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

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**FORM 10-K**

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

For the Fiscal Year Ended May 31, 2010

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

For The Transition Period From \_\_\_\_\_ To \_\_\_\_\_.

COMMISSION FILE NUMBER 0-17988

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**NEOGEN CORPORATION**

*(Exact name of registrant as specified in its charter)*

**MICHIGAN**  
*(State or other jurisdiction of  
incorporation or organization)*

**38-2367843**  
*(I.R.S. Employer  
Identification No.)*

**620 Leshler Place  
Lansing, Michigan 48912**  
*(Address of principal executive offices including zip code)*

**517-372-9200**  
*(Registrant's telephone number, including area code)*

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**SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT: NONE**  
**SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT:**  
**COMMON STOCK, \$0.16 par value per share**  
*(Title of Class)*

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by a check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

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

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

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

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

Based on the closing sale price on November 30, 2009 the aggregate market value of the voting stock held by non-affiliates of the registrant was \$453,000,000. For these purposes, the registrant considers its Directors and executive officers to be its only affiliates.

The number of outstanding shares of the registrant's Common Stock was 22,681,000 on July 31, 2010.

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## **DOCUMENTS INCORPORATED BY REFERENCE**

The Registrant's definitive proxy statement to be prepared pursuant to regulation 14a and filed in connection with solicitation of proxies for its October 7, 2010 annual meeting of shareholders is incorporated by reference into part III of this Form 10-K.

## TABLE OF CONTENTS

<b><u>PART I</u></b>		
ITEM 1.	<u>BUSINESS</u>	4
ITEM 1A.	<u>RISK FACTORS</u>	14
ITEM 1B.	<u>UNRESOLVED STAFF COMMENTS</u>	17
ITEM 2.	<u>PROPERTIES</u>	17
ITEM 3.	<u>LEGAL PROCEEDINGS</u>	18
ITEM 4.	<u>REMOVED AND RESERVED</u>	18
<b><u>PART II</u></b>		
ITEM 5.	<u>MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES</u>	19
ITEM 6.	<u>SELECTED FINANCIAL DATA</u>	21
ITEM 7.	<u>MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS</u>	22
ITEM 7A.	<u>QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS</u>	31
ITEM 8.	<u>FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA</u>	31
ITEM 9.	<u>CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE</u>	31
ITEM 9A.	<u>CONTROLS AND PROCEDURES</u>	31
ITEM 9B.	<u>OTHER</u>	34
<b><u>PART III</u></b>		
ITEM 10.	<u>DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT AND CORPORATE GOVERNANCE</u>	34
ITEM 11.	<u>EXECUTIVE COMPENSATION</u>	36
ITEM 12.	<u>SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS, MANAGEMENT AND RELATED STOCKHOLDER MATTERS</u>	36
ITEM 13.	<u>CERTAIN RELATIONSHIPS, RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE</u>	36
ITEM 14.	<u>PRINCIPAL ACCOUNTANT FEES AND SERVICES</u>	36
<b><u>PART IV</u></b>		
ITEM 15.	<u>EXHIBITS, FINANCIAL STATEMENT SCHEDULE</u>	37
	<u>SIGNATURES</u>	38
	<u>LIST OF FINANCIAL STATEMENTS AND FINANCIAL STATEMENT SCHEDULE</u>	40
	Subsidiaries	
	Consent of independent registered public accounting firm — Ernst & Young LLP	
	Section 302 Certification of Chief Executive Officer	
	Section 302 Certification of Chief Financial Officer	
	Section 1350 Certification pursuant to Section 906	

## **CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING INFORMATION**

Forward-looking statements, within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, are made throughout this Annual Report on Form 10-K, including statements relating to management's expectations regarding new product introductions; the adequacy of the Company's sources for certain components, raw materials and finished products; and the Company's ability to utilize certain inventory. For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. Without limiting the foregoing, the words "believes," "anticipates," "plans," "expects," "seeks," "estimates," and similar expressions are intended to identify forward-looking statements. There are a number of important factors that could cause Neogen Corporation's results to differ materially from those indicated by such forward-looking statements, including those detailed in ITEM 1A. RISK FACTORS and under the caption Management's Discussion and Analysis of Financial Condition and Results of Operations – Critical Accounting Policies and Estimates and – Future Operating Results.

In addition, any forward-looking statements represent management's views only as of the day this Annual Report on Form 10-K was first filed with the Securities and Exchange Commission and should not be relied upon as representing management's views as of any subsequent date. While management may elect to update forward-looking statements at some point in the future, it specifically disclaims any obligation to do so, even if its views change.

## PART I.

### ITEM 1. BUSINESS

Neogen Corporation and subsidiaries (Neogen or the Company) develop, manufacture, and market a diverse line of products dedicated to food and animal safety. The Company's food safety segment consists primarily of diagnostic test kits and complementary products (e.g., dehydrated culture media) marketed by company sales personnel in North America, the United Kingdom and other parts of Europe, Mexico and Brazil, and by distributors elsewhere to food producers and processors to detect dangerous and/or unintended substances in human food and animal feed, such as foodborne pathogens, spoilage organisms, natural toxins, food allergens, genetic modifications, ruminant by-products, drug residues, pesticide residues and general sanitation concerns. The diagnostic test kits are generally less expensive, easier to use and provide greater accuracy and speed than conventional diagnostic methods. The majority of the tests are disposable, single-use, immunoassay and gene probe products that rely on the Company's proprietary antibodies and RNA and DNA probes to produce rapid and accurate test results. The Company's expanding line of food safety products also includes bioluminescence-based diagnostic technology.

Neogen's animal safety segment is engaged in the development, manufacture and marketing of pharmaceuticals, rodenticides, disinfectants, vaccines, veterinary instruments, topicals and diagnostic products and genetic testing services for the worldwide animal safety market. The majority of these consumable products are marketed through a network of national and international distributors, as well as a number of large farm supply retail chains in the United States and Canada. The Company's USDA-licensed facility in Lansing, MI, produces immunostimulant products for horses and dogs, and a unique equine botulism vaccine. The Company's line of drug detection products are sold worldwide for the detection of abused and therapeutic drugs in animals and animal products.

Management's vision is for Neogen to become a world leader in development and marketing of products dedicated to food and animal safety. To meet this vision, a growth strategy consisting of the following elements has been developed: (i) increasing sales of existing products; (ii) introducing new products and product lines; (iii) expanding international sales; and (iv) acquiring businesses and forming strategic alliances. While the elements of the strategy are stated in order of importance over the long term, management understands and believes that strategic acquisitions will provide the best opportunity for more rapid growth in the short term. For that reason, an active acquisition program is maintained and financial and other resources are maintained to capitalize on opportunities as they arise.

Neogen Corporation was formed as a Michigan corporation in June 1981 and actual operations began in 1982. The Company's principal executive offices are located at 620 Leshler Place, Lansing, Michigan 48912-1595 and its telephone number is (517) 372-9200.

Neogen's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports are available free of charge via our Internet website ([www.neogen.com](http://www.neogen.com)) as soon as reasonably practicable after such information is filed with, or furnished to, the United States Securities and Exchange Commission.

### PRODUCTS

Product trademarks and registered trademarks owned by Neogen include: **Corporate:** Acumedia®, Neogen®, Neogen flask®; **Food Safety:** AccuClean®, AccuPoint®, AccuScan®, Agri-Screen®, Alert®, BetaStar®, BioPlate™, Centrus®, GeneQuence®, GENE-TRAK®, ISO-GRID®, NeoColumn™, NEO-GRID®, Penzym™, Penzyme®, Reveal®, Revive®, Soleris®, TetraStar®, Veratox®; **Life Sciences:** K-Blue®, K-Gold®; **Rodenticides:** CyKill™, Di-Kill®, Hacco®, Ramik®, Rodex™; **Animal Safety:** AluShield™, AmVet®, BottomHoof™, BotVax®, Calf Eze™, D3 Needles™, DC&R®, Dr. Franks®, ElectroJac®, ELISA Technologies®, Eqimax™, EqStim®, Furazone®, GeneSeek®, Gnat-Away™, Gnatural™, Gold Nugget®, Gold Wrap™, Ideal®, ImmunoRegulin®, ImmunoVet™, Injecto-Stik™, Insight™, ISO-Prine™, Jolt™, MegaShot™, Mini-Shot™, Molecular Solutions for Life®, MycAseptic®, NeedleGard™, NFZ®, Paddock & Pasture™, PanaKare™, Parvosol®, Poridon®, Pro-Pistol™, Pro-Shot™, Pyril-Pam™, RenaKare™, Rivard®, SeekGain™, SeekSire™, SeekTrace™, Shine N' Glo™, Spec-Tuss™, Spectrasol®, Squire®, Stam-N-Aid™, Stress-Dex®, TCA Paint™, ThrushCrusher™, ThyroKare™, TopHoof™, Tri-Hist®, Tri-Seal™, Triple Block™, Triple Cast™, Triple Crown™, Triple Heat™, Tri-Soxsuprine™, Tryad®, UriCon®, UriKare™, Vet-Tie™, Vita-

15™; **Kane veterinary products:** Ag-Tek®, BreederSleeve®, Correct®, EquiSleeve®, E-Z Bond™, E-Z Catch®, FuturaPad®, Kane®, MaxiSleeve®, PolyHand®, PolySleeve®, Pro-Fix®, Pro-Flex®, Safe-T-Flex™, SurgiCryl®; **BioSentry agricultural cleaners and disinfectants:** Acid-A-Foam™, BioCres™, BioPhene™, BioSentry®, BioQuat™, Chlor-A-Foam™, Evap™, GenQuat®, X-185™.

Neogen operates in two primary business areas: the Food Safety segment, which develops and markets products for the detection of pathogens, natural toxins and other unwanted substances in food and feed products; and the Animal Safety segment, which develops and markets products and services dedicated to animal health. See Notes to Consolidated Financial Statements elsewhere in this Form 10-K for financial information about the Company's business segments and international operations.

## **FOOD SAFETY SEGMENT**

The products of Neogen's food safety segment consist of diagnostic test kits and complementary products marketed to food and feed producers and processors to detect dangerous and/or unintended substances in food and animal feed, such as foodborne pathogens, spoilage organisms, natural toxins, food allergens, genetic modifications, ruminant by-products, drug residues, pesticide residues and general sanitation concerns.

Many of Neogen's food safety test kits use immunoassay technology to rapidly detect target substances. The Company's ability to produce superior antibodies sets its products apart from immunoassay test kits produced and sold by other companies. The Company's kits are available in microwell formats, which allow for the rapid processing of a large number of samples and automated procedures, and lateral flow and other similar devices that provide distinct visual results. Typically test kits use antibody-coated test devices and chemical reagents to produce a color change to indicate a positive or negative result for the presence of a target substance in a test sample. The simplicity of the tests makes them accessible to all levels of food producers, processors and handlers.

The Company's kits are generally based on internally developed technology or technology that is acquired in connection with acquisitions. In 2010 Food Safety royalty payments totaled \$975,000, including payments of \$433,000 for licenses related to the dairy antibiotics product line and \$291,000 for allergen products. The remaining items are individually immaterial. All royalty rates are in the low single digit range.

Neogen's test kits are used to detect potential hazards in food and animal feed by testers ranging from small local grain elevators to the largest, best-known food and feed processors in the world, and numerous regulatory agencies.

Meat and poultry processors, seafood processors, fruit and vegetable producers and many other market segments are the primary users of the Neogen's Reveal® and Alert® tests for foodborne bacteria, including *E. coli* O157:H7, *Salmonella*, *Listeria* and *Campylobacter*. Grain producers and processors of all types and sizes use the Company's Veratox®, Agri-Screen® and Reveal® tests for mycotoxins, including aflatoxin, deoxynivalenol, fumonisin, ochratoxin, zearalenone and T-2 toxin, to help ensure product safety and quality. The world's largest producers of cookies, crackers, candy, ice cream, and many other foods, use the Company's Veratox®, Alert® and Reveal®, Reveal 3-D and BioKits testing products for food allergens to help protect their food-allergenic customers from the inadvertent contamination of products with food allergens, such as peanut, milk, casein, egg, almond, wheat (gluten), soy, and hazelnut residues. The Company's December 2009 acquisition of the BioKits food safety business of Gen-Probe Incorporated added more than 50 test kits for food allergens, meat and fish speciation, and plant genetics, including tests in an advanced lateral flow format for gluten and casein.

Dairies are primary users of Neogen's BetaStar®, BetaStar Combo, Penzyme® and TetraStar® diagnostic tests to detect the presence of beta lactam and tetracycline antibiotics in milk. The presence of these drugs in milk is a public health hazard, and an economic risk to processors as it limits the milk's further processing.

Neogen developed the first rapid immunoassay test kits to detect ruminant by-products in animal feed ingredients and finished feed. The Reveal® tests were designed to help prevent ruminants (cattle, sheep and goats) from being fed rendered materials containing ruminant by-products in an effort to prevent the spread of BSE (a.k.a., "mad cow" disease) from animal to animal. The Company's specialty products for the seafood

market include tests for histamine, a highly allergenic substance that occurs when certain species of fish begin to decay; chloramphenicol, a banned antibiotic in most of the world, but still used by some shrimp farmers to improve the yield of their product; and sulfites, an effective but potentially allergenic shrimp preservative.

Neogen also offers other test methods and products to complement its immunoassay tests. The Company's line of GENE-TRAK® and GeneQuence® assays utilize DNA probe hybridization technology to create exceptionally sensitive and specific tests to detect foodborne bacteria. Instead of using antibodies as in an immunoassay to "capture" a target pathogen that may be present in a sample, this technology uses a portion of the target pathogen's unique ribosomal RNA (rRNA) sequence to bind to complementary rRNA strands of the pathogen in a sample. The result is a test with the ease and speed of a rapid test method, but the specificity of a time-consuming conventional laboratory method (specificity is a test's ability to distinguish between a target pathogen, and a closely-related but innocuous bacterium).

Neogen's Soleris® product is used by food processors to identify the presence of spoilage organisms (e.g., yeast and mold) and other microbiological contamination.

Neogen's Acumedia® subsidiary offers dehydrated culture media for varied purposes, including traditional bacterial testing, and growing beneficial bacteria, such as cultures for sausages and beer. The Company's customers for dehydrated culture media also include commercial and research laboratories and producers of pharmaceuticals, cosmetics and veterinary vaccines.

Neogen manufactures and markets its AccuPoint® rapid sanitation test for adenosine triphosphate (ATP), a chemical found in all living cells. This easy-to-use and inexpensive test uses bioluminescence to quickly (in less than 30 seconds) determine if a food contact surface has been completely sanitized. When ATP comes into contact with the firefly reagent luciferin luciferase contained in the test device, a reaction takes place that produces light. The more light, the more present ATP and the greater the need for more thorough sanitation. The Company's worldwide customer base for its ATP sanitation testing products includes food and beverage processors, the foodservice industry, as well as many other users.

Revenues from Neogen's Food Safety Division accounted for 54.4%, 51.4% and 56.3% of the Company's total revenues for fiscal years ended May 31, 2010, 2009 and 2008, respectively.

## **ANIMAL SAFETY SEGMENT**

Neogen's animal safety segment is engaged in the development, manufacture and marketing of pharmaceuticals, rodenticides, disinfectants, vaccines, veterinary instruments, topicals and diagnostic products to the worldwide animal safety market. Beginning with the acquisition of GeneSeek, Inc. in 2010, the Company provides important genotyping services to animal breeders throughout the world.

Neogen's AmVet® product line provides innovative, value-added, high quality products to the veterinary market. Top AmVet products include PanaKare™, a digestive aid that serves as a replacement therapy where digestion of protein, carbohydrate and fat is inadequate due to exocrine pancreatic insufficiency; Natural Vitamin E-AD, which aids in the prevention and treatment of vitamin deficiencies in swine, cattle and sheep; and RenaKare™, a supplement for potassium deficiency in cats and dogs. Products sold under the NeogenVet™ brand include Vita-15™ and Liver 7, which are used in the treatment and prevention of nutritional deficiencies in horses.

In 2003, Neogen acquired Hacco, Inc., a manufacturer of rodenticides, including the brand Ramik®. On the same date, it also acquired Hess & Clark, Inc. Hess & Clark's principal products are disinfectants, such as DC&R®, used in animal and food production facilities.

In early fiscal 2009, Neogen acquired a product line of 14 different product formulations used in animal health and hygiene applications from DuPont Animal Health Solutions (DAHS). These products, including 904 Disinfectant, Acid-A-Foam™, and FarmFluid S™ added to the Company's strategy of providing biosecurity solutions in the farm production markets. The products also have the potential for use in the veterinary clinic market to maintain sanitary conditions and limit the potential hazards of bacteria, fungi, and viruses.



Neogen's in-house equine protozoal myeloencephalitis (EPM) testing service offers veterinarians accurate, timely results for early diagnosis of the disease that can devastate a horse's central nervous system. In addition, the Company's BotVax® B vaccine has successfully protected thousands of high-value horses and foals against type B botulism, commonly known as Shaker Foal Syndrome. The Company's product is the only USDA-approved vaccine for the prevention of Type B botulism in horses.

Years of research and many thousands of doses have proven Neogen's EqStim® immunostimulant to be safe and effective as a veterinarian-administered adjunct to conventional treatment of equine bacterial and viral respiratory infections. The Company's ImmunoRegulin® product uses similar immunostimulant technology to aid in the treatment of pyoderma (a bacterial skin inflammation) in dogs.

Neogen markets a complete line of veterinary instruments and animal health delivery systems under the Ideal product brand name. Approximately 250 different products are offered, many of which are used to deliver animal health products, such as antibiotics and vaccines. Ideal's D3 Needles™ and the HDN, HDDI and DTN needle product lines that were acquired in the Rivard acquisition are stronger than conventional veterinary needles, and are uniquely detectable by common meat processing facility metal detectors—a big market advantage in the safety-conscious beef and swine industries.

Animal safety products offered by Neogen to the retail over-the-counter market include many of the Ideal brand veterinary instruments and products sold under the Squire® and Gold Nugget® brands. Squire products include Stress-Dex® oral electrolyte replacer for performance horses, and Furazone®, for the prevention and treatment of surface bacterial infections in wounds, burns and cutaneous ulcers. Gold Nugget OTC products include GNatural™ Spray, to protect horses from biting insects, and Poridon®, a pour-on insecticide for horses. Ag-Tek® and other hoof care, disposables and artificial insemination supplies that were acquired in the Kane acquisition are marketed to the dairy and veterinary industries.

Neogen's line of approximately 100 drug detection immunoassay test kits are sold worldwide for the detection of approximately 300 abused and therapeutic drugs in farm animals and racing animals, such as horses, greyhounds and camels, and for detection of drug residues in meat and meat products. The test kits are also used for human forensic toxicology drug screening applications. This line includes tests for narcotics, analgesics, stimulants, depressants, tranquilizers, anesthetics, steroids and diuretics.

In April 2010, Neogen acquired GeneSeek, Inc., a leading commercial agricultural genetics laboratory in the United States. Founded in 1998, GeneSeek employs 36 individuals and has grown rapidly in recent years. GeneSeek's technology employs high-resolution DNA genotyping for identity and trait analysis in a variety of important animal and agricultural plant species. Through the use of single nucleotide polymorphism (SNP) discovery and analysis, GeneSeek empowers its customers to speed genetic improvement efforts, as well as identify economically important diseases.

Neogen also has several products used by researchers for the detection of biologically-active substances. These products include tests for cyclic nucleotides, hormones, leukotrienes, prostaglandins and steroids. Marketed under the trademarks of K-Blue® and K-Gold®, Neogen offers proprietary substrates that it uses in its own testing products, and that are sold to other diagnostic test kit manufacturers.

Revenues from Neogen's Animal Safety Division accounted for 45.6%, 48.6% and 43.7% of the Company's total revenues for fiscal years ended May 31, 2010, 2009 and 2008, respectively.

## **GENERAL SALES AND MARKETING**

Neogen's domestic sales efforts are generally organized by market segments, rather than by products or geography. During the fiscal year that ended May 31, 2010, the Company had approximately 6,000 customers for its products. Since many customers for animal safety products are distributors, and certain animal safety products are offered to the general retail market, the total number of end users of the Company's products is considerably greater than 6,000. A total of 184 employees are assigned to sales and marketing functions within the Company. During the year ended May 31, 2010, revenues from one food safety distributor customer were 10.3% of total revenues. No other customer represented in excess of 10% of revenues.

## **FOOD SAFETY SALES AND MARKETING**

To reach each customer and prospect with expertise and experience, Neogen has a staff of specialized food safety sales and technical service representatives assigned to specific markets. This staff sells Company products directly to end users, and also handles technical support issues that arise with customers.

Neogen's food safety markets are comprised of: milling and grain, including grain elevators, feed mills, pet food manufacturers, and grain inspection companies; meat and poultry, including meat and poultry processors, producers of ready-to-eat meat and poultry products; and the USDA's Food Safety Inspection Service (FSIS); grocery products, including flour millers, malters, bakeries, candy and confection manufacturers, manufacturers of prepared meals, nuts, spices, cookies, crackers and other snack foods; fruits and vegetables, including growers and processors of juice and packaged fresh cut grocery items; seafood, including harvesters and processors of a wide variety of seafood products; dairy and beverage, including milk processors and soft drink bottlers; Acumedia dehydrated culture media, including commercial and research laboratories and producers of pharmaceuticals, cosmetics and veterinary vaccines; food service and retail, including fast food service establishments and retail grocery market chains, and nutraceuticals, including producers and marketers of a wide variety of nutraceutical products.

## **ANIMAL SAFETY SALES AND MARKETING**

Neogen markets a broad range of pharmaceuticals, vitamin injectibles, wound care products, topicals, instruments, testing services and biologicals to the ethical veterinary market. The product range is focused on the food (cattle and pigs) and companion (horses, dogs, and cats) animal markets. Neogen's sales group works directly with veterinarians, clinics and universities and markets through established ethical distributors by supporting the efforts of over 500 domestic distributor sales representatives calling on 35,000 plus veterinarians. Neogen further supports its veterinary distribution channel through product training, field support, promotions and technical service.

