in his future endeavors.”

**ABOUT CELSION:** Celsion Corporation, based in Columbia, Maryland, is a biotechnology company dedicated to the development and commercialization of heat activated treatment systems for cancer.

Celsion has research, license or commercialization agreements with leading institutions such as the National Institute of Health, Duke University Medical Center, Massachusetts Institute of Technology, Harbor UCLA Medical Center, Montefiore Medical Center and Memorial Sloan-Kettering Cancer Center in New York City, Roswell Park Cancer Institute in Buffalo, New York, and Duke University. For more information on Celsion, visit our website: [www.celsion.com](http://www.celsion.com).

Celsion wishes to inform readers that forward-looking statements in this release are made pursuant to the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995. Readers are cautioned that such forward-looking statements involve risks and uncertainties including, without limitation, unforeseen changes in the course of research and development activities and in clinical trials by others; possible acquisitions of other technologies, assets or businesses; possible actions by customers, suppliers, competitors, regulatory authorities; and other risks detailed from time to time in the Company’s periodic reports filed with the Securities and Exchange Commission. In addition, Celsion’s receipt of the royalty payments in connection with the sale of Celsion (Canada) depends upon the ability of Celsion (Canada) to develop the APA technology and bring products to market. This involves, among other risks of a new enterprise, financing, regulatory and market acceptance risks.

###

**Celsion Corporation** 10220-L Old Columbia Road, Columbia MD 21046-2364 T 410.290-5390 F 410.290.5394