The over-the-counter (OTC) animal health market also offers significant growth opportunities for Neogen and its products. Neogen offers a broad range of products including well recognized brands of rodenticides, disinfectants, instruments and horse care products. To reach the OTC market, Neogen's sales team works with a large network of animal health distributors including marketing groups, traditional two-step distributors, catalogers and large retail chains. Support includes product training, field support, planogram solutions, promotions and advertising. As a commercial laboratory, GeneSeek provides services direct to the customer.

## **INTERNATIONAL SALES AND MARKETING**

### **FOOD SAFETY:**

Internationally, Neogen uses its own sales managers to work closely with and coordinate the efforts of a network of more than 120 distributors in 100 countries. The distributors provide local training and technical support, perform market research, and promote Company products within designated countries around the world.

Neogen Europe, Ltd. provides the Company access to the European Union, and allows it to serve its network of customers and distributors throughout the EU. Customers in United Kingdom, France and Germany are served by Company employees. Other European region customers generally are serviced by distributors managed by Neogen Europe personnel. Neogen Europe's strong research and development continue to be a strong asset in the development of products tailored to meet unique requirements of the European market.

Neogen's dairy antibiotics diagnostic products are distributed outside of North America by Denmark based Chr. Hansen, an international supplier of natural ingredient solutions for the food and health and nutritional industries.

Neogen's Soleris diagnostic test system for general spoilage organisms is marketed worldwide by Neogen personnel and Denmark based Foss Analytical.

Since 2002, Neogen has continued to maintain a presence in Shanghai, China, to better serve the expanding food safety market, as well as more closely manage its Chinese food and animal product procurement. Neogen intends to continue to use local distributors to introduce the Company's products in the Chinese market.

In 2008, Neogen formed a subsidiary in Mexico, Neogen LatinoAmerica. The company, headquartered in Mexico City, distributes the Company's food and animal safety products throughout Mexico and Latin America. Neogen LatinoAmerica unifies Neogen's widespread business activities throughout the region to animal and crop producers, and food processors. As a result of nearly 20 years of use, Neogen products have earned the trust of Mexican and Latin American producers of meat and milk, and food processors.

In October 2009, Neogen formed a subsidiary in Brazil, Neogen do Brasil (Neogen of Brazil). The new company, headquartered near Sao Paulo, will distribute Neogen's food safety products throughout Brazil. Neogen do Brasil was created to accelerate the success of Neogen products in Brazil, which has become one of the world's largest food producers and exporters. Brazil is the world leader in the export of numerous food commodities, including beef, poultry, soybeans, coffee, sugar, and orange juice.

#### **ANIMAL SAFETY:**

The Animal Safety's international sales group has established a strong presence in several key markets with rodenticides, disinfectants, instruments and veterinary products. Primarily, utilizing in-country distributors and US-based exporters, these markets include Canada, Mexico and Central America, South America, the Caribbean, Australia and Europe. Diagnostic products are sold around the world through an extensive distributor network.

#### **GENERAL:**

International sales accounted for 39.9%, 41.0% and 38.4% of the Company's total revenues for fiscal years ended May 31, 2010, 2009 and 2008, respectively.

Risks associated with foreign operations include the need for additional regulatory approvals, possible disruptions of product delivery, the differing product needs of foreign customers, difficulties in building and managing foreign operations, fluctuations in the value of foreign currencies, import/export duties and quotas, and unexpected regulatory, economic or political changes in foreign markets.

#### **RESEARCH AND DEVELOPMENT**

Management maintains a strong commitment to Neogen's research and development activities. The Company's product development efforts are focused on the enhancement of existing product lines and in development of new products that fit its business strategy. The Company employs 51 individuals in its research and development department, including immunologists, chemists, engineers and microbiologists. Research and development expenditures were approximately \$6.3 million, \$4.6 million and \$3.6 million representing 4.5%, 3.8% and 3.6% of total revenues in fiscal 2010, 2009 and 2008, respectively. Management currently intends to maintain the Company's research and development expenditures at approximately 4% to 6% of total revenues.

Neogen has ongoing development projects for new diagnostic tests and other complementary products for both the food safety and animal safety markets. Management expects that these products will be available for marketing in fiscal years 2010 to 2012. Expenditures in FY-2011 are expected to be approximately 5% of total revenues.

Portions of certain technologies utilized in some products marketed by Neogen were acquired from or developed in collaboration with affiliated partnerships, independent scientists, governmental units, universities and other third parties. The Company has entered into agreements with these parties that provide for the payment of royalties based upon sales of products that utilize the pertinent technology. Royalty expense under these agreements amounted to \$1,337,000, \$1,184,000 and \$1,231,000 in 2010, 2009 and 2008, respectively.

## PROPRIETARY PROTECTION AND APPROVALS

Neogen uses trade secrets as proprietary protection in numerous of its food and animal safety products. In many cases, the Company has developed unique antibodies capable of detecting microorganisms and residues at minute levels. The supply of these antibodies, and the proprietary techniques utilized for their development, may offer better protection than the filing of patents. Such proprietary reagents are maintained in secure facilities and stored in more than one location to reduce exposure to complete destruction by natural disaster or other means.

Patents and trademarks are applied for whenever appropriate. Since its inception, Neogen has acquired and received more than 50 patents and trademarks, and has several pending patents and trademarks. The patents expire at various times over the next 20 years.

A summary of patents by product categories follow:

	<u>USA</u>	<u>International</u>	<u>Expiration</u>
Natural Toxins, Allergens & Drug Residues	3	34	2010-2019
Bacterial & General Sanitation	12	3	2012-2026
Dry Culture Media & Other	1	0	2016
Life Science & Other	0	2	2024
Vaccine	1	0	2018
Veterinary Instruments & Other	4	6	2018-2022

The Company does not expect that the near term expiration of any patent will have a significant effect on future results of operations.

Management believes that Neogen has adequate protection as to proprietary rights for its products. However, it is aware that substantial research has taken place at universities, governmental agencies and other companies throughout the world and that numerous patents have been applied for and issued. To the extent some of the Company's products may now, or in the future, embody technologies protected by patents, copyrights or trade secrets of others, licenses to use such technologies may need to be obtained in order to continue to sell the products. These licenses may not be available on commercially reasonable terms. Failure to obtain any such licenses may delay or prevent the sale of certain new or existing products. In addition, patent litigation is not uncommon. Accordingly, there can be no assurance that the Company's existing patents will be sufficient to completely protect its proprietary rights.

One of the major areas affecting the success of biotechnology development involves the time, costs and uncertainty surrounding regulatory approvals. Currently, Neogen products requiring regulatory approval include BotVax B, EqStim, ImmunoRegulin and Beta Star. The Company's general strategy is to select technical and proprietary products that do not require mandatory approval to be marketed. Neogen's rodenticide and disinfectant products are subject to registration in the United States and internationally.

Neogen utilizes third-party validations on many of its disposable test kits as a marketing tool to provide its customers with the proper assurances. These include validation by the AOAC International, independently administered third-party, multi-laboratory collaborative studies and approvals by the U.S. Federal Grain Inspection Service and the U.S. Food Safety Inspection Service for the use of Company products in their operations.

## PRODUCTION AND SUPPLY

Neogen manufactures its products in Lansing, Michigan; Lexington, Kentucky; Randolph, Wisconsin; and Ayr, Scotland. There are currently approximately 248 full-time employees assigned to manufacturing in these four locations. Most locations operate on a one-shift basis, but could be increased to a two-shift basis, if needed. Management believes it could increase the current output of its primary product lines by more than 50% using the current space available with a minimum of additional capital equipment.

Manufacturing of diagnostic tests for detection of natural toxins, pathogens, food allergen and pesticides, final kit assembly, quality assurance and shipping takes place in the Company's facilities in Lansing. Proprietary

monoclonal and polyclonal antibodies for the Neogen's diagnostic kits are produced on a regular schedule in the Company's immunology laboratories. Other reagents are similarly prepared by the R&D employees. Manufacturing of diagnostic tests for the presence of dairy antibiotics in milk is completed in the Company's Lansing facilities. Generally, final assembly and shipment of diagnostic test kits to customers in Europe are performed in the Company's Ayr, Scotland facility.

Assembly and shipment of electronic readers and disposable single-use samplers takes place in the Company's facilities in Lansing.

Dehydrated culture media products are manufactured in a FDA monitored facility in Lansing. Products are blended following strict formulations or custom blended to customer specification and shipped directly to customers from Lansing.

Soleris single-use vials and equipment are produced and shipped to customers mostly by third party vendors.

Manufacture of pharmacological diagnostic test kits, test kits for drug residues and of animal health products takes place in the Company's facility in Lexington. In general, manufacturing operations including reagent manufacturing, quality assurance, final kit assembly and packaging are performed by Neogen personnel. Certain animal health products that are purchased finished or that are toll manufactured by third party vendors and veterinary instruments are warehoused and shipped from the Company's Lexington facility. Other veterinary instruments are produced in the Company's facilities in Lansing, and are generally then shipped to Lexington, for distribution to customers.

Manufacture of rodenticides and certain cleaners and disinfectants takes place in Randolph. Manufacturing of rodenticides consists of blending technical material (active ingredient) with bait consisting principally of various grains. Certain cleaners and disinfectants are manufactured in Randolph, while others are purchased from other manufacturers and sold, or toll manufactured by third parties.

Neogen maintains a Lansing-based USDA-approved manufacturing plant devoted to the production of the biologic products EqStim<sup>®</sup> and ImmunoRegulin<sup>®</sup>. *P. acnes* seed cultures are added to media and then subjected to several stages of further processing resulting in a product that is filled and packaged within the facility. The Company's BotVax<sup>®</sup>B vaccine is also produced in the Lansing facility utilizing Type B botulism seed cultures and a traditional fermentation process. All completed biologic products are then shipped to Neogen's Lexington facilities for inventory and distribution to customers.

With its April 2010 acquisition of GeneSeek, Inc., Neogen now maintains a commercial agricultural genetics laboratory in Lincoln, Neb. Through its laboratory services, GeneSeek empowers its customers to speed genetic improvement efforts, as well as identify economically important diseases.

Neogen purchases component parts and raw materials from more than 500 suppliers. Though many of these supplies are purchased from a single source in order to achieve the greatest volume discounts, the Company believes it has identified acceptable alternative suppliers for all of its components and raw materials. Shipments of products are generally accomplished within a 48-hour turnaround time. As a result of this quick response time, Neogen's backlog of unshipped orders at any given time is not significant.

## **COMPETITION**

Although competitors vary in individual markets, management knows of no competitor that is pursuing Neogen's fundamental strategy of developing and marketing a full line of products, ranging from disposable tests and dehydrated culture media to veterinary pharmaceuticals and veterinary instruments for a large number of food safety and animal safety concerns. For each of its individual products, the Company faces intense competition from companies ranging from small businesses to divisions of large international companies. Some of these organizations have substantially greater financial resources than the Company. The Company competes primarily on the basis of ease of use, speed, accuracy, and other similar performance characteristics of its products. The breadth of the Company's product line, the effectiveness of its sales and customer service organizations and pricing are also components in management's competitive plan. Management is not aware of any factors within its product lines that place the Company in an unfavorable position relative to its competitors.

Future competition may become even more intense, including the development of changing technologies, which could affect the marketability of Neogen's products. The Company's competitive position also will depend on management's ability to develop proprietary products, attract and retain qualified scientific and other personnel, develop and implement production and marketing plans and obtain patent protection and adequate capital resources.

#### FOOD SAFETY:

Neogen's Food Safety Division has strong distribution of its products using Company employees domestically and in Europe and Mexico and from an active and aggressive distributor group elsewhere. With one of the largest professional sales organizations in the industry, management believes that it maintains a general competitive advantage as sales personnel are in a position to be with customers and prospects more frequently than those of its competitors. Additionally, as an agricultural based company, Neogen has what is believed to be a unique insight into the food industry as opposed to clinically based competition.

Competition for pathogen detection products includes traditional methods and antibody and genetic based platforms. Neogen's product offerings compete across the entire spectrum of methods. Competition for natural toxins and allergen detection products include instrumentation and antibody based tests. Generally, the Company's products fall within the non-instrument category. While for these and other food safety products the Company's offerings will not always compete on all platforms in all markets, the products that are offered provide tests that can be well utilized by most customers to meet their testing needs.

Besides its strong product offerings and its superior distribution, the Company focuses its competitive advantage in the areas of customer service and speed and ease of use of its products. Additionally, by aggressively maintaining itself as a low cost producer, Neogen assures that it can be competitive with new market entrants that may choose a low pricing strategy in an attempt to gain market share.

#### ANIMAL SAFETY:

Neogen's Animal Safety Division faces no one competitor across the products and markets it serves. In the racing industry market, the Company believes it holds the position of dominant market share, facing only one other significant company in the marketplace. In the Life Sciences market, the Company competes against several other diagnostic and reagent companies with similar product offerings.

In the veterinary market, Neogen markets BotVax B®, the only USDA approved vaccine for the prevention of botulism Type B in horses. The Company competes on other key products through differentiated product performance and superior customer and technical support. With some of its products, the Company provides solutions as a lower cost alternative and offers a private label option for its distributors.

Competition in the rodenticide market includes several companies of comparable size that offer products into similar market segments. The rodenticide retail market is dominated by a single brand. While the technical materials used by the competing companies are similar, Neogen uses manufacturing and bait formula techniques to better draw rodents to the product and thereby improve overall product performance.

Several companies compete for sales in the disinfectant and cleaner product segment. Neogen's products are sold through their distributor network around the world, primarily to assist in animal production facilities.

Neogen competes in the retail market by providing solutions to common retail problems – stock outs, wasted floor space, and inconsistent brand identity. The Company offers planograms and reordering systems to maximize turns and profitability for its retail customers.

Neogen added to its genomic capability through its April 2010 acquisition of GeneSeek, the leading commercial agricultural genetics laboratory in the U.S. GeneSeek employs cutting-edge technology in the area of genomics. GeneSeek is not involved in cloning or the development of transgenic animals. Instead, the results of its technology allow the acceleration of natural selection through selective breeding of traits such as disease resistance and meat quality. Competition comes mainly from service providers whose primary focus is the human and pharmaceutical industries.

## **GOVERNMENT REGULATION**

A significant portion of the Neogen's products and revenues are affected by the regulations of various domestic and foreign government agencies, including the U.S. Department of Agriculture, the Environmental Protection Agency, and the U.S. Food and Drug Administration. Changes in these regulations could affect revenues and/or costs of production and distribution.

Neogen's development and manufacturing processes involve the use of certain hazardous material, chemicals and compounds. Management believes that the Company's safety features for handling and disposing of such commodities comply with the standards prescribed by local, state and federal regulations. The Company's cost to comply with these regulations is not significant and the Company has no reason to believe that any such future legislation or rules would be materially adverse to its business.

The rodenticides, disinfectants and sanitizers manufactured and distributed by Neogen Corporation are subject to Environmental Protection Agency regulations. In general, any international sale of the product must also comply with similar regulatory requirements in the country of destination. Each country has its own individual regulatory construct with specific requirements (e.g., label in the language of the importing country). To the best of our knowledge pertinent products are in compliance with the appropriate federal and foreign regulations.

Dairy products used in National Conference on Interstate Milk Shipments (NCIMS) milk monitoring programs are regulated by the FDA. Before products requiring FDA approval can be sold in the U.S., extensive product performance data must be submitted in accordance with FDA approved protocol administered by AOAC Research Institute (AOAC RI). Following approval of a product by the FDA, the product must also be approved by NCIMS, an oversight body that includes state, federal and industry representatives. Our BetaStar® US dairy antibiotic residue testing product has been approved by the FDA, NCIMS, and AOAC RI. While some foreign countries accept AOAC RI approval as part of their regulatory approval process, many countries have separate regulatory processes.

Many of the food safety diagnostic products of allergens, spoilage organisms and mycotoxins do not require direct government approval. However, we have pursued AOAC approval for many of the products to enhance the marketability of products. Products for mycotoxin detection, which are used by federal inspectors, must be approved by USDA. Neogen Corporation has obtained and retained the necessary approvals to conduct its current operations.

Neogen's veterinary vaccine products and one pharmaceutical product require government approval to allow for lawful sales. The vaccine products are approved by United States Department of Agriculture, Center for Veterinary Biologics (USDA-CVB) and the pharmaceutical product is approved by the FDA. The products, and the facilities in which they manufactured, are in a position of good standing with both agencies. The Company has had no warning letters based on any review or inspection; the Company has had no recalls on any of these products; and the Company knows of no reason why its freedom to manufacture and market in the future is in any danger.

Other animal safety and food products generally do not require additional registrations or approvals. However, Neogen Corporation's regulatory staff routinely monitor amendments to current regulatory requirements to ensure compliance.

The Company's rodenticide products generally require registration with U.S. governmental agencies at federal and state levels and with foreign governments.

## **EMPLOYEES**

Currently, the Company employs 585 full-time persons. None of the employees are covered by collective bargaining agreements. There have been no work stoppages or slowdowns due to labor-related problems. Management believes that its relationship with its employees is good. All employees having access to proprietary information have executed confidentiality agreements with the Company.

## **ITEM 1A. RISK FACTORS**

An investment in our common shares involves a high degree of risk. The risks described below are not the only ones that an investor faces. Additional risks that are not yet known to us or that we currently think are immaterial could also impair our business, financial condition or results of operations. If any of the following risks actually occurs, our business, financial condition or results of operations could be adversely affected.

### **Risks Relating to Our Business**

#### **Our business strategy is dependent on successfully identifying and integrating acquisitions as well as promoting internal growth.**

Our business has grown significantly over the past several years as a result of both internal growth and acquisitions of existing businesses and their products. Identifying and pursuing acquisition opportunities, integrating these acquisitions into our business and managing their growth require a significant amount of management time and skill. We cannot assure that we will be effective in identifying, integrating or managing any acquisition target in the future. Our failure to successfully integrate and manage any future acquisition may have a material adverse effect on our operating results and financial condition.

In addition, if we continue to experience growth in our business, our growth could place a significant strain on our management, customer service, operations, sales and administrative personnel and other resources. To serve the needs of our existing and future customers, we will be required to train, motivate and manage qualified employees. We have incurred and will continue to incur significant costs to retain qualified management, sales and marketing, engineering, production, manufacturing and administrative personnel, as well as expenses for marketing and promotional activities. Our ability to manage our planned growth depends upon our success in expanding our operating, management and information and financial systems, which might significantly increase our operating expenses.

We might not be able to effectively manage our future growth, and if we fail to do so, our business, financial condition and results of operations would be adversely affected.

#### **The development of new products entails substantial risk of failure.**

We are continually developing new products for which we believe there should be significant market demand. We cannot assure that we will successfully develop commercially viable products, that the products will be developed on a timely basis to meet market demand or that the relevant market will be properly identified. If we expend substantial resources in developing an unsuccessful product, operating results will be adversely affected.



**Our international operations are subject to different product standards as well as other operational risks.**

In fiscal 2010, sales to customers outside of the United States accounted for 40% of the Company's total revenue. We expect that our international business will continue to account for a significant portion of our total revenue. Foreign regulatory bodies may establish product standards different from those in the U.S. and with which the Company's current products do not comply. Our inability to design products that comply with foreign standards could have a material adverse effect on our future growth. Other risks related to our sales to customers outside of the United States include the possible disruption in transportation, difficulties in building and managing foreign distribution, fluctuation in the value of foreign currencies, import duties and quotas and unexpected economic and political changes in foreign markets. These factors might adversely affect international sales and our overall financial performance.

**The markets for our products are extremely competitive, and our competitors may be able to utilize existing resource advantages to our detriment.**

The markets in which the Company competes are subject to rapid and substantial changes in technology and are characterized by extensive research and development and intense competition. Many of our competitors and potential competitors have greater financial, technical, manufacturing, marketing, research and development and management resources than we do. These competitors might be able to use their resources, reputations and ability to leverage existing customer relationships to give them a competitive advantage over us. They might also succeed in developing products that are at least as reliable and effective as our products, make additional measurements, are less costly than our products or provide alternatives to our products.

**We are dependent on the agricultural marketplace, which is affected by factors beyond our control.**

Our primary customers are in the agricultural and food production industries. Economic conditions affecting agricultural industries are cyclical and are dependent upon many factors outside our control, including weather conditions or changes in consumption patterns. An economic downturn in the agricultural marketplace could adversely affect our sales.

**Our quarterly operating results are subject to significant fluctuations.**

We have experienced, and may experience in the future, significant fluctuations in our quarterly operating results. The mix of products sold and the acceptance of new products, in addition to other factors, could contribute to this quarterly variability. We operate with relatively little backlog and have few long-term customer contracts. Substantially all of our product revenue in each quarter results from orders received in that quarter. In addition, our expense levels are based, in part, on expectation of future revenue levels. A shortfall in expected revenue could, therefore, result in a disproportionate decrease in our net income.

**Our success is highly dependent on our ability to obtain protection for the intellectual property utilized in our products.**

Our success and ability to compete depends in part upon our ability to obtain protection in the United States and other countries for our products by establishing and maintaining intellectual property rights relating to or incorporated into our technology and products. Patent applications filed by the Company may not result in the issuance of patents or, if issued, may not be issued in a form that will be commercially advantageous to us. Even if issued, patents may be challenged, narrowed, invalidated or circumvented, which could limit our ability to stop competitors from marketing similar products or limit the length of time of patent protection we may have for our products. We also cannot assure that our nondisclosure agreements, together with trade secrets and other common law rights, will provide meaningful protection for the Company's trade secrets and other proprietary information. Moreover, the laws of some foreign jurisdictions may not protect intellectual property rights to the same extent as in the United States, and many companies have encountered significant difficulties in protecting and defending such rights in foreign jurisdictions. If we encounter such difficulties or we are otherwise precluded from effectively protecting our intellectual property rights domestically or in foreign jurisdictions, we may incur substantial costs and our business, including our business prospects, could be substantially harmed. From time to time, the Company has received notices alleging that the Company's products infringe third party proprietary rights. Whether the manufacture, sale or use of current products, or

whether any products under development would, upon commercialization, infringe any patent claim will not be known with certainty unless and until a court interprets the patent claim in the context of litigation. If an infringement allegation is made against us, we may seek to invalidate the asserted patent claim and/or to allege non-infringement of the asserted patent claim. In order for us to invalidate a U.S. patent claim, we would need to rebut the presumption of validity afforded to issue patents in the United States with clear and convincing evidence of invalidity, which is a high burden of proof. The outcome of infringement litigation is subject to substantial uncertainties, and also the testimony of experts as to technical facts upon which experts may reasonably disagree. Our defense of an infringement litigation lawsuit could result in significant expense. Regardless of the outcome, infringement litigation could significantly disrupt our marketing, development and commercialization efforts, divert our management's attention and consume our financial resources. In the event that we are found to infringe any valid claim in a patent held by a third party, we may, among other things, be required to:

- Pay damages, including up to treble damages and the other party's attorneys' fees, which may be substantial;
- Cease the development, manufacture, importation, use and sale of products that infringe the patent rights of others, through a court-imposed sanction called an injunction;
- Expend significant resources to redesign our technology so that it does not infringe others' patent rights, or to develop or acquire non-infringing intellectual property, which may not be possible;
- Discontinue manufacturing or other processes incorporating infringing technology; and/or
- Obtain licenses to the infringed intellectual property, which may not be available to us on acceptable terms, or at all.

Any development or acquisition of non-infringing products or technology or licenses could require the expenditure of substantial time and other resources and could have a material adverse effect on our business and financial results. If we are required to, but cannot, obtain a license to valid patent rights held by a third party, we would likely be prevented from commercializing the relevant product, or from further manufacture, sale or use of the relevant product.

**We are subject to substantial governmental regulation.**

A portion of our products are regulated by various domestic and foreign government agencies, including the U.S. Department of Agriculture and the U.S. Food and Drug Administration. Although less than 10% of our revenues is currently derived from products requiring government approval prior to sale, a significant portion of our revenues is derived from products used to monitor and detect the presence of residues that are regulated by various government agencies. Furthermore, a significant portion of the Company's growth may be affected by the implementation of new regulations.

**We are dependent on key employees.**

Our success depends, in large part, on our chairman, president and other members of our management team. Our loss of any of these key employees could have a material adverse effect on the Company. We maintain certain incentive plans for key employees, and most of these employees have been with the Company in excess of five years. However, we have not executed long-term employment agreements with any of these employees and do not expect to do so in the foreseeable future. Our success also depends, significantly, on our ability to continue to attract such personnel. We cannot assure that we will be able to retain our existing personnel or attract additional qualified persons when required and on acceptable terms.

**Our business may be subject to product liability claims.**

The manufacturing and distribution of the Company's products involve an inherent risk of product liability claims being asserted against us. Regardless of whether we are ultimately determined to be liable or our

products are determined to be defective, we might incur significant legal expenses not covered by insurance. In addition, product liability litigation could damage our reputation and impair our ability to market our products, regardless of the outcome. Litigation could also impair our ability to retain product liability insurance or make our insurance more expensive. Although the Company currently maintains liability insurance, we cannot assure that we will be able to continue to obtain such insurance on acceptable terms, or that such insurance will provide adequate coverage against all potential claims. If we are subject to an uninsured or inadequately insured product liability claim, our business, financial condition and results of operations could be adversely affected.

**Market prices for securities of technology companies are highly volatile.**

The market prices for securities of technology companies have been volatile in the past and could continue to be volatile in the future. Fluctuations in our financial performance from period to period could have a significant impact on the market price of our common shares.

**Operating results could be negatively impacted by economic, political or other developments in countries in which we do business.**

Future operating results could be negatively impacted by unstable economic, political and social conditions, including but not limited to fluctuations in foreign currency exchange rates, political instability, or changes in the interpretation or creation of laws and regulations in each of the countries where the Company conducts business, including the United States. Additionally, the Company operates in multiple income tax jurisdictions and must determine the appropriate allocation of income to each of these jurisdictions based on current interpretations of complex income tax regulations. Income tax audits associated with the allocation of income and other complex issues may result in significant income tax adjustments that could negatively impact the Company's future operating results.

**ITEM 1B. UNRESOLVED STAFF COMMENTS - NONE**

**ITEM 2. PROPERTIES**

Neogen owns several separate buildings located in Lansing, Michigan. A 26,000 square foot building located at 620 Leshar Place includes senior corporate administrative offices, food safety sales and marketing offices and research facilities. A 12,000 square foot building located at 600 Leshar Place is used for corporate accounting, human resources, and communications functions. Two adjacent buildings, located at 703 and 720 Shiawassee, total 25,000 square feet and are used for manufacture and warehousing of food safety products. Two buildings on Hosmer Street with a combined total of 49,000 square feet are used for manufacturing and warehousing of dehydrated culture media and veterinary instruments. A 55,000 square foot building at 1614 East Kalamazoo Street is used for research and production of vaccines. 17,000 square feet of the East Kalamazoo Street building is held for expansion.

Animal Safety sales and marketing, diagnostic test kit manufacturing, warehousing and distribution of all other Animal Safety products takes place from an 82,000 square foot Company owned facility at 944 Nandino Drive in Lexington, Kentucky.

Animal Safety pharmaceutical, supplement and topical product manufacturing takes place in 16,000 square feet of leased space at 2040 Creative Drive in Lexington, Kentucky. The lease covering the space is a non-cancelable operating lease through December 31, 2011 currently requiring monthly payments of \$6,000.

Animal Safety researchers occupy 7,000 square feet of space in St. Joseph, Michigan. Originally occupied by International Diagnostics Systems Inc., this space now houses research and development labs at a monthly cost of \$6,500. The lease extends through May 2013.

Additionally, 12,000 feet of space at 1847 Mercer Road in Lexington, Kentucky houses the distribution facility for many of the Animal Safety product lines. The lease for the space is a non-cancelable operating lease through September 30, 2010, requiring monthly payment of \$4,450.

Neogen Europe Ltd. Operations take place in 38,000 square feet in Auchincruive, Ayrshire, Scotland. The company purchased the facilities in 2010. The facility is adjacent to the campus of the Scottish Agricultural College at Ayr.

Rodenticide and disinfectant manufacturing and warehousing is conducted in 80,000 square feet of Company owned buildings at 110 Hopkins Drive in Randolph, Wisconsin. Additionally the Company leases 9,000 square feet of warehouse space in Cambria, Wisconsin for \$1,600 per month and 3,000 square foot space in Fox Lake, Wisconsin for \$800 per month on a month-to-month basis.

The Company's GeneSeek Inc. subsidiary, which was acquired in fiscal year 2010, operates in 7,984 square feet of leased space in Lincoln, Nebraska. The lease extends through May 31, 2012 at a monthly rate of \$10,900.

These properties are in good condition, well-maintained, and generally suitable and adequate to carry on the Company's business.

### **ITEM 3. LEGAL PROCEEDINGS**

Neogen is subject to certain legal proceedings in the normal course of business that, in the opinion of management, will not have a material effect on its future results of operations or financial position.

### **ITEM 4. REMOVED AND RESERVED**

## PART II

### ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

#### MARKET INFORMATION:

Neogen Common Stock is traded on the NASDAQ Global Select Market under the symbol "NEOG". The following table sets forth, for the fiscal periods indicated, the high and low sales prices for the Common Stock as reported on the NASDAQ Stock Market.

	<u>HIGH</u>	<u>LOW</u>
YEAR ENDED MAY 31, 2010		
First Quarter	\$20.23	\$14.56
Second Quarter	\$22.79	\$18.96
Third Quarter	\$24.70	\$20.51
Fourth Quarter	\$27.39	\$23.50
YEAR ENDED MAY 31, 2009		
First Quarter	\$19.00	\$14.80
Second Quarter	\$21.30	\$12.73
Third Quarter	\$18.37	\$13.11
Fourth Quarter	\$15.98	\$11.00

#### HOLDERS:

As of July 31, 2010, there were approximately 369 stockholders of record of Common Stock that management believes represents a total of approximately 5,420 beneficial holders.

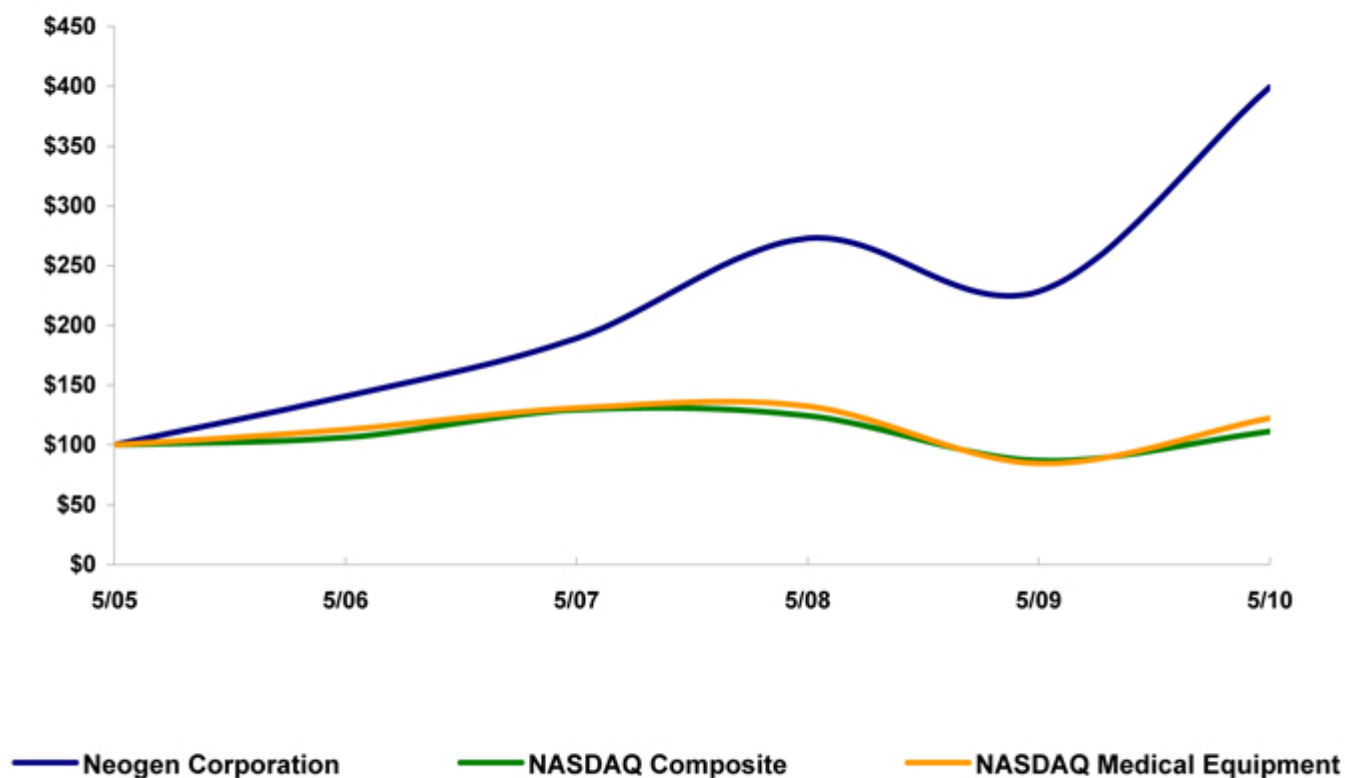
#### DIVIDENDS:

Neogen has never paid any cash dividends on its Common Stock and does not anticipate paying any cash dividends in the foreseeable future.

The following graph compares the cumulative 5-year total return to shareholders on Neogen Corporation's common stock relative to the cumulative total returns of the NASDAQ Composite index and the NASDAQ Medical Equipment index. The graph assumes that the value of the investment in the company's common stock and in each of the indexes (including reinvestment of dividends) was \$100 on 5/31/2005 and tracks it through 5/31/2010.

## COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN\*

Among Neogen Corporation, the NASDAQ Composite Index  
and the NASDAQ Medical Equipment Index



\*\$100 invested on 5/31/05 in stock or index, including reinvestment of dividends.  
Fiscal year ending May 31.

	5/05	5/06	5/07	5/08	5/09	5/10
Neogen Corporation	\$100.00	\$140.88	\$189.09	\$272.86	\$228.31	\$399.50
NASDAQ Composite	100.00	106.43	129.36	124.31	87.50	111.25
NASDAQ Medical Equipment	100.00	112.92	131.13	132.53	84.67	122.23

*The stock price performance included in this graph is not necessarily indicative of future stock price performance.*

### Issuer Purchases of Equity Securities

In December 2008 the Board of Directors authorized management to repurchase up to a total of 750,000 shares of its common stock in open market transactions. The company made no purchases of common stock in fiscal year 2010.

## ITEM 6. SELECTED FINANCIAL DATA

The following tables set forth selected consolidated financial data of Neogen for each of the five fiscal years ended May 31, 2010. The selected consolidated financial data presented below have been derived from the Company's consolidated financial statements. These financial data should be read in conjunction with the consolidated financial statements, related notes and other financial information appearing elsewhere in this Form 10-K.

	Year Ended May 31				
	2006(1)(2)	2007(2)	2008(2)	2009(2)	2010
	(In thousands, except per share data)				
<b>Income Statement Data:</b>					
Food Safety Sales	\$34,922	\$ 47,165	\$ 57,664	\$ 61,025	\$ 76,454
Animal Safety Sales	37,511	38,973	44,754	57,696	64,055
Net Sales	72,433	86,138	102,418	118,721	140,509
Cost of Goods Sold	35,427	41,575	49,185	59,288	67,534
Sales and Marketing	15,799	18,463	20,648	22,906	26,350
General and Administrative	7,414	9,301	10,927	11,484	13,488
Research and Development	2,988	3,295	3,639	4,555	6,258
Operating Income	10,805	13,504	18,019	20,488	26,879
Interest and Other Income	46	371	479	1,136	442
Income Before Income Taxes	10,851	13,875	18,498	21,624	27,321
Provision for Income Taxes	3,822	4,750	6,400	7,750	9,800
Net Income	\$ 7,029	\$ 9,125	\$ 12,098	\$ 13,874	\$ 17,521
Net Income per Share (basic)(1) (2)	\$ .38	\$ .44	\$ .56	\$ .63	\$ .78
Net Income per Share (diluted)(1)(2)	\$ .37	\$ .43	\$ .54	\$ .61	\$ .76
Common Shares Outstanding (diluted)(1)(2)	19,029	21,243	22,499	22,587	23,091

	May 31				
	2006	2007	2008	2009	2010
	(In thousands)				
<b>Balance Sheet Data:</b>					
Cash and cash equivalents	\$ 1,959	\$ 13,424	\$ 14,270	\$ 13,842	\$ 22,806
Working Capital(3)	26,252	41,060	54,495	62,520	68,987
Total Assets	88,290	105,284	126,357	142,176	180,233
Long-Term Debt	9,955	—	—	—	—
Stockholders' Equity	65,424	91,945	111,248	128,679	153,053

- (1) On June 1, 2006 the Company adopted ASC 718 related to stock options. Financial statements of May 31, 2006 were restated to conform to the new standard.
- (2) On September 4, 2007, and on December 15, 2009 the Company paid 3-for-2 stock splits affected in the form of a dividend of its common stock. All share and per share amounts have been adjusted to reflect the stock splits as if they had taken place at the beginning of the period presented.
- (3) Defined as current assets less current liabilities.

## **ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The information in this Management's Discussion and Analysis of Financial Condition and Results of Operations contains both historical financial information and forward-looking statements. Neogen Corporation management does not provide forecasts of future financial performance. While management is optimistic about the Company's long-term prospects, historical financial information may not be indicative of future financial results.

Any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. Without limiting the foregoing, the words "believes," "anticipates," "plans," "expects," "seeks," "estimates," and similar expressions are intended to identify forward-looking statements. There are a number of important factors, including competition, recruitment and dependence on key employees, impact of weather on agriculture and food production, identification and integration of acquisitions, research and development risks, patent and trade secret protection, government regulation and other risks detailed from time to time in the Company's reports on file at the Securities and Exchange Commission, that could cause Neogen Corporation's results to differ materially from those indicated by such forward-looking statements, including those detailed in this "Management's Discussion and Analysis of Financial Condition and Results of Operations."

In addition, any forward-looking statements represent management's views only as of the day this Report on Form 10-K was first filed with the Securities and Exchange Commission and should not be relied upon as representing management's views as of any subsequent date. While management may elect to update forward-looking statements at some point in the future, it specifically disclaims any obligation to do so, even if its views change.

### **CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

The discussion and analysis of the Company's financial condition and results of operations are based on the consolidated financial statements that have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires that management make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, management evaluates the estimates, including those related to receivable allowances, inventories and intangible assets. These estimates are based on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

The following critical accounting policies reflect management's more significant judgments and estimates used in the preparation of the consolidated financial statements.

#### **Revenue Recognition**

Revenue from sales of products is recognized at the time title of goods passes to the buyer and the buyer assumes the risks and rewards of ownership, which is generally at the time of shipment. Where right of return exists, allowances are made at the time of sale to reflect expected returns based on historical experience.

#### **Accounts Receivable Allowance**

Management attempts to minimize credit risk by reviewing customers' credit history before extending credit and by monitoring credit exposure on a regular basis. An allowance for possible losses on accounts receivable is established based upon factors surrounding the credit risk of specific customers, historical trends and other information, such as changes in overall changes in customer credit and general credit conditions. Actual collections can differ from historical experience, and if economic or business conditions deteriorate significantly, adjustments to these reserves could be required.



## **Inventory**

A reserve for obsolescence is established based on an analysis of the inventory taking into account the current condition of the asset as well as other known facts and future plans. The amount of reserve required to record inventory at lower of cost or market may be adjusted as conditions change. Product obsolescence may be caused by shelf-life expiration, discontinuance of a product line, replacement products in the marketplace or other competitive situations.

## **Goodwill and Other Intangible Assets**

Management assesses goodwill and other non-amortizable intangible assets for possible impairment on no less often than an annual basis. This test was performed in the fourth quarter of fiscal 2010 and it was determined that no impairment exists. There was also no impairment indicated for 2009 or 2008. In the event of changes in circumstances that indicate the carrying value of these assets may not be recoverable, management will make an assessment at any time. Factors that could cause an impairment review to take place would include:

- Significant under performance relative to expected historical or projected future operating results.
- Significant changes in the use of acquired assets or strategy of the Company.
- Significant negative industry or economic trends.

When management determines that the carrying value of definite-lived intangible assets may not be recoverable based on the existence of one or more of the above indicators of impairment, the carrying value of the definitive-lived intangible assets are compared to their value determined by using undiscounted future cash flows. If the carrying amounts of these assets are greater than the amount of undiscounted future cash flows expected to be generated by the assets, such assets are reduced to their estimated fair value.

## **Equity Compensation Plans**

ASC 718 - Compensation – Stock Compensation, (ASC 718) requires that stock options awarded to employees and shares of stock awarded to employees under certain stock purchase plans are recognized as compensation expense based on their fair value at grant date. The fair market value of options granted under the Company's stock option plans was estimated on the date of grant using the Black-Scholes option-pricing model using assumptions for inputs such as interest rates, expected dividends, volatility measures and specific employee exercise behavior patterns based on statistical data. Some of the inputs used are not market-observable and have to be estimated or derived from available data. Use of different estimates would produce different option values, which in turn would result in higher or lower compensation expense recognized.

To value options, several recognized valuation models exist. None of these models can be singled out as being the best or most correct one. The model applied is able to handle some of the specific features included in the options granted, which is the reason for its use. If a different model were used, the option values would differ despite using the same inputs. Accordingly, using different assumptions coupled with using a different valuation model could have a significant impact on the fair value of employee stock options. Fair value could be either higher or lower than the ones produced by the model applied and the inputs used.

## **Business Combinations**

Accounting for business combinations requires our management to make significant estimates and assumptions, especially at the acquisition date with respect to the valuation of intangible assets and the determination of the acquisition date fair value of liabilities arising from contingent consideration. Further, contingent consideration classified as an asset or a liability is remeasured to fair value at each reporting date until the contingency is resolved. Although we believe the assumptions and estimates we have made in the past have been reasonable and appropriate, they are based in part on historical experience and information obtained from the management of the acquired companies and are inherently uncertain.

Examples of critical estimates in valuing certain of the intangible assets and contingent consideration liabilities we have acquired include but are not limited to:

- future expected cash flows from sales, other customer contracts and acquired developed technologies and patents;
- the acquired company's brand and competitive position, as well as assumptions about the period of time the acquired brand will continue to be used in the combined company's product portfolio; and
- discount rates.

Unanticipated events and circumstances may occur that may affect the accuracy or validity of such assumptions, estimates or actual results.

## RESULTS OF OPERATIONS

### **Executive Overview**

For the 2010 fiscal year the Company reported an 18% increase in revenues as compared to the prior fiscal year and a continuation of its record of profitability. Revenues for 2010 were \$140,509,000, up from \$118,721,000. Net income per share was \$0.76 in 2010, compared to \$0.61 in the prior year, adjusted for the stock split that took place in December 2009. Both revenues and net income for the 2010 year established new all-time highs. These results came in a very difficult business environment. The Company's business has shown continued resilience to the economic conditions and despite the worldwide turmoil in economic and currency markets, the Company's percentage of sales from customers outside the United States approached 40% of total revenues. Cash flow from operations for 2010 improved to \$28 million, as the Company has implemented procedures and systems to better manage inventory and other current asset levels.

Neogen Europe recorded a 24% revenue gain, following a 26% gain in 2009. Two acquisitions were completed during the year that should be synergistic to the existing product offerings. The BioKits acquisition pushed the food allergen product line to another outstanding growth year with increasing sales by more than 50%. The GeneSeek acquisition made late in the fiscal year is expected to have a positive impact on future revenues as revenues of GeneSeek were approximately \$12 million in the twelve months before purchase.

Consolidated gross margins increased 200 basis points in 2010 to 52% due to product mix and cost containment. Operating expenses as a percentage of revenues remained unchanged from 2009 at 33% but operating margins increased as a result of improved gross margins.

The Company's financial performance continued to gain increased notice in the investment community in the past year. It continued its inclusion in the Russell 2000 Index and, was named to the Standard & Poor's 600 Healthcare Index, Fortune's "40 Stocks to Retire On", Fortune's Small Business 100, and to Forbes Magazine's annual list of the 200 Best Small Companies in America, for the fifth consecutive year and eighth time in the last ten years.

## REVENUES

<i>(dollars in thousands)</i>	Twelve Months Ended				
	May 31, 2010	Increase / (Decrease)	May 31, 2009	Increase / (Decrease)	May 31, 2008
<b>Food Safety:</b>					
Natural Toxins, Allergens & Drug Residues	\$ 39,338	28%	\$ 30,667	6%	\$ 29,036
Bacterial & General Sanitation	19,545	5%	18,539	10%	16,866
Dry Culture Media & Other	17,571	49%	11,819	1%	11,762
	<u>76,454</u>	<u>25%</u>	<u>61,025</u>	<u>6%</u>	<u>57,664</u>
<b>Animal Safety:</b>					
Life Sciences & Other	8,998	57%	5,730	3%	5,567
Vaccine	2,329	6%	2,207	—	2,197
Rodenticides & Disinfectants	24,160	18%	20,491	99%	10,318
Veterinary Instruments & Other	28,568	(2%)	29,268	10%	26,672
	<u>64,055</u>	<u>11%</u>	<u>57,696</u>	<u>29%</u>	<u>44,754</u>
<b>Total Revenues</b>	<u>\$ 140,509</u>	<u>18%</u>	<u>\$ 118,721</u>	<u>16%</u>	<u>\$ 102,418</u>

### Year Ended May 31, 2010 Compared to Year Ended May 31, 2009

The Company's Food Safety segment recorded a broad-based 2010 revenue increase of 25% to \$76,454,000. Organic sales growth for this segment was 22% in the year ended May 31, 2010.

The increase in Natural Toxins, Allergens & Drug Residues resulted from strong organic sales and the contributions of the BioKits food allergen product line that was acquired in December 2009. The allergen product line had another outstanding year of growth, with sales increasing by 57%. The dramatic increase in sales of each of Neogen's allergen tests is attributable to the aforementioned acquisition and to food producers increasing efforts to ensure that inadvertent allergenic ingredients do not contaminate non-allergenic foods. Sales of Food Safety's oldest product line, its rapid tests to detect natural toxins in grain, also saw significant improvement for the year, as tests for aflatoxin and deoxynivalenol (DON) improved by 40% compared to the prior year. Cool wet weather combined with an early frost experienced in the U.S. corn belt in 2009, led to sharp increases in demand for tests to detect these toxins. However, continued worldwide interest in toxin levels in human food and animal feed has positively affected sales. Dollar sales of tests to detect drug residues increased by 24% from the prior year, as worldwide concern continued to increase.

Bacterial & General Sanitation sales had a good year despite several products that requires the customer to make a capital investment, including AccuPoint™ readers and Soleris® microbial detection instruments. Sales of these products slowed in 2009 and in 2010 due to the impact of the economic downturn. However, sales of associated disposable AccuPoint samplers and Soleris vials continued strong growth—providing evidence of the continued use and acceptance of these unique Food Safety products.

Dry Culture Media & Other increased significantly during the year as a result of the continued efforts of the sales and marketing staff in executing their sales plan and in gaining and re-gaining new customers.

Revenues from the Company's Animal Safety segment grew 11% in 2010 compared to the prior year. The successful integration of the acquired DuPont line of disinfectants and cleaners, IDS drug residue diagnostics and GeneSeek, contributed significantly to Animal Safety's revenue growth for the year. Organic growth was 4% in a very difficult overall market.

Life Sciences and Other sales increased by 57% in 2010, primarily due to the successful integration of the IDS product line acquired in May 2009 and the GeneSeek acquisition in April 2010. Organic sales increases of the Life Sciences & Other products were limited as customers were affected by the economic downturn.

Sales of Neogen's veterinary biologics, which include an equine vaccine against botulism and immune stimulant products were up 6% for the year. Sales of vitamin injectibles into the livestock market were up 13% over the prior year. Evidence of the synergistic nature of the IDS diagnostic tests to pre-existing Neogen products was shown as we experienced an 18% increase in 2010 in same store sales of tests to detect drug residues for the forensic market.

Even though a number of the Animal Safety customers continue to feel the effects of a depressed animal protein market, this division did experience strong increases in sales of a number of products. Sales of rodenticides into domestic markets increased 27% on a year over year basis. Sales into international markets of the same products increased 25%, as Neogen continues to grow its market share and new products gain market acceptance. Sales of Neogen's line of cleaners and disinfectants also grew 10% in the year. The Company's efforts to market its products as synergistic biosecurity solutions are gaining more traction.

Veterinary instrument and other sales decreased by 2% in 2010 in comparison with 2009 as many of these products are ultimately used by customers involved in the production of animal protein. This group of customers has been especially hit hard by the economic recession.

#### Year Ended May 31, 2009 Compared to Year Ended May 31, 2008

In 2009, sales of Natural Toxins, Allergens & Drug Residues increased by 6% in comparison with FY 2008. Increases from allergen product lines were in excess of 40% and were the result of increased efforts by food producers to ensure that inadvertent allergenic ingredients do not contaminate non-allergen foods. Bacterial & General Sanitation products increased by 10% in FY 2009, as the AccuPoint ATP general sanitation test continued to gain momentum, domestically and internationally.

Dry Culture Media & Other Sales increased by 1% in FY 2009 as compared with FY 2008, as the Company focused their efforts on customer service following a large increase in the prior year.

Within the Animal Safety segment, sales of Life Sciences and Other Products increased by 3% in 2009 in comparison with 2008. Increases in 2009 were due to new direct international customers and instrument placements for forensic customers, sales of substrates and diagnostic research kits. Many of products in this category are sold into the worldwide eventing animal industry. These customers have been highly effected by the economic downturn. Vaccine sales remained unchanged for the year due to the timing of purchases by key domestic and international distributor purchasers.

Sales of Hacco rodenticides and disinfectants increased by 99% in 2009, primarily based on the successful acquisition and integration of the DuPont product lines.

Veterinary Instruments & Other sales increases were broad based in 2009 and included significant contributions in the disposables product lines, experiencing large increases in the retail and integrator markets.

## COST OF GOODS SOLD

<i>(dollars in thousands)</i>	<u>2010</u>	<u>Increase</u>	<u>2009</u>	<u>Increase</u>	<u>2008</u>
Cost of Goods Sold	\$67,534	14%	\$59,288	21%	\$49,185

Cost of goods sold increased by 14% in 2010 and by 21% in 2009 in comparison with the prior year. This compares against a 18% and 16% increase in revenues in 2010 and in 2009. Expressed as a percentage of revenues, cost of goods sold was 48%, 50% and 48% in 2010, 2009, and 2008 respectively. 2010 margins increased as a result of favorable product mix and cost containment.

Food Safety gross margins were 64%, 63% and 63% in 2010, 2009 and 2008, respectively. Changes in margins between periods relate primarily to changes in product mix. Margins improved from 2009 from the effects of efficiencies resulting from investments in manufacturing facilities and equipment.

Animal Safety gross margins were 38%, 37% and 38% in 2010, 2009 and 2008, respectively. Changes in margins between periods relate primarily to product mix.

## OPERATING EXPENSES

<i>(dollars in thousands)</i>	<u>2010</u>	<u>Increase</u>	<u>2009</u>	<u>Increase</u>	<u>2008</u>
Sales and Marketing	\$26,350	15%	\$22,906	11%	\$20,648
General and Administrative	13,488	17%	11,484	5%	10,927
Research and Development	6,258	37%	4,555	25%	3,639

Sales and marketing expense categories increased by 15% in 2010 and by 11% in 2009 as compared with the prior year. As a percentage of sales, sales and marketing expense remained at 19% in 2010 as compared to 19% in 2009 and 20% in 2008. Management plans to continue to expand the Company's sales and marketing efforts both domestically and internationally and currently expects related expenses to remain approximately 20% as expressed as a percentage of sales.

General and administrative expenses increased by 17% in 2010 and by 5% in 2009. These expenses have decreased from 11% to 10%, as a percentage of sales, over the past three fiscal years. Dollar increases in 2010 and 2009 resulted primarily from the acquisitions as well as due to increased levels of operations and added amortization related to businesses acquired. Percent decreases resulted from the fixed nature of many of these expenses.

Research and development expenses increased by 37% in 2010 and 25% in 2009 in comparison with 2009 and 2008. As a percentage of revenue these expenses were 4% in each of the years ended May 31, 2010, 2009 and 2008, respectively. Although some fluctuation in research and development expenses will occur, management expects research and development expenses to approximate 4-6% of revenues over time. These expenses approximate 8% to 10% of revenues from products and product lines that are supported by research and development. Certain Company products require relatively less investment in research and development expenses.

## OPERATING INCOME

<i>(dollars in thousands)</i>	<u>2010</u>	<u>Increase</u>	<u>2009</u>	<u>Increase</u>	<u>2008</u>
Operating Income	\$26,879	31%	\$20,488	14%	\$18,019

During fiscal year 2010 and 2009, the Company's operating income increased by 31% and 14% as compared to the respective prior year. As a percentage of revenues it was 19%, 17% and 18% in 2010, 2009 and 2008 respectively. The Company has been successful in improving its operating income in 2010 and 2009 from revenue and gross margin growth from existing products and acquisitions and from control of distribution and administrative costs.

## OTHER INCOME (NET)

<i>(dollars in thousands)</i>	<u>2010</u>	<u>(Decrease)</u>	<u>2009</u>	<u>Increase</u>	<u>2008</u>
Other Income—Interest and Other (Net)	\$442	(61%)	\$1,136	137%	\$479

Other income decreased by 61% in comparison with 2009 and increased by 137% in 2009 in comparison with 2008. Interest income is a result of the Company's increase in cash and cash equivalent cash position in the periods offset by decreased interest rates. The company follows a very conservative investment philosophy that in the current market results in rates of less than 1%. Investment earnings were \$81,000 in 2010, \$258,000 in fiscal 2009 and \$442,000 in 2008. In 2010 and in 2009 other income also included \$181,000 and \$429,000 in royalty income and \$80,000 in 2010 and \$355,000 in 2009 of gains from foreign currency transactions. In general no such other income was earned in 2008.

## FEDERAL AND STATE INCOME TAXES

<i>(dollars in thousands)</i>	<u>2010</u>	<u>Increase</u>	<u>2009</u>	<u>Increase</u>	<u>2008</u>
Federal and State Income Taxes	\$9,800	26%	\$7,750	21%	\$6,400

Expressed as a percentage of income before tax, the tax provision was 36% in 2010, 36% in 2009 and 35% in 2008. Fluctuations in the tax rate is the result from an increase of the Company's federal tax rate to 35%, the localities where income is earned in any year and tax credits. Other than rate, the increase in the tax provision is primarily a function of the increase in pre-tax income of the Company.

## NET INCOME AND NET INCOME PER SHARE

<i>(dollars in thousands-except per share data)</i>	<u>2010</u>	<u>Increase</u>	<u>2009</u>	<u>Increase</u>	<u>2008</u>
Net Income	\$17,521	26%	\$13,874	15%	\$12,098
Net Income Per Share-Basic	\$ .78		\$ .63		\$ .56
Net Income Per Share-Diluted	\$ .76		\$ .61		\$ .54

Net income and net income per share increased by 26% in 2010 and 15% in 2009 in comparison with the prior years. As a percentage of revenue, net income was 12%, in each year. All of the above factors contributed to the increase in net income.

## **FUTURE OPERATING RESULTS**

Neogen Corporation's future operating results involve a number of risks and uncertainties. Actual events or results may differ materially from those discussed in this report. Factors that could cause or contribute to such differences include, but are not limited to, the factors discussed below as well as those discussed elsewhere in this report. Management's ability to grow the business in the future depends upon its ability to successfully implement various strategies, including:

- developing, manufacturing and marketing new products with new features and capabilities;
- expanding the Company's markets by fostering increased use of Company products by customers;
- maintaining gross and net operating margins in changing cost environments;
- strengthening sales and marketing activities in geographies outside of the U.S.;
- developing and implementing new technology development strategies; and
- identifying and completing acquisitions that enhance existing businesses or create new business areas.

## **FINANCIAL CONDITION AND LIQUIDITY**

On May 31, 2010, the Company had \$22,806,000 in cash and cash equivalents, working capital of \$68,987,000 and stockholders' equity of \$153,053,000. In addition to cash and cash equivalents, a bank line with unused borrowings of \$10,000,000 was available to support ongoing operations or to make acquisitions.

Cash and cash equivalents increased \$8,964,000 during 2010. Cash provided from operations was \$27,988,000 and stock option exercise proceeds provided an additional \$5,900,000 of cash. Additions to property and equipment and other non-current assets used cash of \$5,431,000.

Accounts receivable increased \$4,070,000 or 17% when compared to May 31, 2009. This resulted from increased sales, as a result of organic sales growth and acquisitions offset by some decrease of average days outstanding. These accounts are being actively managed and no losses thereon in excess of amounts reserved are currently expected. Days sales outstanding decreased from 60 days at May 31, 2009 to 59 days at May 31, 2010.

Inventory levels decreased by less than 1% or \$47,000 in 2010 as compared to 2009. Despite higher levels of sales and acquisitions, management was able to maintain a program to decrease inventory on hand while supplying the customers with shipments within 48 hours of placing an order. The Company continued programs aimed at reducing inventory and expects to continue those programs into the future.

The Company has no construction in progress and facilities are generally believed to be adequate to support existing operations in the short run.

Neogen has been profitable from operations for its last 69 quarters and has generated positive cash flow from operations during the period. However, the Company's current funds may not be sufficient to meet the Company's cash requirements to commercialize products currently under development or its plans to acquire additional technology and products that fit within the Company's mission statement. Accordingly, the Company may be required to or may choose to issue equity securities or enter into other financing arrangements for a portion of the Company's future capital needs.

The Company is subject to certain legal and other proceedings in the normal course of business that, in the opinion of management, will not have a material effect on its results of operations or financial position.



## CONTRACTUAL OBLIGATIONS

The Company has the following contractual obligations due by period:

<i>(in thousands)</i>	Total	Less than one year	1-3 years	3-5 years	More than 5 years
Long-Term Debt	\$ —	\$ —	\$ —	\$ —	\$ —
Operating Leases	665,000	313,000	352,000	—	—
Unconditional Purchase Obligations	13,850,000	13,850,000	—	—	—
	<u>\$14,515,000</u>	<u>\$14,163,000</u>	<u>\$352,000</u>	<u>\$ —</u>	<u>\$ —</u>

## NEW ACCOUNTING PRONOUNCEMENTS

See discussion of any New Accounting Pronouncements in Note 1 to Consolidated Financial Statements.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS

The Company has moderate interest rate and foreign exchange rate risk exposure and no long-term fixed rate investments or borrowings. The Company's primary interest rate risk is due to potential fluctuations of interest rates for variable rate borrowings.

Because Neogen markets and sells its products throughout the world, it could be affected by weak economic conditions in foreign markets that could reduce the demand for its products. Sales in certain foreign countries as well as certain expenses related to those sales are transacted in currencies other than the U.S. dollar. The Company's operating results are primarily exposed to changes in exchange rates between the U.S. dollar and the British Pound and Euro. When the U.S. dollar weakens against foreign currencies, the dollar value of sales denominated in foreign currencies increases. When the U.S. dollar strengthens, the opposite situation occurs.

Neogen has assets, liabilities and operations outside of the United States that are located primarily in Ayr, Scotland where the functional currency is the British Pound Sterling. To a lesser extent it also has assets, liabilities and operations in Mexico where the functional currency is the Mexican Peso and in Brazil where the functional currency is the Real. The Company's investment in its foreign subsidiaries are considered long-term; accordingly, it does not hedge the net investment nor does it generally engage in other foreign currency hedging activities due to the insignificance of these balances to the Company as a whole. It does however use strategies to reduce current exposure to currency fluctuations.

## ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTAL DATA

The response to this item is submitted in a separate section of this report.

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

There were no disagreements or reportable events with Ernst & Young LLP.

## ITEM 9A. CONTROLS AND PROCEDURES

### Evaluation of Disclosure Controls and Procedures

An evaluation was performed under the supervision and with the participation of the Company's management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedure (as defined in Rule 13-a-15 (e) under the Securities Exchange Act of 1934) as of May 31, 2010. Based on and as of the time of such evaluation, the Company's Management, including the Chief Executive Officer and Chief Financial Officer, concluded that the Company's disclosure controls and procedures were effective as of the end of the period covered by this report to ensure that information required to be disclosed in the reports that are filed or submitted under the Exchange Act are recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and to ensure the information required to be disclosed

in the reports that are filed or submitted under the Exchange Act are accumulated and communicated to management, including our Chief Executive Officer and our Chief Financial Officer to allow timely decisions regarding required disclosure.

### **Management's Report on Internal Control Over Financial Reporting**

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13-a-15(f) and 15d-15(f). Under the supervision and with the participation of the company's management, including the Chief Executive Officer and Chief Financial Officer, an evaluation was conducted as to the effectiveness of internal control over financial reporting as of May 31, 2010, based on the framework in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on that evaluation, management concluded that internal control over financial reporting was effective as of May 31, 2010. The effectiveness of internal control over financial reporting as of May 31, 2010, has been audited by Ernst & Young, LLP, an independent registered public accounting firm, as stated in its attestation report, which is included in Item 8 and is incorporated into this Item 9A by reference.

Our assessment of and conclusion on the effectiveness of internal control over financial reporting did not include the internal controls of GeneSeek, Inc., which are included in the consolidated financial statements of Neogen Corporation and Subsidiaries and constituted 11% and 10% of total assets and net assets, as of May 31, 2010 and 1% and 4% of revenues and net income respectively, for the year then ended.

### **Changes in Internal Control over Financial Reporting.**

Except for the acquisition of GeneSeek, Inc., no changes in internal control over financial reporting were identified as having occurred during the quarter ended May 31, 2010 that have materially affected, or are reasonably likely to materially affect, internal control financial reporting.

## **Report of Independent Registered Public Accounting Firm**

The Board of Directors and Shareholders of Neogen Corporation

We have audited Neogen Corporation and subsidiaries' internal control over financial reporting as of May 31, 2010, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Neogen Corporation and subsidiaries' management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying "Management's Report on Internal Control Over Financial Reporting". Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

As indicated in the accompanying Management's Report on Internal Control over Financial Reporting, management's assessment of and conclusion on the effectiveness of internal control over financial reporting did not include the internal controls of GeneSeek, Inc, which is included in the consolidated financial statements of Neogen Corporation and subsidiaries and constituted 11% and 10% of total and net assets, respectively, as of May 31, 2010 and 1% and 4% of revenues and net income, respectively, for the year then ended. Our audit of internal control over financial reporting of Neogen Corporation and subsidiaries also did not include an evaluation of the internal control over financial reporting of GeneSeek, Inc.

In our opinion, Neogen Corporation and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of May 31, 2010, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Neogen Corporation and subsidiaries as of May 31, 2010 and 2009, and the related consolidated statements of income, equity, and cash flows for each of the three years in the period ended May 31, 2010, and our report dated August 16, 2010 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Grand Rapids Michigan  
August 16, 2010

## ITEM 9B. OTHER INFORMATION – NONE

### PART III

#### ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT AND CORPORATE GOVERNANCE

Information regarding the Company and certain corporate governance matters appearing under the captions “Election of Directors”, “Audit Committee”, and “Miscellaneous-Section 16(a) Beneficial Ownership Reporting Compliance” in the 2010 proxy statement is included herein by reference.

The Company has adopted a Code of Conduct that applies to all of its directors, officers and employees. The Company has made a copy of this Code of Conduct available on its Website at [http://www.neogen.com/pdf/Code\\_of\\_Conduct.pdf](http://www.neogen.com/pdf/Code_of_Conduct.pdf).

#### OFFICERS AND OTHER KEY INDIVIDUALS OF THE REGISTRANT

The officers of Neogen are elected by and serve at the discretion of the Board of Directors. The names and occupations of the Company’s officers are set forth below.

<u>Name</u>	<u>Position with the Company</u>	<u>Year Joined the Company</u>
Lon M. Bohannon	President & Chief Operating Officer, Director	1985
Edward L. Bradley	Vice President, Food Safety	1995
Richard R. Current	Vice President & Chief Financial Officer and Secretary	1999
James L. Herbert	Chairman of the Board & Chief Executive Officer	1982
Kenneth V. Kodilla	Vice President, Manufacturing	2003
Joseph M. Madden, Ph.D.	Vice President, Scientific Affairs	1997
Anthony E. Maltese	Vice President, Corporate Development	1999
Terri A. Morrical	Vice President, Animal Safety	1992
Mark A. Mozola, Ph.D.	Vice President, Research & Development	2001

There are no family relationships among officers. Information concerning the executive officers of Neogen follows:

Lon M. Bohannon, age 57, joined the Company in October 1985 as Vice President of Finance, was promoted to Chief Financial Officer in June 1987, was promoted to Vice President Administration and Chief Financial Officer in November 1994, was elected to the Board of Directors in October 1996, and was named Chief Operating Officer in September 1999. Mr. Bohannon was named President & Chief Operating Officer in June 2006. He is responsible for all Company operations except research, Neogen Europe and corporate development. A CPA, he was Administrative Controller for Federal Forge, Inc., a metal forging and stamping firm, from March 1980 until October 1985, and was associated with the public accounting firm of Ernst & Young LLP from June 1975 to March 1980.

Edward L. Bradley, age 50, joined Neogen in February 1995 as Vice President of Sales and Marketing for AMPCOR Diagnostics, Inc. In June 1996, he was made a Vice President of Neogen Corporation. In June 2006, Mr. Bradley was named Vice President Food Safety. From 1988 to 1995, Mr. Bradley served in several sales and marketing capacities for Mallinckrodt Animal Health, including the position of National Sales Manager responsible for 40 employees in its Food Animal Products Division. Prior to joining Mallinckrodt, he held several sales and marketing positions for Stauffer Chemical Company.

Richard R. Current, age 66, joined the Company in November 1999 as Vice President & Chief Financial Officer. In 2007 he was appointed as Secretary of the Company. Prior to joining Neogen, Mr. Current served as Executive Vice President and Chief Financial Officer of Integral Vision, Inc. from 1994 to 1999 and as Vice President and Chief Financial Officer of the Shane Group, Inc., a privately held company from 1991 to 1994. Mr. Current was associated with the public accounting firm of Ernst & Young LLP for 24 years and served as Managing Partner of the Lansing, Michigan office from 1986 to 1991.

James L. Herbert, age 70, has been Chief Executive Officer and a director of the Company since he joined Neogen in June 1982. He served as President from June 1982 through June 2006. From 1999 to 2001 he was Chairman of the Company's Board; and was again named Chairman in June 2006. He previously held the position of Corporate Vice President of DeKalb Ag Research, a major agricultural genetics and energy company. He has management experience in animal biologics, specialized chemical research, medical instruments, aquaculture, animal nutrition, and poultry and livestock breeding and production.

Kenneth V. Kodilla, age 53, joined the Company in November 2003 as Vice President of Manufacturing. He has responsibility for all manufacturing, inventory management, shipping and quality system operations for the Company's Food Safety Division in Lansing, Michigan. Prior to Neogen, Mr. Kodilla served as plant manager for Facet Technologies in Atlanta, Georgia from 2001, as Manufacturing Manager for Becton Dickinson and Difco Laboratories from 1988, and as Quality Manager for Lee Laboratories from 1984. Mr. Kodilla's manufacturing and regulatory experience includes FDA/ISO regulated Class and diagnostic reagents and devices, high volume automated assembly and packaging, materials management and plant operations.

Dr. Joseph M. Madden, age 61, joined Neogen in December 1997 as Vice President of Scientific Affairs after retiring from the Food and Drug Administration as its Microbiology Strategic Manager. He joined the FDA in 1978 and spent his first 10 years as a research microbiologist for the agency. Dr. Madden has served on numerous committees on food safety, including his current appointment to the National Advisory Committee on Microbiological Criteria for Foods. He is regarded by regulatory agencies and the food industry as being one of the nation's top experts on both scientific and regulatory issues relating to food safety.

Anthony E. Maltese, age 67, joined Neogen on June 1, 1999 as Manager of Corporate Development. He was promoted to Vice President in October 2000. Prior to joining Neogen, Mr. Maltese served as Vice President of Business Development for Creatogen Biosciences, GmbH of Angsburg, Germany. From 1990 to 1998, he worked in production and special project management positions for REMEL, Inc. including Manager of Business Development. Prior to REMEL, Mr. Maltese spent 20 years at Difco Laboratories, where he served in several management positions in the areas of purchasing, technical sales support, production and research.

Terri A. Morrical, age 45, joined Neogen Corporation on September 1, 1992 as part of the Company's acquisition of WTT, Incorporated. In June 2006, Ms. Morrical was named Vice President, Animal Safety. From 1986 to 1991, she was Controller for Freeze Point Cold Storage Systems and concurrently served in the same capacity for Powercore, Inc. In 1990, she joined WTT, Incorporated as VP/CFO and then became President, the position she held at the time Neogen acquired the business.

Dr. Mark A. Mozola, age 54, became Neogen's Vice President of Research and Development in 2001 following the Company's acquisition of GENE-TRAK Systems. He served in various technical and managerial positions at GENE-TRAK Systems for 16 years, most recently as General Manager. He has also served as a Laboratory Director for Silliker Laboratories. Dr. Mozola's particular technical expertise is in the area of development of modern, rapid methods for the detection of foodborne pathogens.

The Board of Directors has also named a Scientific Review Council to serve at the pleasure of the Board. The Scientific Review Council meets several times annually to review the research progress of the Company and to recommend or approve new research and product development activities of the Company.

**ITEM 11. EXECUTIVE COMPENSATION**

The information required by this Item is incorporated by reference to Neogen's Proxy Statement to be filed within 120 days of May 31, 2010.

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

The information required by this Item is incorporated by reference to Neogen's Proxy Statement to be filed within 120 days of May 31, 2010.

**ITEM 13. CERTAIN RELATIONSHIPS, RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE**

Jack C. Parnell, a Director of the Company, is a governmental relations advisor to the law firm of Kahn, Soares & Conway. Kahn, Soares & Conway an arrangement with Neogen to represent it in governmental relations matters. The Company pays Kahn, Soares & Conway a monthly fee of \$750 for up to ten hours of consulting. The arrangement with Kahn, Soares & Conway is terminable by either party at the end of any month with 30 days notice.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The information required by this item is incorporated by reference to Neogen's proxy statement to be filed within 120 days of May 31, 2010.

## **PART IV**

### **ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) (1) and (2) and (c). The response to this portion of ITEM 15 is submitted as a separate section of this report.

(a) (3). The Exhibits listed on the accompanying Exhibits Index, which immediately follows the signature page, is incorporated herein by reference.





Neogen Corporation  
Annual Report on Form 10-K  
Year Ended May 31, 2010

**EXHIBIT INDEX**

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
4.1	Articles of Incorporation, as restated (Incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q dated February 29, 2000).
4.2	By-Laws, as amended (Incorporated by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q dated February 29, 2000).
10.5	Neogen Corporation 2002 Employee Stock Purchase Plan Agreement (Incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 (No. 333-101638) filed December 4, 2002).
10.6	Neogen Corporation 401(k) Retirement Savings Plan Agreement (Incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 (No. 333-101639) filed December 4, 2002).
10.7	Neogen Corporation 1997 Stock Option Plan, as amended (Incorporated by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-8 (No. 333-122110) filed January 18, 2005).
10.9	Neogen Corporation 2007 Stock Option Plan, (Incorporated by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-8 (No. 333-148283) filed December 21, 2007).
10.10	Asset purchase agreement between Registrant and Kane Enterprises dated August 24, 2007 (Incorporated by reference to Exhibit 10.9 to the Registrants Current Report on Form 8-K dated August 29, 2007).
10.11	Line of Credit Note between Registrant and JP Morgan Chase NA Dated May 20, 2010.
10.12	Credit Agreement between Registrant and JP Morgan Chase NA Dated May 20, 2010.
10.13	Stock Purchase Agreement between Registrant and the Stockholders of GeneSeek, Inc. Dated April 1, 2010; and amendment thereto dated June 28, 2010
21	Subsidiaries of the Registrant
23(a)	Consent of Independent Registered Public Accounting Firm Ernst & Young LLP.
24.2	Power of Attorney.
31.1	Section 302 Certification of Principal Executive Officer.
31.2	Section 302 Certification of Principal Financial Officer.
32	Certification Pursuant to 18 U.S.C Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

ANNUAL REPORT ON FORM 10-K

ITEM 15 (a)(1)(2) (3) (a) and (c)

LIST OF FINANCIAL STATEMENTS, EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

YEAR ENDED MAY 31, 2010

NEOGEN CORPORATION

LANSING, MICHIGAN

FORM 10-K—ITEM 15(a)(1) AND (2)

LIST OF FINANCIAL STATEMENTS AND FINANCIAL STATEMENT SCHEDULES

The following consolidated financial statements of Neogen Corporation and subsidiaries are included in ITEM 8:

Report of Independent Registered Public Accounting Firm on Financial Statements

Consolidated Balance Sheets—May 31, 2010 and 2009

Consolidated Statements of Income—Years ended May 31, 2010, 2009 and 2008

Consolidated Statements of Stockholders' Equity—Years ended May 31, 2010, 2009 and 2008

Consolidated Statements of Cash Flows—Years ended May 31, 2010, 2009 and 2008

Notes to Consolidated Financial Statements

Schedules for which provision is made in the applicable accounting regulation of the United States Securities and Exchange Commission are not required under the related instructions or are inapplicable and, therefore, have been omitted.

FORM 10-K – Item 15 (a) (3)

A list of Exhibits required to be filed as a part of this report is set forth in the Exhibit Index, which immediately follows the signature page, and is incorporated herein by reference.

## **Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders of Neogen Corporation

We have audited the accompanying consolidated balance sheets of Neogen Corporation and subsidiaries (the Company) as of May 31, 2010 and 2009, and the related consolidated statements of income, equity, and cash flows for each of the three years in the period ended May 31, 2010. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Neogen Corporation and subsidiaries at May 31, 2010 and 2009, and the consolidated results of their operations and their cash flows for each of the three years in the period ended May 31, 2010, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Neogen Corporation and subsidiaries' internal control over financial reporting as of May 31, 2010, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated August 16, 2010 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Grand Rapids Michigan  
August 16, 2010

**Neogen Corporation and Subsidiaries**  
**Consolidated Balance Sheets – Assets**  
(Dollars in thousands)

	May 31,	
	2010	2009
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 22,806	\$ 13,842
Accounts receivable, less allowance of \$600 at May 31, 2010 and 2009	27,433	23,363
Inventories	31,316	31,363
Deferred income taxes	774	200
Prepaid expenses and other current assets	3,691	2,998
<b>Total Current Assets</b>	<b>86,020</b>	<b>71,766</b>
<b>Property and Equipment</b>		
Land and improvements	1,181	1,175
Buildings and improvements	13,330	11,184
Machinery and equipment	19,474	17,008
Furniture and fixtures	767	806
	<u>34,752</u>	<u>30,173</u>
Less accumulated depreciation	15,572	13,115
<b>Net Property and Equipment</b>	<b>19,180</b>	<b>17,058</b>
<b>Other Assets</b>		
Goodwill	52,899	39,717
Other non-amortizable intangible assets	4,139	3,730
Amortizable customer based intangibles, net of accumulated amortization of \$4,002 and \$2,861 at May 31, 2010 and 2009	13,021	6,143
Other non-current assets, net of accumulated amortization of \$1,822 and \$1,663 at May 31, 2010 and 2009	4,974	3,762
<b>Total Other Assets</b>	<b>75,033</b>	<b>53,352</b>
	<u><b>\$180,233</b></u>	<u><b>\$142,176</b></u>

See accompanying notes to consolidated financial statements.

**Neogen Corporation and Subsidiaries**  
**Consolidated Balance Sheets – Liabilities and Equity**  
(Dollars in thousands, except per share)

	<u>May 31,</u>	
	<u>2010</u>	<u>2009</u>
<b>Liabilities and Equity</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 7,187	\$ 3,909
Accruals		
Compensation and benefits	2,346	2,519
Federal income taxes	2,838	667
Other	4,662	2,151
<b>Total Current Liabilities</b>	<u>17,033</u>	<u>9,246</u>
<b>Deferred Income Taxes</b>	5,824	2,725
<b>Other Long-Term Liabilities</b>	4,323	1,526
<b>Total Liabilities</b>	<u>27,180</u>	<u>13,497</u>
<b>Equity</b>		
Preferred stock, \$1.00 par value - shares authorized 100,000; none issued and outstanding	—	—
Common stock, \$0.16 par value - shares authorized 30,000,000; 22,625,399 and 22,105,329 shares issued and outstanding at May 31, 2010 and 2009	3,621	3,537
Additional paid-in capital	69,550	61,535
Accumulated other comprehensive loss	(1,676)	(430)
Retained earnings	81,170	63,611
<b>Total Neogen Corporation and Subsidiaries</b>		
Stockholders Equity	152,665	128,253
Noncontrolling interest	388	426
<b>Total Equity</b>	<u>153,053</u>	<u>128,679</u>
	<u>\$180,233</u>	<u>\$142,176</u>

See accompanying notes to consolidated financial statements.

**Neogen Corporation and Subsidiaries**  
**Consolidated Statements of Income**  
(Dollars in thousands, except per share)

	Year Ended May 31		
	2010	2009	2008
Net Sales	\$140,509	\$118,721	\$102,418
Cost of Goods Sold	67,534	59,288	49,185
Gross Margin	72,975	59,433	53,233
Operating Expenses			
Sales and marketing	26,350	22,906	20,648
General and administrative	13,488	11,484	10,927
Research and development	6,258	4,555	3,639
	<u>46,096</u>	<u>38,945</u>	<u>35,214</u>
Operating Income	26,879	20,488	18,019
Other Income			
Interest income	81	248	442
Royalty income	181	429	—
Other, net	180	459	37
	<u>442</u>	<u>1,136</u>	<u>479</u>
Income Before Income Taxes	27,321	21,624	18,498
Provision for Income Taxes	9,800	7,750	6,400
Net Income	<u>\$ 17,521</u>	<u>\$ 13,874</u>	<u>\$ 12,098</u>
Net Income Per Share			
Basic	\$ 0.78	\$ 0.63	\$ 0.56
Diluted	\$ 0.76	\$ 0.61	\$ 0.54

See accompanying notes to consolidated financial statements.

**Neogen Corporation and Subsidiaries**  
**Consolidated Statements of Equity**  
(Dollars in thousands, except share amounts)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Noncontrolling Interest	Total Equity
	Shares	Amount					
Balance, June 1, 2007	21,031,209	\$3,365	\$ 50,577	\$ 386	\$37,617	\$	91,945
Exercise of options and warrants, net of share based compensation, including \$747,000 income tax benefit	724,440	116	6,827				6,943
Issuance of shares under Employee Stock Purchase Plan	21,767	3	224				227
Comprehensive income:							
Net income for 2008					12,098		12,098
Foreign currency translation adjustments				35			35
Total comprehensive income							12,133
Balance, May 31, 2008	21,777,416	3,484	57,628	421	49,715	—	111,248
Exercise of options and warrants, net of share based compensation, including \$682,000 income tax benefit	382,782	62	4,523				4,585
Issuance of shares under Employee Stock Purchase Plan	19,815	3	295				298
Repurchase and retirement of Common Stock	(74,684)	(12)	(911)				(923)
Noncontrolling interest attributable to acquisition of majority owned subsidiary						448	448
Comprehensive income:							
Net income (loss) for 2009					13,896	(22)	13,874
Foreign currency translation adjustments				(851)			(851)
Total comprehensive income							13,023
Balance, May 31, 2009	22,105,329	3,537	61,535	(430)	63,611	426	128,679

**Neogen Corporation and Subsidiaries**  
**Consolidated Statements of Equity (cont.)**  
(Dollars in thousands, except share amounts)

	<u>Common Stock</u>		<u>Additional Paid-in Capital</u>	<u>Accumulated Other Comprehensive Income (Loss)</u>	<u>Retained Earnings</u>	<u>Noncontrolling Interest</u>	<u>Total Equity</u>
	<u>Shares</u>	<u>Amount</u>					
Exercise of options and warrants, net of share based compensation, including \$709,000 income tax benefits	500,242	80	7,687				7,767
Issuance of shares under Employee Stock Purchase Plan	19,828	4	328				332
Comprehensive income:							
Net income (loss) for 2010					17,559	(38)	17,521
Foreign currency translation adjustments				(1,246)			(1,246)
Total comprehensive income							16,275
Balance, May 31, 2010	<u>22,625,399</u>	<u>\$3,621</u>	<u>\$ 69,550</u>	<u>\$ (1,676)</u>	<u>\$81,170</u>	<u>\$ 388</u>	<u>\$153,053</u>

See accompanying notes to consolidated financial statements.



**Neogen Corporation and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
(Dollars in thousands)

	Year Ended May 31		
	2010	2009	2008
<b>Cash Flows From Operating Activities</b>			
Net income	\$ 17,521	\$ 13,874	\$ 12,098
Adjustments to reconcile net income to net cash provided from operating activities:			
Depreciation and amortization	4,435	3,890	3,516
Deferred income taxes	(200)	1,550	450
Share based compensation	2,237	1,967	1,892
Excess income tax benefit from the exercise of stock options	(709)	(682)	(747)
Other	(207)	—	253
Changes in operating assets and liabilities, net of business acquisitions:			
Accounts receivable	(2,240)	(4,075)	(3,869)
Inventories	64	(3,698)	(6,364)
Prepaid expenses and other current assets	390	(49)	(122)
Accounts payable	3,008	(2,648)	1,666
Accruals and other changes	3,689	856	(900)
<b>Net Cash From Operating Activities</b>	<b>27,988</b>	<b>10,985</b>	<b>7,873</b>
<b>Cash Flows Used In Investing Activities</b>			
Purchases of property, equipment and other noncurrent assets	(5,431)	(2,836)	(2,471)
Business acquisitions, net of cash acquired	(20,302)	(11,134)	(10,147)
<b>Net Cash Used In Investing Activities</b>	<b>(25,733)</b>	<b>(13,970)</b>	<b>(12,618)</b>
<b>Cash Flows From Financing Activities</b>			
Exercise of options	5,900	2,916	5,060
Repurchase of common stock	—	(923)	—
Excess income tax benefit from the exercise of stock options	709	682	747
Increase (Decrease) in other long-term liabilities	100	(118)	(216)
<b>Net Cash From Financing Activities</b>	<b>6,709</b>	<b>2,557</b>	<b>5,591</b>
<b>Net Increase (Decrease) In Cash and Cash Equivalents</b>	<b>8,964</b>	<b>(428)</b>	<b>846</b>
<b>Cash And Cash Equivalents At Beginning Of Year</b>	<b>13,842</b>	<b>14,270</b>	<b>13,424</b>
<b>Cash And Cash Equivalents At End Of Year</b>	<b>\$ 22,806</b>	<b>\$ 13,842</b>	<b>\$ 14,270</b>
<b>Supplement Cash Flow Information</b>			
Income taxes paid, net of refunds	\$ 6,283	\$ 7,386	\$ 7,475

See accompanying notes to consolidated financial statements.

## **Neogen Corporation and Subsidiaries**

### **Notes to Consolidated Financial Statements**

#### 1. Summary of Accounting Policies

##### Nature of Operations

Neogen Corporation develops, manufactures, and sells a diverse line of products dedicated to food safety testing and animal health applications.

##### Basis of Consolidation

The consolidated financial statements include the accounts of Neogen Corporation and its subsidiaries (collectively, the Company), all of which are wholly owned, with the exception of Neogen Latinoamerica S.A.P.I. DE C.V., which is 60% owned and Neogen do Brazil, which is 98% owned. Noncontrolling interest represents the noncontrolling owner's proportionate share in the equity of the Company's majority owned subsidiaries. The noncontrolling owner's proportionate share in the income or losses of the Company's majority owned subsidiaries is included in other income, net in the statements of income.

All intercompany accounts and transactions have been eliminated in consolidation.

Share and per share amounts reflect the December 15, 2009 3 for 2 stock split as if it took place at the beginning of the periods presented.

##### Use of Estimates

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

##### Comprehensive Income

Comprehensive income represents net income and any revenues, expenses, gains and losses that, under U.S. generally accepted accounting principles, are excluded from net income and recognized directly as a component of stockholders' equity. Accumulated other comprehensive income (loss) consists solely of foreign currency translation adjustments.

##### Accounts Receivable and Concentrations of Credit Risk

Financial instruments which potentially subject the Company to concentrations of credit risk consist principally of accounts receivable. Management attempts to minimize credit risk by reviewing customers' credit history before extending credit and by monitoring credit exposure on a regular basis. An allowance for possible losses on accounts receivable is established based upon factors surrounding the credit risk of specific customers, historical trends and other information. Collateral or other security is generally not required for accounts receivable. One customer accounted for more than 10% of accounts receivable at May 31, 2010 and 2009. As of May 31, 2010 and 2009 the balance due from that customer was \$2,608,000 or 10% and \$2,879,000 or 12%, respectively of the total of all outstanding accounts receivables.

The Company maintains a valuation allowance for accounts receivable of \$600,000 at May 31, 2010 and May 31, 2009. Expenses related to uncollectable accounts and allowance adjustments were \$242,000, \$199,000 and \$54,000 in 2010, 2009 and 2008, respectively. Write-offs were \$242,000, \$99,000 and \$54,000 in May 31, 2010, 2009 and 2008, respectively.

##### Fair Value of Financial Instruments

The carrying amounts of the Company's financial instruments, including accounts receivable, accounts payable, and accrued expenses approximate fair value based on either their short maturity or current terms for similar instruments.

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

**Cash and Cash Equivalents**

Cash and cash equivalents consist of bank demand and savings deposits and short term domestic certificates of deposit with maturities of 90 days or less. Cash equivalents were \$13,987,000 and \$5,344,000 at May 31, 2010 and 2009, respectively. The carrying value of these assets approximates fair value.

**Inventories**

Inventories are stated at the lower of cost, determined on the first-in, first-out method, or market. The components of inventories were as follows:

	<u>May 31</u>	
	<u>2010</u>	<u>2009</u>
Raw materials	\$11,815,000	\$11,183,000
Work-in-process	1,958,000	1,425,000
Finished and purchased finished goods	<u>17,543,000</u>	<u>18,755,000</u>
	<u>\$31,316,000</u>	<u>\$31,363,000</u>

No less frequently than quarterly, inventory is analyzed for slow moving and obsolete inventory and the valuation allowance adjusted as required. Write offs against the allowance are not separately identified. The valuation allowance for inventory was \$1,000,000, \$1,025,000 and \$700,000 at May 31, 2010, 2009 and 2008.

**Property and Equipment**

Property and equipment is stated at cost. Expenditures for major improvements are capitalized while repairs and maintenance are charged to expense. Depreciation is provided on the straight-line method over the estimated useful lives of the respective assets, which are generally seven to thirty-nine years for buildings and improvements and three to five years for furniture, machinery and equipment. Depreciation expense was \$2,734,000, \$2,560,000, and \$2,360,000 in 2010, 2009 and 2008, respectively.

**Goodwill and Other Intangible Assets**

Goodwill represents the excess of purchase price over fair value of tangible net assets of acquired businesses after amounts allocated to other intangible assets. In general, goodwill is amortizable for tax purposes over 15 years. Other intangible assets include customer relationships, trademarks, licenses, trade names and patents. Amortizable intangible assets are amortized on either an accelerated or a straight-line basis over five to twenty years. The Company reviews the carrying amounts of goodwill and other non-amortizable intangible assets annually to determine if such assets may be impaired. If the carrying amounts of these assets are deemed to be less than fair value based upon a discounted cash flow analysis and comparison to comparable EBITDA multiples of peer companies, such assets are reduced to their estimated fair value. The remaining weighted-average amortization period for customer based intangibles and other intangibles is 13 and 10 years respectively at May 31, 2010.

## Neogen Corporation and Subsidiaries

### Notes to Consolidated Financial Statements

#### Long-lived Assets

Management reviews the carrying values of its long-lived assets for possible impairment whenever events or changes in business conditions indicate that the carrying amount of the assets may not be recoverable. Impairment is first evaluated by comparing the carrying value of the long-lived assets to undiscounted future cash flows over the remaining useful life of the assets. If the undiscounted cash flows are less than the carrying value of the assets, the fair value of the long-lived assets is determined, and if lower than the carrying value, impairment is recognized.

#### Reclassifications

Certain amounts in the 2009 and 2008 financial statements have been reclassified to conform to the 2010 presentation.

#### Stock Options

At May 31, 2010, the Company had stock option plans that are described more fully in Note 5.

The weighted-average fair value per share of stock options granted during 2010, 2009 and 2008, estimated on the date of grant using the Black-Scholes option pricing model, was \$6.35, \$5.44 and \$4.61 respectively. The fair value of stock options granted was estimated using the following weighted-average assumptions:

	Year ended May 31		
	2010	2009	2008
Risk-free interest rate	2.0%	2.9%	4.6%
Expected dividend yield	0%	0%	0%
Expected stock price volatility	37.8%	32.8%	34.2%
Expected option life	4.0 years	4.0 years	4.0 years

The risk-free interest rate for periods within the expected life of options granted is based on the United States Treasury yield curve in effect at the time of grant. Expected stock price volatility is based on historical volatility of the Company's stock. The expected option life, representing the period of time that options granted are expected to be outstanding, is based on historical option exercise and employee termination data. The Company recognizes the cost of stock options using the accelerated method over their requisite service periods which the Company has determined to be the vesting periods.

#### Revenue Recognition

Revenue from sales of products is recognized at the time title of goods passes to the buyer and the buyer assumes the risks and rewards of ownership, which generally is at the time of shipment. Where right of return exists, allowances are made at the time of sale to reflect expected returns based on historical experience.

#### Shipping and Handling Costs

Shipping and handling costs that are charged to and reimbursed by the customer are recognized as sales, while the related expenses incurred by the Company are recorded in sales and marketing expense and totaled \$4,494,000, \$4,266,000 and \$3,888,000 in 2010, 2009 and 2008, respectively.

#### Income Taxes

The Company accounts for income taxes using the liability method. Under this method, deferred income tax assets and liabilities are determined based on differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates in effect for the years in which the differences are expected to reverse. Deferred income tax expense represents the change in net deferred income tax assets and liabilities during the year.

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

No provision has been made for United States federal income taxes that may result from future remittances of the undistributed earnings of foreign subsidiaries because it is expected that such earnings will be reinvested overseas indefinitely. At May 31, 2010 unremitted earnings of the UK subsidiary were \$5,032,000.

**Research and Development Costs**

Research and Development costs are expensed as incurred.

**Advertising Costs**

Advertising costs are expensed as incurred and totaled \$633,000, \$603,000 and \$424,000 in 2010, 2009 and 2008, respectively.

**Net Income Per Share**

Basic net income per share is based on the weighted average number of common shares outstanding during each year. Diluted earnings per share is based on the weighted average number of common shares and dilutive potential common shares outstanding. The Company's dilutive potential common shares outstanding during the years result entirely from dilutive stock options and warrants. The following table presents the net income per share calculations:

	Year ended May 31,		
	2010	2009	2008
Numerator for basic and diluted net income per share - Net Income	\$17,521,000	\$13,874,000	\$12,098,000
Denominator - Denominator for basic net income per share weighted average shares	22,425,000	22,003,000	21,711,000
Effect of dilutive stock options and warrants	666,000	584,000	788,000
Denominator for diluted net income per share	23,091,000	22,587,000	22,499,000
Net income per share			
Basic	\$ .78	\$ 0.63	\$ 0.56
Diluted	\$ .76	\$ 0.61	\$ 0.54

In 2009, 417,000 options were excluded from the computations of net income per share as the option prices exceeded the average market price of the common shares. No options were excluded in 2008 and 2010.

**New Accounting Pronouncements**

In June 2009, the FASB issued Statement of Financial Accounting Standard ("FAS") No. 168 - The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles - a replacement of FASB Statement No. 162" (codified in ASC 105). This standard establishes the Accounting Standards Codification ("ASC" or Codification ") as the source of authoritative accounting principles recognized by FASB for all nongovernmental entities in the preparation of financial statements in accordance with GAAP. For SEC registrants, rules and interpretative releases of the SEC under federal securities laws are also considered authoritative sources of GAAP. The FASB will not issue new standards in the form of Statements, FASB Staff Positions ("FSP") or Emerging Issues Task Force ("EITF") Abstracts. Instead, it will issue Accounting Standard Updates ("ASUs"). ASUs will serve to update the Codification, provide background information about the guidance and provide the basis for conclusions on changes in the Codification. The provisions of this standard were effective for financial statements issued for interim and annual periods ending after

## Neogen Corporation and Subsidiaries

### Notes to Consolidated Financial Statements

September 15, 2009. Accordingly, the Company began to use the new guidelines and numbering system prescribed by the Codification when referring to GAAP for this period ended November 30, 2009. As the Codification was not intended to change or alter existing GAAP, it did not have any impact on our consolidated financial results or financial position.

On June 1, 2009, the Company adopted ASC 805 Business Combinations (ASC 805). This standard intended to converge rulemaking and reporting under U.S. Generally Accepted Accounting Principles (GAAP) with international accounting rules. ASC 805 establishes principles and requirements for how an acquirer in a business combination recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree, recognizes and measures the goodwill acquired in the business combination or a gain from a bargain purchase; and determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. The adoption of the standard had no material impact on the Company's results of operations or financial position at the date of adoption.

ASC 810 Consolidation (ASC 810) requires all entities to report non-controlling (minority) interests in subsidiaries as equity in the consolidated financial statements. Its intention is to eliminate the diversity in practice regarding the accounting for transactions between an entity and noncontrolling interests. The Company was required to adopt the provisions of both ASC 805 and ASC 810 simultaneously on June 1, 2009. The standards were adopted on June 1, 2009, and did not have a material impact on the Company's results of operations or financial position. The presentation and disclosure requirement were applied retrospectively.

Other recent ASU's issued by the FASB and guidance issued by the SEC did not, or are not believed by management to, have a material effect on the Company's present or future consolidated financial statements.

#### 2. Goodwill and Other Intangible Assets

The Company follows the provisions of ASC 350 – Intangibles Goodwill and Other (ASC 350). ASC 350 prohibits the amortization of goodwill and intangible assets with indefinite lives and requires that the Company evaluate these intangibles for impairment on an annual basis. Management has completed the required annual impairment tests of goodwill and intangible assets with indefinite lives as prescribed by ASC 350 as of the first day of the fourth quarter of 2010 and determined that recorded amounts were not impaired and that no write-down was necessary.

The following table summarizes goodwill by business segment:

	<u>Food Safety</u>	<u>Animal Safety</u>	<u>Total</u>
Balance, June 1, 2008	\$12,401,000	\$18,216,000	\$30,617,000
Goodwill acquired	114,000	8,986,000	9,100,000
Balance, May 31, 2009	12,515,000	27,202,000	39,717,000
Goodwill acquired	4,037,000	9,145,000	13,182,000
Balance, May 31, 2010	<u>\$16,552,000</u>	<u>\$36,347,000</u>	<u>\$52,899,000</u>

At May 31, 2010, non-amortizable intangible assets included licenses of \$554,000, trademarks of \$2,361,000 and a customer relationship intangible of \$1,224,000. At May 31, 2009, non-amortizable intangible assets consisted of licenses of \$554,000, trademarks of \$1,952,000 and a customer relationship intangible of \$1,224,000.

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

Other amortizable intangible assets consisted of the following and are included in customer based intangible and other noncurrent assets within the consolidated balance sheets:

	Gross Carrying Amount	Less Accumulated Amortization	Net Carrying Amount
Licenses	\$ 1,505,000	\$ 575,000	\$ 930,000
Covenants not to compete	50,000	21,000	29,000
Patents	3,750,000	1,226,000	2,524,000
Customer relationship intangibles	17,023,000	4,002,000	13,021,000
Balance, May 31, 2010	<u>\$22,328,000</u>	<u>\$5,824,000</u>	<u>\$16,504,000</u>
Licenses	\$ 1,225,000	\$ 583,000	\$ 642,000
Covenants not to compete	70,000	35,000	35,000
Patents	3,513,000	1,045,000	2,468,000
Customer relationship intangibles	9,004,000	2,861,000	6,143,000
Balance, May 31, 2009	<u>\$13,812,000</u>	<u>\$4,524,000</u>	<u>\$ 9,288,000</u>

Amortization expense for other intangibles totaled \$1,701,000, \$1,330,000 and \$1,156,000 in 2010, 2009 and 2008, respectively. The estimated amortization expense for each of the five succeeding years is as follows: \$2,125,000 in 2011, \$2,024,000 in 2012, \$1,926,000 in 2013, \$1,780,000 in 2014, and \$1,631,000 in 2015. The other amortizable intangible assets useful lives are 5 to 20 years for licenses, 5 years for covenants not to compete, 5 to 17 years for patents, and 12 to 20 years for customer relationship intangibles. All definite lived intangibles are amortized on a straight line basis with the exception of definite lived customer based intangibles which are amortized on an accelerated basis.

**3. Business Combinations**

The Consolidated Statements of Income reflect the results of operations for business acquisitions since the respective dates of purchase. All are accounted for using the purchase method.

On August 24, 2007, Neogen Corporation purchased the net assets of Brandon, South Dakota based Kane Enterprises, Inc. Consideration for the purchase, including additional net current assets of \$800,000, consisted of \$6,600,000 of cash. The allocation of the purchase price consisted of \$600,000 in accounts receivables, \$1,775,000 in inventory, \$55,000 in fixed assets, \$4,350,000 in goodwill and other intangible assets (estimated useful lives of 5-15 years) and \$180,000 in assumed liabilities. The acquisition has been integrated into the Lexington, Kentucky operations and is a strong synergistic fit with the Company's Animal Safety segment.

On December 3, 2007, Neogen Corporation purchased the net assets of Winnipeg, Manitoba based Rivard Instruments Inc. a manufacturer of veterinary instruments. Consideration for the purchase was cash of \$3,469,000. The allocation of the purchase price consisted of \$468,000 in inventory, \$5,000 in fixed assets and \$2,996,000 in goodwill and other intangible assets (estimated useful lives of 13-17 years). The acquisition has been integrated into the Lexington, Kentucky operations and is a strong synergistic fit with the Company's Animal Safety segment.

On June 3, 2008, Neogen Corporation formed a subsidiary in Mexico, Neogen Latinoamerica S.A.P.I. DE C.V. to acquire its former distributor. The new business is 40% owned by Neogen Corporation's former Mexican distributor in Mexico, with the remainder owned by Neogen. The new company will distribute the Company's food and animal safety products throughout Mexico. The consideration of \$672,000 was allocated \$462,000 to current assets, \$30,000 to fixed assets and the remainder to intangible assets (estimated useful lives of 10 years).

On June 30, 2008, Neogen Corporation purchased a disinfectant business from DuPont Animal Health Solutions. The products of this business are used in animal health hygiene applications. Assets acquired include 14 different product formulations, associated registrations, patents, trademarks, and other intangibles (estimated useful lives of 5-15 years). As a part of the acquisition, the Company obtained the right to distribute certain other

## **Neogen Corporation and Subsidiaries**

### **Notes to Consolidated Financial Statements**

related DuPont products in North America. DuPont will distribute certain of the newly acquired Neogen products in certain international markets. Consideration for the purchase was \$7,000,000 and \$5,193,000 was allocated to goodwill, \$1,186,000 to customer based intangible and \$621,000 to trademarks and patents. This acquisition has been integrated into the Lexington, Kentucky, operations and is expected to be a strong synergistic fit with Company's Animal Safety segment.

On May 4, 2009, Neogen Corporation acquired International Diagnostics Systems Corporation (IDS), a St. Joseph, Michigan based developer, manufacturer and marketer of test kits to detect drug residues in (IDS) food and animal feed, and drugs in forensic and animal samples. Consideration for the purchase was \$3,955,000. The allocation included net current assets of \$498,000, deferred tax liabilities of \$400,000 and goodwill and intangible assets of \$2,964,000 (estimated useful lives of 5-20 years) including customer related intangibles of \$1,090,000. The acquisition is synergistic to Animal Safety products and has been integrated there with.

On December 1, 2009, the Company purchased the BioKits food safety business of Gen-Probe, Incorporated. Consideration for the purchase, approximated \$6,500,000 in cash and the assumption of trade accounts payable of \$175,000. The preliminary allocation of the purchase price included net current assets of \$770,000, fixed assets \$163,000 and the remainder to goodwill and other intangible assets. The acquired business will be integrated into Neogen's Food Safety segment. Principal products include synergistic allergen test kits.

On April 1, 2010, Neogen Corporation acquired GeneSeek, Inc. of Lincoln, Nebraska, a leading commercial agricultural genetic laboratory. GeneSeek's technology employs high-resolution DNA genotyping for identity and trait analysis in a variety of important animal and agricultural plant species. Consideration for the purchase was \$13,800,000 in cash and secondary payment obligation of up to \$7,000,000. Preliminary allocation of the purchase price included accounts receivable of \$1,923,000, inventory of \$1,212,000, fixed assets of \$847,000, current liabilities of \$600,000 deferred tax liabilities of \$2,050,000 secondary payment related liabilities of \$3,583,000 and other the remainder to goodwill and other intangible assets (with estimated lives of 5-20 years). The secondary payment was measured at fair value, which is considered a level 3 fair value measurement under ASC 820-Fair Value Measurement and Disclosure, as it was based on unobservable inputs and involves management's judgment. The acquisition will be integrated into the Animal Safety segment and is expected to be a strong synergistic fit.

#### **4. Long-Term Debt**

The Company has a financing agreement with a bank (nothing drawn at May 31, 2010 and 2009) providing for an unsecured revolving line of credit of \$10,000,000 that matures on August 20, 2012. Interest is at LIBOR plus 100 basis points (rate under the terms of the agreement was 1.34% at May 31, 2010). Financial covenants include maintaining specified levels of tangible net worth, debt service coverage, and funded debt to EBITDA, each of which the Company is in compliance with at May 31, 2010.

#### **5. Equity Compensation Plans**

Qualified and non-qualified options to purchase shares of common stock may be granted to directors, officers and employees of the Company under the terms of the Company's stock option plans at an exercise price of not less than the fair market value of the stock on the date of grant. Remaining shares available for grant under stock option plans were 687,000, 1,085,000 and 1,475,000 at May 31, 2010, 2009 and 2008, respectively. Options vest ratably over three and five year periods and the contractual terms are generally five years.



**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

	Shares	Weighted-Average Exercise Price
Outstanding at June 1, 2007 (1,032,017 exercisable)	2,270,552	\$ 7.40
Granted	584,634	13.69
Exercised	(709,784)	6.01
Forfeited	(31,187)	9.35
Outstanding at May 31, 2008 (776,975 exercisable)	2,114,215	9.57
Granted	417,000	18.11
Exercised	(390,302)	7.23
Forfeited	(26,646)	5.73
Outstanding at May 31, 2009 (832,949 exercisable)	2,114,267	11.67
Granted	426,382	19.60
Exercised	(479,992)	8.57
Forfeited	(62,478)	13.56
Outstanding at May 31, 2010 (728,295 exercisable)	1,998,179	\$ 14.14

The following is a summary of stock options outstanding at May 31, 2010:

Range of Exercise price	Options Outstanding		Options Exercisable		
	Number	Average Remaining Contractual Life	Weighted-Average Exercise Price	Number	Weighted Average Exercise Price
\$ 2.45 – \$ 4.94	15,753	1.53	\$ 4.24	15,753	\$ 4.24
4.95 – 9.09	628,131	2.39	8.52	420,308	8.38
9.10 – 16.72	548,857	3.35	13.82	214,779	13.90
16.73 – 20.33	805,438	3.91	18.93	77,455	18.19
	1,998,179	3.26	14.14	728,295	10.96

The weighted-average exercise price of shares that were exercisable at May 31, 2009 and 2008 was \$8.89 and \$7.57, respectively. The weighted-average grant-date fair value of options granted in 2010, 2009, and 2008 was \$6.35, \$5.44 and \$4.61 respectively.

The aggregate intrinsic value of options outstanding and options exercisable was \$23,119,000 and \$10,740,000 respectively, at May 31, 2010, \$7,850,000 and \$4,855,000 respectively, at May 31, 2009 and \$16,879,000, and \$7,762,000 respectively, at May 31, 2008. The aggregate intrinsic value of options exercised during the year was \$6,554,000 in 2010 and \$4,099,000 in 2009 and \$6,783,000 in 2008. Remaining compensation cost to be expensed in future periods for non-vested options was \$2,680,000 at May 31, 2010, with a weighted average expense recognition period of 2.2 years.

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

The following table summarizes warrant activity with non-employees that are expensed at fair value upon grant. All warrants are exercisable for common stock of the Company and expire through 2012.

	Shares	Weighted-Average Exercise Price
Outstanding warrants at June 1, 2007	121,220	\$ 7.05
Warrants exercised during the year	(40,220)	5.43
Outstanding warrants at May 31, 2008	81,000	7.86
Warrants exercised during the year	(23,625)	7.22
Warrants forfeited during the year	(5,625)	6.75
Outstanding warrants at May 31, 2009	51,750	8.40
Warrants exercised during the year	(20,250)	8.28
Warrants forfeited during the year	(2,250)	8.55
Outstanding warrants at May 31, 2010	29,250	\$ 8.48

Common stock totaling 90,860 of the 225,000 originally authorized shares are reserved for issuance under the terms of the 2002 Employee Stock Purchase Plan. The plan gives eligible employees the option to purchase common stock (total purchases in any year are limited to 10% of compensation) at 95% of the lower of the market value of the stock at the beginning or end of each participation period. Shares purchased by employees were 19,828, 19,815 and 21,767 in 2010, 2009 and 2008, respectively.

6. Income Taxes

The provision for income taxes consisted of the following:

	Year ended May 31,		
	2010	2009	2008
Current:			
U.S. Taxes	\$8,850,000	\$5,700,000	\$5,550,000
Foreign	450,000	500,000	400,000
Deferred	(200,000)	1,550,000	450,000
	<u>\$9,800,000</u>	<u>\$7,750,000</u>	<u>\$6,400,000</u>

Deferred income taxes reflect the tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred income tax liabilities and assets are as follows:

	May 31,	
	2010	2009
Deferred income tax liabilities		
Indefinite and long-lived assets	\$(7,479,000)	\$(4,079,000)
Prepays	(454,000)	(229,000)
Other	(151,000)	(451,000)
	<u>(8,084,000)</u>	<u>(4,759,000)</u>
Deferred income tax assets		
Inventories and accounts receivable	1,244,000	844,000
Acquired net operating loss carry forwards	429,000	229,000
Accrued liabilities and other	1,361,000	1,161,000
	<u>3,034,000</u>	<u>2,234,000</u>
Net deferred income tax liabilities	<u><u>\$(5,050,000)</u></u>	<u><u>\$(2,525,000)</u></u>

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

The acquired net operating loss carry forwards resulted in a deferred tax asset of \$429,000, of which \$100,000 will expire in 2011 and \$329,000 will expire in 2019.

The reconciliation of income taxes computed at the U.S. federal statutory tax rate to income tax expense is as follows:

	Year ended May 31,		
	2010	2009	2008
Tax at U.S. statutory rates	\$9,600,000	\$7,600,000	\$6,374,000
Tax credits and other	(25,000)	(180,000)	(194,000)
Provisions for state income taxes, net of federal benefit	225,000	330,000	220,000
	<u>\$9,800,000</u>	<u>\$7,750,000</u>	<u>\$6,400,000</u>

The Company has no significant accrual for unrecognized tax benefits at May 31, 2010. Should the accrual of any interest or penalties relative to unrecognized tax benefits be necessary, such accruals will be reflected within income tax accounts. For the majority of tax jurisdictions, the Company is no longer subject to U.S. Federal, State and local or non U.S. income tax examinations by tax authorities for fiscal years before 2006.

**7. Commitments and Contingencies**

The Company is involved in environmental remediation and monitoring activities at its Randolph, Wisconsin manufacturing facility and accrues for related costs when such costs are determined to be probable and estimable. The Company is currently expensing annual costs of remediation of approximately \$90,000. The Company's estimated liability for this expense of \$916,000 at May 31, 2010 is recorded within other long term liabilities in the consolidated balance sheet.

The Company has agreements with unrelated third parties that provide for the payment of royalties on the sale of certain products. Royalty expense under the terms of these agreements was \$1,337,000, \$1,184,000 and \$1,231,000 for 2010, 2009 and 2008, respectively.

The Company leases office and manufacturing facilities under noncancelable operating leases. Rent expense for 2010, 2009 and 2008 was \$428,000, \$336,000 and \$326,000, respectively. Future minimum rental payments for these leases over the remaining terms are as follows: 2011 - \$ 313,000; 2012 - \$ 265,000; and 2013 - \$87,000.

The Company is subject to certain legal and other proceedings in the normal course of business that, in the opinion of management, will not have a material effect on its future results of operations or financial position.

**8. Defined Contribution Benefit Plan**

The Company maintains a defined contribution 401(k) benefit plan covering substantially all employees. Employees are permitted to defer up to IRS limits, with the Company matching 100% of the first 3% deferred and 50% of the next 2% deferred. The Company's expense under this plan was \$622,000, \$542,000 and \$476,000 in 2010, 2009 and 2008, respectively.

**9. Segment Information**

The Company has two reportable segments: Food Safety and Animal Safety. The Food Safety segment produces and markets diagnostic test kits and related products used by food producers and processors to detect harmful natural toxins, foodborne bacteria, allergens and levels of general sanitation. The Animal Safety segment is primarily engaged in the production and marketing of products dedicated to animal health, including a complete line of consumable products marketed to veterinarians and animal health product distributors and provides genetic identification services. Additionally, the Animal Safety segment produces and markets rodenticides and disinfectants to assist in control of rodents and disease in and around agricultural, food production and other facilities.

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

These segments are managed separately because they represent strategic business units that offer different products and require different marketing strategies. The Company evaluates performance based on total sales and operating income of the respective segments. The accounting policies of the segments are the same as those described in Note 1.

Segment information is as follows:

	<u>Food Safety</u>	<u>Animal Safety</u>	<u>Corporate and Eliminations (1)</u>	<u>Total</u>
<b>2010</b>				
Net sales to external customers	\$76,454,000	\$64,055,000	\$ —	\$140,509,000
Operating income (loss)	21,103,000	7,801,000	(2,025,000)	26,879,000
Depreciation and amortization	2,924,000	1,511,000	—	4,435,000
Interest income	—	—	81,000	81,000
Income taxes (benefit)	7,570,000	2,798,000	(568,000)	9,800,000
Total assets	74,583,000	87,894,000	17,756,000	180,233,000
Expenditures for long-lived assets	4,364,000	1,067,000	—	5,431,000
<b>2009</b>				
Net sales to external customers	61,025,000	57,696,000	—	118,721,000
Operating income (loss)	14,943,000	6,786,000	(1,241,000)	20,488,000
Depreciation and amortization	2,717,000	1,173,000	—	3,890,000
Interest income	—	—	248,000	248,000
Income taxes (benefit)	5,356,000	2,432,000	(38,000)	7,750,000
Total assets	61,322,000	69,559,000	11,295,000	142,176,000
Expenditures for long-lived assets	1,882,000	954,000	—	2,836,000
<b>2008</b>				
Net sales to external customers	57,664,000	44,754,000	—	102,418,000
Operating income (loss)	14,245,000	4,972,000	(1,198,000)	18,019,000
Depreciation and amortization	2,495,000	1,021,000	—	3,516,000
Interest income	—	—	442,000	442,000
Income taxes (benefit)	5,060,000	1,766,000	(426,000)	6,400,000
Total assets	60,951,000	52,236,000	13,170,000	126,357,000
Expenditures for long-lived assets	1,850,000	621,000	—	2,471,000

(1) Includes corporate assets, including cash and cash equivalents and current and deferred tax accounts, and overhead expenses not allocated to specific business segments. Also includes the elimination of intersegment transactions and noncontrolling interests.

Sales to customers located outside the United States amounted to \$56,031,000 or 40% of consolidated sales in 2010, \$48,678,000 or 41% in 2009 and \$39,333,000 or 38% in 2008 and were derived primarily in the geographic areas of Europe, Canada, South and Central America, and Asia. Revenues from one Food Safety distributor customer were 10.3% in 2010 and 9.8% in 2009 of total revenues. No other customer represented revenues in excess of 10% of consolidated net sales. The United States based operations represent 89% of the Company's long-lived assets as of May 31, 2010 and 2009.

**Neogen Corporation and Subsidiaries**  
**Notes to Consolidated Financial Statements**

10. Stock Repurchase

In December 2008, the Company's Board of Directors rescinded an existing program and authorized a new program to purchase, subject to market conditions, up to 750,000 shares of the Company's common stock. As of May 31, 2010, 74,684 cumulative shares have been purchased in negotiated and open market transactions for a total price, including commissions, of approximately \$923,000. There were no purchases in 2010 or 2008. Shares purchased under the program were retired.

11. Summary of Quarterly Data (Unaudited)

	Quarter Ended			
	August 2009	November 2009	February 2010	May 2010
	(In thousands, except per share data)			
Net sales	\$32,347	\$35,251	\$33,833	\$39,078
Gross margin	17,270	18,522	17,461	19,722
Net income	4,395	4,610	3,881	4,635
Basic net income per share	.20	.21	.17	.20
Diluted net income per share	.19	.20	.17	.20

	Quarter Ended			
	August 2008	November 2008	February 2009	May 2009
	(In thousand, except per share data)			
Net sales	\$28,805	\$31,187	\$27,840	\$30,889
Gross Margin	14,804	16,125	13,027	15,477
Net income	3,733	3,901	2,823	3,417
Basic net income per share	.17	.18	.13	.15
Diluted net income per share	.17	.17	.13	.14

Quarterly net income per share is based on weighted-average shares outstanding and potentially dilutive stock options and warrants for the specific period, and as a result, will not necessarily aggregate to total net income per share as computed for the year as disclosed in the consolidated statements of income.

**Line of Credit Note****\$10,000,000.00****Date: May 20, 2010**

**Promise to Pay.** On or before August 20, 2012, for value received, Neogen Corporation, a Michigan corporation (the "Borrower") promises to pay to JPMorgan Chase Bank, N.A. (the "Bank"), acting through its Lansing Business Banking LPO, whose address is 620 S. Capitol Ave., Flr. 3, Lansing, Michigan 48933, or order, in lawful money of the United States of America, the sum of Ten Million and 00/100 Dollars (\$10,000,000.00) or so much thereof as may be advanced and outstanding, plus interest on the unpaid principal balance as provided below.

**Variable Interest Rate.** The interest rate on this Note is subject to change from time to time based on changes in an index which is the LIBOR Rate (the "Index"). "LIBOR Rate" shall mean the offered rate for U.S. Dollar deposits of not less than \$1,000,000.00 for a period of time equal to each Interest Period as of 11:00 A.M. City of London, England time two London Business Days prior to the first date of each Interest Period of this Note as shown on the display designated as "British Bankers Assoc. Interest Settlement Rates" on the Reuters Screen ("Reuters") LIBOR01 Page, or such other page or pages as may replace such pages on Reuters for the purpose of displaying such rate. Provided, however, that if such rate is not available on Reuters then such offered rate shall be otherwise independently determined by the Bank from an alternate, substantially similar independent source available to the Bank or shall be calculated by the Bank by a substantially similar methodology as that theretofore used to determine such offered rate in Reuters. "London Business Day" means any day other than a Saturday, Sunday or a day on which banking institutions are generally authorized or obligated by law or executive order to close in the City of London, England. Each change in the rate to be charged on this Note will become effective without notice on the commencement of each Interest Period based upon the Index then in effect. "Interest Period" means each consecutive one month period (the first of which shall commence on the date of this Note) effective as of the first day of each Interest Period and ending on the last day of each Interest Period, provided that if any Interest Period is scheduled to end on a date for which there is no numerical equivalent to the date on which the Interest Period commenced, then it shall end instead on the last day of such calendar month. The interest rate to be applied to the unpaid principal balance of this Note will be at a rate equal to the Index, plus 1.00% per annum. NOTICE: Under no circumstances will the interest rate on this Note be more than the maximum rate allowed by applicable law.

**Prepayment.** Borrower may pay without fee all or a portion of the principal amount owed hereunder earlier than it is due. All prepayments shall be applied to the indebtedness in such order and manner as Lender may from time to time determine in its sole discretion.

**Interest After Default.** So long as an event of default under Section 7.1 of the Credit Agreement has occurred and has not been waived by the Bank, whether or not the Bank elects to accelerate the maturity of this Note because of such event of default, all loans outstanding under this Note shall, if permitted under applicable law, bear interest at a per annum rate equal to the Index plus four percent (4.00%) per annum from the date the Bank elects to impose such rate. The interest rate will not exceed the maximum rate permitted by applicable law.

**Notice and Manner of Borrowing.** The Borrower shall give the Bank written notice (effective upon receipt) of the Borrower's intent to draw down an advance under this Note no later than 2:00 p.m., Eastern time, on the date of disbursement. The Borrower's notice must specify: (a) the disbursement date and (b) the amount of each advance. By the Bank's close of business on the disbursement date and upon fulfillment of the conditions set forth herein and in any other of the Related Documents, the Bank shall disburse the requested advance in immediately available funds by crediting the amount of such advances to the Borrower's account with the Bank.

**Payments.** Interest accrued on the principal balance outstanding on this Note shall be paid monthly on the 20<sup>th</sup> day of each month, beginning June 20, 2010. All outstanding principal and interest is due and payable in full on August 20, 2012.

**Bank Records.** The Bank shall, in the ordinary course of business, make notations in its records of the date and amount of each loan hereunder, the applicable interest rate, the amount of each payment on the loans, and other information. Such records shall, in the absence of manifest error, be conclusive as to the outstanding principal balance of this Note and applicable interest rate.

**Obligations Due on Non-Business Day.** Whenever any payment under this Note becomes due and payable on a day that is not a Business Day, if no default then exists under this Note, the maturity of the payment shall be extended to the next succeeding Business Day, except, in the case of a LIBOR Rate Advance, if the result of the extension would be to extend the payment into another calendar month, the payment must be made on the immediately preceding Business Day. "Business Day" means a day other than a Saturday, Sunday or any other day on which national banking associations are authorized to be closed.

**Matters Regarding Payment and Interest Calculation.** The Borrower will pay the Bank at the Bank's address shown on loan account statements sent to the Borrower, the Bank's address shown in any payment coupon book provided to the Borrower, or at such other place as the Bank may designate in writing. Payments shall be allocated among principal, interest and fees at the discretion of the Bank unless otherwise agreed or required by applicable law. Acceptance by the Bank of any payment which is less than the payment due at the time shall not constitute a waiver of the Bank's right to receive payment in full at that time or any other time. The annual interest rate for this Note is computed on a 360/365 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. The Borrower will pay a fee to the Bank of \$25.00 if the Borrower makes a payment on this Note and the check or pre-authorized charge with the Bank is later dishonored.

**Authorization for Direct Payments (ACH Debits).** To effectuate any payment due under this Note or under any other Related Documents, the Borrower hereby authorizes the Bank to initiate debit entries to Account Number 829459171 at the Bank and to debit the same to such account. This authorization to initiate debit entries shall remain in full force and effect until the Bank has received written notification of its termination in such time and in such manner as to afford the Bank a reasonable opportunity to act on it. The Borrower represents that the Borrower is and will be the owner of all funds in such account. The Borrower acknowledges: (1) that such debit entries may cause an overdraft of such account which may result in the Bank's refusal to honor items drawn on such account until adequate deposits are made to such account; (2) that the Bank is under no duty or obligation to initiate any debit entry for any purpose; and (3) that if a debit is not made because the above-referenced account does not have a sufficient available balance, or otherwise, the payment may be late or past due.

**Late Fee.** Any principal or interest which is not paid within 10 days after its due date (whether as stated, by acceleration or otherwise) shall be subject to a late payment charge of 5.00% of the total payment due or \$25.00, whichever is greater, up to the maximum amount of \$250.00 per late charge. The Borrower agrees to pay and stipulates that such amount is a reasonable amount for a late payment charge. The Borrower shall pay the late payment charge upon demand by the Bank or, if billed, within the time specified.

**Purpose of Loan.** The Borrower acknowledges and agrees that this Note evidences a credit facility for a business, commercial, agricultural or similar commercial enterprise purpose, and that no advance shall be used for any personal, family or household purpose. The proceeds of the advances under this Note shall be used only for the Borrower's working capital purposes.

**Credit Facility.** The Bank has approved a credit facility to the Borrower in a principal amount not to exceed the face amount of this Note. The credit facility is in the form of advances made from time to time by the Bank to the Borrower. This Note evidences the Borrower's obligation to repay those advances. The aggregate principal amount of debt evidenced

by this Note is the amount reflected from time to time in the records of the Bank. Until the earliest to occur of maturity, any default, event of default, or any event that would constitute a default or event of default but for the giving of notice, the lapse of time or both, the Borrower may borrow, pay down and reborrow under this Note subject to the terms of the Related Documents.

**Governing Law.** This document will be governed by and interpreted in accordance with federal law and the laws of the State of Michigan.

**Miscellaneous.** This Note binds the Borrower and its successors, and benefits the Bank, its successors and assigns. Any reference to the Bank includes any holder of this Note. This Note is subject to that certain Credit Agreement by and between the Borrower and the Bank, dated as of the date or about the date of this Note, and all amendments, restatements and replacements thereof (the "Credit Agreement") to which reference is hereby made for a more complete statement of the terms and conditions under which the loans evidenced hereby are made and are to be repaid. The terms and provisions of the Credit Agreement are hereby incorporated and made a part hereof by this reference thereto with the same force and effect as if set forth at length herein. No reference to the Credit Agreement and no provisions of this Note or the Credit Agreement shall alter or impair the absolute and unconditional obligation of the Borrower to pay the principal and interest on this Note as herein prescribed. Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

**Borrower:**

Address:

**Neogen Corporation**

620 Leshar Place  
Lansing, Michigan 48912

By: /s/ Richard R. Current

Its: Richard R. Current, Vice President, CFO, and Secretary

Date Signed: May 20, 2010





## Execution Copy

## Credit Agreement

This agreement dated as of May 20, 2010 is between **JPMORGAN CHASE BANK, N.A.** (together with its successors and assigns, the "Bank"), acting through its Lansing Business Banking LPO, whose address is 620 S. Capitol Ave., Flr. 3, Lansing, Michigan 48933, and **NEOGEN CORPORATION**, a Michigan corporation (the "Borrower"), whose address is 620 Leshar Place, Lansing, Michigan 48912.

**1. Credit Facilities.**

- 1.1. **Scope.** This agreement governs Facility A, and, unless otherwise agreed to in writing by the Bank and the Borrower or prohibited by any Legal Requirement (as hereafter defined), governs the Credit Facilities as defined below. Advances under any Credit Facilities shall be subject to the administrative procedures customarily established from time to time by the Bank. Any procedures agreed to by the Bank with respect to obtaining advances, including automatic loan sweeps, shall not vary the terms or conditions of this agreement or the other Related Documents regarding the Credit Facilities. Notwithstanding the foregoing, the Bank and the Borrower agree that any construction loan governed by a construction loan agreement, whether now existing or hereafter arising, is excluded from this agreement.
- 1.2. **Facility A (Line of Credit).** The Bank has approved a credit facility to the Borrower in the principal sum not to exceed, in the aggregate at any one time outstanding, the remainder of (a) \$10,000,000.00 minus (b) the Rate Management Transaction Obligations Amount at such time (such credit facility herein referred to as "Facility A"). Credit under Facility A shall be repayable as set forth in a Line of Credit Note dated the date hereof, and any renewals, modifications, extensions, rearrangements, restatements thereof and replacements or substitutions therefor.

**2. Definitions and Interpretations.**

- 2.1. **Definitions.** As used in this agreement, the following terms have the following respective meanings:
  - A. **"Acquisition"** means any transaction, or any series of related transactions, consummated on or after the date of this agreement, by which the Borrower or any of its Subsidiaries (i) acquires any going business or all or substantially all of the assets of any Person or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority of the Voting Stock of any Person.
  - B. **"Affiliate"** means any Person which, directly or indirectly Controls or is Controlled by or under common Control with, another Person, and any director or officer thereof. The Bank is under no circumstances to be deemed an Affiliate of the Borrower or any of its Subsidiaries.

- C. “**Authorizing Documents**” means certificates of authority to transact business, certificates of good standing, borrowing resolutions, appointments, officer’s certificates, certificates of incumbency, and other documents which empower and authorize or evidence the power and authority of all Persons (other than the Bank) executing any Related Document or their representatives to execute and deliver the Related Documents and perform the Person’s obligations thereunder.
- D. “**Capital Expenditures**” means any expenditure or the incurrence of any obligation or liability for any asset which is classified as a capital asset under GAAP.
- E. “**Capital Lease Obligations**” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.
- F. “**Change in Control**” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any one Person or group of two or more Persons acting as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer (“Group”), of Equity Interests representing more than 25% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (i) nominated by the board of directors of the Borrower nor (ii) appointed by directors so nominated; or (c) the acquisition of direct or indirect Control of the Borrower by any Person or Group.
- G. “**Control**” as used with respect to any Person, means the power to direct or cause the direction of, the management and policies of that Person, directly or indirectly, whether through the ownership of Equity Interests, by contract, or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.
- H. “**Credit Facilities**” means all extensions of credit from the Bank to the Borrower, whether now existing or hereafter arising, including but not limited to those described in Section 1, if any, and those extended contemporaneously with this agreement.
- I. “**Default**” means a default, event of default or event that would constitute a default or event of default but for the giving of notice, the lapse of time or both, in any provision of this agreement, the Notes or any other Related Documents.
- J. “**Distributions**” means dividends and other distributions made to any Equity Owners, other than salary, bonuses, and other compensation for services expended in the current accounting period.

- K. **“EBITDA”** means for any period, net income plus to the extent deducted in determining net income, interest expense (including but not limited to imputed interest on capital leases), income tax expense, depreciation, and amortization, minus Distributions; all as determined for the Borrower and its Subsidiaries on a consolidated basis for such period in accordance with GAAP.
- L. **“Equity Interests”** means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.
- M. **“Equity Owner”** means a shareholder, partner, member, holder of a beneficial interest in a trust or other owner of any Equity Interests.
- N. **“Financial Officer”** means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.
- O. **“Fiscal Quarter”** means any of the quarterly accounting periods of the Borrower ending on the last day of February, May, August and November, respectively, of each year.
- P. **“Fiscal Year”** means any of the annual accounting periods of the Borrower first ending on May 31 of each year. As an example, reference to the 2010 Fiscal Year shall mean the Fiscal Year ending May 31, 2010.
- Q. **“Funded Debt”** means, without duplication, (i) indebtedness for borrowed money (including, without limitation, indebtedness evidenced by promissory notes, bonds, debentures and similar instruments and further any portion of the purchase price for assets or acquisitions permitted hereunder which may be financed by the seller) and purchase money indebtedness, in each case having a final maturity of more than one year from the date of origin thereof (or which is renewable or extendible at the option of the obligor for a period or periods more than one year from the date of origin), (ii) the principal portion of Capital Lease Obligations, (iii) all preferred stock required by the terms thereof to be redeemed, or for which mandatory sinking fund payments are due, by a fixed date, and (iv) guaranty obligations with respect to obligations of other Persons of the types described in the foregoing clauses (i), (ii) and (iii); all as determined on a consolidated basis for the Borrower and its Subsidiaries in accordance with GAAP. Funded Debt includes, without limitation, amounts in respect of obligations of the types described in the foregoing clauses (i), (ii), (iii) and (iv) which constitute current liabilities of the obligor under GAAP.
- R. **“GAAP”** means generally accepted accounting principles in effect from time to time in the United States of America, consistently applied.
- S. **“Intangible Assets”** means the aggregate amount of (1) all assets classified as intangible assets under GAAP, including, without limitation, goodwill, trademarks, patents, copyrights, organization expenses, franchises, licenses, trade names, brand names, mailing lists, catalogs, excess of cost over book value of assets acquired, and bond discount and underwriting expenses; and (2) loans or

advances to, investments in, or receivables from (i) any Affiliate, officer, director, employee, Equity Owner or agent of the Borrower or (ii) any Person if such loan, advance, investment or receivable is outside the Borrower's ordinary course of business.

- T. **"Legal Requirement"** means any law, ordinance, decree, requirement, order, judgment, rule, regulation (or interpretation of any of the foregoing) of any foreign governmental authority, the United States of America, any state thereof, any political subdivision of any of the foregoing or any agency, department, commission, board, bureau, court or other tribunal having jurisdiction over the Bank or any Obligor or any of its Subsidiaries or their respective Properties or any agreement by which any of them is bound.
- U. **"Liabilities"** means all indebtedness, liabilities and obligations of every kind and character of the Borrower to the Bank and its Affiliates, whether the obligations, indebtedness and liabilities are individual, joint and several, contingent or otherwise, now or hereafter existing, including, without limitation, all liabilities, interest, costs and fees, arising under or from any note, open account, overdraft, credit card, lease, Rate Management Transaction, letter of credit application, endorsement, surety agreement, guaranty, acceptance, foreign exchange contract or depository service contract, whether payable to the Bank or an Affiliate of the Bank or to a third party and subsequently acquired by the Bank or an Affiliate of the Bank, any monetary obligations (including interest) incurred or accrued during the pendency of any bankruptcy, insolvency, receivership or other similar proceedings, regardless of whether allowed or allowable in such proceeding, and all renewals, extensions, modifications, consolidations, rearrangements, restatements, replacements or substitutions of any of the foregoing.
- V. **"Lien"** means any mortgage, deed of trust, pledge, charge, encumbrance, security interest, collateral assignment or other lien or restriction of any kind.
- W. **"Notes"** means all promissory notes, instruments and/or contracts now or hereafter evidencing the Credit Facilities.
- X. **"Obligor"** means any Borrower, guarantor, surety, co-signer, endorser, general partner or other Person who may now or in the future be obligated to pay any of the Liabilities.
- Y. **"Organizational Documents"** means, with respect to any Person, certificates of existence or formation, documents establishing or governing the Person or evidencing or certifying that the Person is duly organized and validly existing in accordance with all applicable Legal Requirements, including all amendments, restatements, supplements or modifications to such certificates and documents as of the date of the Related Document referring to the Organizational Document and any and all future modifications thereto approved by the Bank.
- Z. **"Permitted Encumbrances"** means: (a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.04; (b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in

compliance with Section 4.2; (c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations; (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business; and (e) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary; provided that the term "Permitted Encumbrances" shall not include any Lien securing indebtedness.

- AA. "**Person**" means any individual, corporation, partnership, limited liability company, joint venture, joint stock association, association, bank, business trust, trust, unincorporated organization, any foreign governmental authority, the United States of America, any state of the United States and any political subdivision of any of the foregoing or any other form of entity.
- BB. "**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible.
- CC. "**Rate Management Transaction**" means any transaction (including an agreement with respect thereto) that is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option, derivative transaction or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.
- DD. "**Rate Management Transaction Obligations Amount**" means, as of any date, all obligations of the Borrower and its Subsidiaries under or in respect of Rate Management Transactions; provided that the "obligations" of the Borrower or any Subsidiary in respect of any Rate Management Transaction at any time shall be the maximum aggregate amount that the Borrower or such Subsidiary would be required to pay if such Rate Management Transaction were terminated at such time. Rate Management Transaction Obligations Amount shall not, at any time, include, be reduced by, or otherwise take into account any amount that might be owing to the Borrower or any Subsidiary under any Rate Management Transaction.
- EE. "**Related Documents**" means this agreement, the Notes, letters of credit, applications for letters of credit, all loan agreements, credit agreements, guaranties, and any other agreement, instrument or document executed in connection with this agreement or with any of the Liabilities.
- FF. "**Subordinated Debt**" means debt subordinated to the Liabilities in manner and by written agreement satisfactory to the Bank.

- GG. “**Subsidiary**” means, as to any particular Person (the “parent”), a Person the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of the date of determination, as well as any other Person of which fifty percent (50%) or more of the Equity Interests is at the time of determination directly or indirectly owned, Controlled or held, by the parent or by any Person or Persons Controlled by the parent, either alone or together with the parent.
- HH. “**Tangible Net Worth**” means total assets less the sum of Intangible Assets and total liabilities; all as determined for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.
- II. “**Voting Stock**” of a Person means all classes of Equity Interests of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

## 2.2. Interpretations.

- A. Whenever possible, each provision of the Related Documents shall be interpreted in such manner as to be effective and valid under applicable Legal Requirements. If any provision of this agreement cannot be enforced, the remaining portions of this agreement shall continue in effect. In the event of any conflict or inconsistency between this agreement and the provisions of any other Related Documents, the provisions of this agreement shall control. Use of the term “including” does not imply any limitation on (but may expand) the antecedent reference. Any reference to a particular document includes all modifications, supplements, replacements, renewals or extensions of that document, but this rule of construction does not authorize amendment of any document without the Bank’s consent. Section headings are for convenience of reference only and do not affect the interpretation of this agreement. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, provided that, if the Borrower notifies the Bank that it wishes to amend any covenant in Section 5.2 to eliminate the effect of any change in GAAP (or if the Bank notifies the Borrower that the Bank wishes to amend Section 5.2 for such purpose), then the Borrower’s compliance with such covenants shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective until either such notice is withdrawn or such covenant or any such defined term is amended in a manner satisfactory to the Borrower and the Bank. The Borrower shall deliver to the Bank at the same time as the delivery of any annual or quarterly financial statement under Section 4.5 hereof: (i) a description in reasonable detail of any material variation between the application or any modification of accounting principles employed in the preparation of such statement and the application or any modification of accounting principles employed in the preparation of the immediately prior annual or quarterly financial statements as to which no objection has been made in accordance with this paragraph (a) and (ii) if requested by the Bank, reasonable estimates of the difference between such statements arising as a consequence thereof. Notwithstanding anything herein, in any financial statements of the Borrower or in GAAP to the contrary, for purposes of calculating and determining compliance with the financial covenants

in Section 5.2, including defined terms used therein, any Acquisitions made by the Borrower or any of its Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the period for which such financial covenants were calculated shall be deemed to have occurred on the first day of the relevant period for which such financial covenants were calculated on a pro forma basis acceptable to the Bank.

- B. Except as otherwise expressly provided herein, all references to a time of day shall be references to Eastern Time. Whenever the Bank's determination, consent, approval or satisfaction is required under this agreement or the other Related Documents or whenever the Bank may at its option take or refrain from taking any action under this agreement or the other Related Documents, the decision as to whether or not the Bank makes the determination, consents, approves, is satisfied or takes or refrains from taking any action, shall be in the sole and exclusive discretion of the Bank, and the Bank's decision shall be final and conclusive.
- C. The Borrower agrees to take all necessary action, including without limitation obtaining any necessary acknowledgments or consents from the Borrower's auditors as may be required under applicable law, to ensure that the Bank may rely on the audited financial statements of the Borrower, including the audited financial statements delivered to the Bank before and after the date of this agreement.

### 3. Conditions Precedent to Extensions of Credit.

3.1. **Conditions Precedent to Initial Extension of Credit under each of the Credit Facilities.** Before the first extension of credit governed by this agreement and any initial advance under any of the Credit Facilities, whether by disbursement of a loan, issuance of a letter of credit, or otherwise, the Borrower shall deliver to the Bank, and the Borrower shall complete, in form and substance satisfactory to the Bank, the following:

- A. **Loan Documents.** The Notes, and as applicable, the letter of credit applications, reimbursement agreements, the guaranties, the subordination agreements, and any other documents which the Bank may reasonably require to give effect to the transactions described in this agreement or the other Related Documents;
- B. **Organizational and Authorizing Documents.** The Organizational Documents and Authorizing Documents of the Borrower and any other Persons (other than the Bank) executing the Related Documents in form and substance satisfactory to the Bank that at a minimum: (i) document the due organization, valid existence and good standing of the Borrower and every other Person (other than the Bank) that is a party to this agreement or any other Related Document; (ii) evidence that each Person (other than the Bank) which is a party to this agreement or any other Related Document has the power and authority to enter into the transactions described therein; and (iii) evidence that the Person signing on behalf of each Person that is a party to the Related Documents (other than the Bank) is duly authorized to do so;
- C. **Liens.** The termination of all Liens on the assets of the Borrower and its Subsidiaries other than Liens permitted under this agreement; and

- D. **Fee.** The Borrower shall have paid to the Bank a fee for this agreement in the amount of \$5,000 in immediately available funds. So long as the Borrower remains in compliance with Section 4.11, the Bank shall not charge any fee on the unused commitment hereunder.
- 3.2. **Conditions Precedent to Each Extension of Credit.** Before any extension of credit governed by this agreement, whether by disbursement of a loan, issuance of a letter of credit or otherwise, the following conditions must be satisfied:
- A. **Representations.** The representations of the Borrower and any other parties, other than the Bank, in the Related Documents are true on and as of the date of the request for and funding of the extension of credit;
  - B. **No Default.** No Default has occurred and is continuing or would result from the extension of credit;
  - C. **Additional Approvals, Opinions, and Documents.** The Bank has received any other approvals, opinions and documents as it may reasonably request; and
  - D. **No Prohibition or Onerous Conditions.** The making of the extension of credit is not prohibited by and does not subject the Bank, any Obligor, or any Subsidiary of the Borrower to any penalty or onerous condition under, any Legal Requirement.
4. **Affirmative Covenants.** The Borrower agrees to do, and cause each of its Subsidiaries to do, each of the following:
- 4.1. **Insurance.** Maintain insurance with financially sound and reputable insurers, with such insurance and insurers to be satisfactory to the Bank, covering its Property and business against those casualties and contingencies and in the types and amounts as are in accordance with sound business and industry practices, and furnish to the Bank, upon request of the Bank, reports on each existing insurance policy showing such information as the Bank may reasonably request.
  - 4.2. **Existence.** Maintain its existence and business operations as presently in effect in accordance with all applicable Legal Requirements, pay its debts and obligations when due under normal terms, and pay on or before their due date, all taxes, assessments, fees and other governmental monetary obligations, except as they may be contested in good faith if they have been properly reflected on its books and, at the Bank's request, adequate funds or security has been pledged or reserved to insure payment.
  - 4.3. **Financial Records.** Maintain proper books and records of account, in accordance with GAAP, and consistent with financial statements previously submitted to the Bank.
  - 4.4. **Inspection.** Permit the Bank, its agents and designees to: (a) inspect its Property, examine and copy files, books and records, and discuss its business, operations, prospects, assets, affairs and financial condition with the Borrower's or its Subsidiaries' officers and accountants, at times and intervals as the Bank reasonably determines upon reasonable notice; and (b) confirm with any Person any obligations and liabilities of the Person to the Borrower or its Subsidiaries. The Borrower will, and will cause its Subsidiaries to, cooperate with any inspection or examination. The Borrower will pay the



Bank the reasonable costs and expenses of any inspection or examination permitted under this Section 4.4 promptly after receiving the invoice; provided that so long as no Default has occurred and is continuing, the Borrower shall not be required to pay such costs and expenses for more than two such inspections or examinations annually.

- 4.5. **Financial Reports.** Furnish to the Bank whatever information, statements, books and records the Bank may from time to time reasonably request, including at a minimum:
- A. Within 90 days after the end of each Fiscal Year of the Borrower, the audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all reported on by Ernst & Young or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;
  - B. Within 60 days after the end of each Fiscal Quarter, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such Fiscal Quarter and the then elapsed portion of the Fiscal Year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous Fiscal Year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;
  - C. Concurrently with any delivery of financial statements under clause A. or B. above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with the financial covenants under Section 5.2 of this agreement and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the latest audited financial statements of the Borrower delivered to the Bank and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;
  - D. Promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Subsidiary with the Securities and Exchange Commission, or any governmental authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;
  - E. Promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this agreement, as the Bank may reasonably request.

- 4.6. **Notices of Claims, Litigation, Defaults, etc.** Promptly inform the Bank in writing of (1) all existing and all threatened (in writing) litigation, claims, investigations, administrative proceedings and similar actions or changes in Legal Requirements affecting it which could materially negatively affect its business, assets, affairs, prospects or financial condition; (2) the occurrence of any event which gives rise to the Bank's option to terminate the Credit Facilities; (3) the institution of steps by it to withdraw from, or the institution of any steps to terminate, any employee benefit plan as to which it may have liability; (4) any reportable event or any prohibited transaction in connection with any employee benefit plan; (5) any additions to or changes in the locations of its businesses; and (6) any alleged breach by the Bank of any provision of this agreement or of any other Related Document.
  - 4.7. **Other Agreements.** Comply with all material terms and conditions of all other agreements, whether now or hereafter existing, between it and any other Person.
  - 4.8. **Title to Assets and Property.** Maintain good and marketable title to all of its Properties, and defend them against all claims and demands of all Persons at any time claiming any interest in them.
  - 4.9. **Additional Assurances.** Promptly make, execute and deliver any and all agreements, documents, instruments and other records that the Bank may request to evidence any of the Credit Facilities, cure any defect in the execution and delivery of any of the Related Documents, comply with any Legal Requirement applicable to the Bank with respect to any Obligor or the Credit Facilities or describe more fully particular aspects of the agreements set forth or intended to be set forth in any of the Related Documents.
  - 4.10. **Employee Benefit Plans.** Maintain each employee benefit plan as to which it may have any liability, in compliance with all Legal Requirements.
  - 4.11. **Banking Relationship.** Establish and maintain its primary, domestic operating depository and disbursement accounts with the Bank.
- 5. Negative Covenants.**
- 5.1. Unless otherwise noted, the financial requirements set forth in this section will be computed in accordance with GAAP applied on a basis consistent with financial statements previously submitted by the Borrower to the Bank.
  - 5.2. Without the prior written consent of the Bank, the Borrower will not and no Subsidiary of the Borrower will:
    - A. **Debt and Lease Obligations.** Incur, contract for, assume, or permit to remain outstanding indebtedness for borrowed money, installment obligations, or obligations under capital leases or operating leases, other than (1) unsecured trade debt incurred in the ordinary course of business, (2) indebtedness of the Borrower or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any indebtedness assumed in connection with the acquisition of any such

assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such indebtedness that do not increase the outstanding principal amount thereof; provided that (i) such indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of indebtedness permitted by this clause (2) shall not exceed \$250,000 at any time outstanding, and (3) obligations (other than Capital Lease Obligations) of the Borrower and its Subsidiaries, whether directly or by assignment or as a guarantor or other contingent obligor, under any lease of real or personal property, provided that the aggregate amount of such obligations under all such leases, determined based upon the highest annual rent and other amounts (exclusive of property taxes, property and liability insurance premiums and maintenance costs) that may be payable thereunder in any Fiscal Year during the term thereof, does not exceed \$250,000.

- B. **Liens.** Create or permit to exist any Lien on any of its Property except: (1) Permitted Encumbrances, (2) Liens in favor of the Bank or any of its Affiliates, (3) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Subsidiary; provided that (i) such security interests secure indebtedness permitted by clause (2) of Section 5.2A, (ii) such security interests and the indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Borrower or any Subsidiary
- C. **Use of Proceeds.** Use, or permit any proceeds of the Credit Facilities to be used, directly or indirectly, for the purpose of “purchasing or carrying any margin stock” within the meaning of Federal Reserve Board Regulation U. At the Bank’s request, it will furnish a completed Federal Reserve Board Form U-1.
- D. **Continuity of Operations.** (1) Engage in any business activities substantially different from those in which it is presently engaged; (2) cease operations, liquidate, merge (except any Subsidiary may merge with the Borrower so long as the Borrower is the survivor or with any other Subsidiary of the Borrower), transfer, acquire (except as permitted under Section 5.2G) or consolidate with any other Person, change its name, dissolve, or lease, sell or otherwise convey a material part of its assets or business out of the ordinary course of business; (3) enter into any arrangement with any Person providing for the leasing by it of Property which has been sold or transferred by it to such Person; or (4) change its business organization, the jurisdiction under which its business organization is formed or organized, or its chief executive office, or any places of its businesses. Notwithstanding the foregoing, the Borrower or any of its Subsidiaries may do any of the things, or take any action, prohibited by this Section 5.2.D. if prior to, or concurrently with, the consummation thereof or the taking of such action, the Borrower indefeasibly pays in full all Liabilities in immediately available funds, and provides to the Bank cash collateral in the aggregate amount of all reimbursement obligations in respect of letters of credit and other contingent Liabilities, and all commitments of the Bank to lend or otherwise extend credit to the Borrower and its Subsidiaries have expired or are terminated.

- E. **Limitation on Negative Pledge Clauses.** Enter into any agreement with any Person other than the Bank which prohibits or limits its ability to create or permit to exist any Lien on any of its Property, whether now owned or hereafter acquired; provided that the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured indebtedness permitted by clause (2) of Section 5.2A of this agreement if such restrictions or conditions apply only to the property or assets securing such indebtedness or to customary provisions in leases restricting the assignment thereof.
- F. **Conflicting Agreements.** Enter into any agreement containing any provision which would be violated or breached by the performance of its obligations under this agreement or any of the other Related Documents.
- G. **Limitation on Acquisitions.** Make any Acquisition if any Default has occurred and is continuing, whether before or after giving effect to such Acquisition, or would be caused thereby, or if, after giving effect to such Acquisition on a pro forma basis, the Borrower would not have been in compliance with all financial covenants under this agreement as of the end of the last Fiscal Quarter preceding the consummation of such Acquisition.
- H. **Organizational Documents.** Alter, amend or modify any of its Organizational Documents without giving the Bank prior written notice thereof.
- I. **Tangible Net Worth.** Permit or suffer at any time the Tangible Net Worth to be less than \$55,000,000.00 at, or at any time after, the end of the Fiscal Quarter ending May 31, 2010.
- J. **Debt Service Coverage Ratio.** Permit or suffer the “Debt Service Coverage Ratio” (hereinafter defined in this subsection) to be less than 2.50 to 1.00. As used in this subsection, the term “Debt Service Coverage Ratio” means the ratio of (i) net income, after taxes, plus amortization, depreciation and interest, minus distributions and dividends, for the twelve-month period then ending, divided by (ii) current maturities of long-term debt, plus interest and current maturities of capital leases for the same such twelve-month period; such ratio to be evaluated as of the end of each Fiscal Year, beginning with the Fiscal Year ending May 31, 2011, for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.
- K. **Funded Debt to EBITDA Ratio.** Permit or suffer the ratio of Funded Debt as of the end of any Fiscal Quarter, beginning with the Fiscal Quarter ending May 31, 2010, to EBITDA for the period of four consecutive Fiscal Quarters of the Borrower then ending to be greater than 2.50 to 1.00.
- L. **Rate Management Transactions.** Enter into or be a party to any Rate Management Transaction, other than for bona fide hedging purposes with respect to the Borrower’s non-U.S. dollar currency exposure and not for speculation, or suffer or permit the Rate Management Transaction Obligations Amount at any time to exceed \$1,000,000.
- M. **Affiliate Loans.** Make or commit to make any loans or advances to any Subsidiaries or other Affiliates of the Borrower in an aggregate amount exceeding \$3,000,000 at any time, notwithstanding anything in this agreement to the contrary.

- N. **Distributions.** Make or pay, or commit to make or pay, any Distributions if any Default has occurred and is continuing or would result from such Distribution.
  - O. **Government Regulation.** (1) Be or become subject at any time to any Legal Requirement or list of any government agency (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits the Bank from making any advance or extension of credit to it or from otherwise conducting business with it, or (2) fail to provide documentary and other evidence of its identity as may be requested by the Bank at any time to enable the Bank to verify its identity or to comply with any applicable Legal Requirement, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.
- 5.3. **Financial Statement Calculations.** The financial covenant(s) set forth in the Section entitled “Negative Covenants” or in any subsection thereof shall, except as may be otherwise expressly provided with respect to any particular financial covenant, be calculated on the basis of the Borrower’s financial statements prepared on a consolidated basis with its Subsidiaries in accordance with GAAP. Except as may be otherwise expressly provided with respect to any particular financial covenant, if any financial covenant states that it is to be tested with respect to any particular period of time (which may be referred to therein as a “Test Period”) ending on any test date (e.g., a fiscal month end, fiscal quarter end, or fiscal year end), then compliance with that covenant shall be required commencing with the period of time ending on the first test date that occurs after the date of this agreement (or, if applicable, of the amendment to this agreement which added or amended such financial covenant).

## 6. Representations.

- 6.1. **Representations and Warranties by the Borrower.** To induce the Bank to enter into this agreement and to extend credit or other financial accommodations under the Credit Facilities, the Borrower represents and warrants as of the date of this agreement and as of the date of each request for credit under the Credit Facilities that each of the following statements is and shall remain true and correct throughout the term of this agreement and until all Credit Facilities and all Liabilities under the Notes and other Related Documents are paid in full: (a) its principal residence or chief executive office is at the address shown above, (b) its name as it appears in this agreement is its exact name as it appears in its Organizational Documents, (c) the execution and delivery of this agreement and the other Related Documents to which it is a party, and the performance of the obligations they impose, do not violate any Legal Requirement, conflict with any agreement by which it is bound, or require the consent or approval of any other Person, (d) this agreement and the other Related Documents have been duly authorized, executed and delivered by all parties thereto (other than the Bank) and are valid and binding agreements of those Persons, enforceable according to their terms, except as may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors’ rights generally and by general principles of equity, (e) all balance sheets, profit and loss statements, and other financial statements and other information furnished to the Bank in connection with the Liabilities are accurate and fairly reflect the financial condition of the Persons to which they apply on their effective dates, including contingent liabilities of every type, which

financial condition has not changed materially and adversely since those dates, (f) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) is pending or threatened against it, and no other event has occurred which may in any one case or in the aggregate materially adversely affect it or any of its Subsidiaries' financial condition, properties, business, affairs or operations, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by the Bank in writing, (g) all of its tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being contested by it in good faith and for which adequate reserves have been provided, (h) it is not an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended, (i) there are no defenses or counterclaims, offsets or adverse claims, demands or actions of any kind, personal or otherwise, that it could assert with respect to this agreement or the Credit Facilities, (j) it owns, or is licensed to use, all trademarks, trade names, copyrights, technology, know-how and processes necessary for the conduct of its business as currently conducted, and (k) the execution and delivery of this agreement and the other Related Documents to which it is a party and the performance of the obligations they impose, if the Borrower is other than a natural Person (i) are within its powers, (ii) have been duly authorized by all necessary action of its governing body, and (iii) do not contravene the terms of its Organizational Documents or other agreement or document governing its affairs.

## **7. Default/Remedies.**

7.1. **Events of Default/Acceleration.** If any of the following events occurs, the Notes shall become due immediately, without notice, at the Bank's option:

- A. Any Obligor fails to pay when due any of the Liabilities, fails to pay any other debt or obligation in an aggregate amount exceeding \$250,000 to any Person, fails to pay any amount payable with respect to any of the Liabilities, or under any Note or any other Related Document, or fails to pay an aggregate amount exceeding \$250,000 with respect to any agreement or instrument evidencing any other debt or obligation to any Person.
- B. Any Obligor: (i) fails to observe or perform or otherwise violates any other term, covenant, condition or agreement of any of the Related Documents; (ii) makes or furnishes any materially incorrect or misleading representation, warranty, statement or certificate to the Bank, at the time made (or deemed made) or furnished; (iii) makes any materially incorrect or misleading representation in any financial statement or other information delivered to the Bank; or (iv) defaults under or fails to comply with or perform any term, obligation, covenant or condition contained in any agreement or agreements (other than this agreement and the other Related Documents) between any Person and any Obligor or Obligors under which the debt and/or obligations of any Obligor or Obligors in the aggregate exceed \$250,000.
- C. In the event (i) there is a default under the terms of any Related Document, (ii) any Obligor terminates or revokes or purports to terminate or revoke its guaranty or any Obligor's guaranty becomes unenforceable in whole or in part, (iii) any Obligor fails to perform promptly under its guaranty, or (iv) any Obligor fails to comply with, or perform under any agreement, now or hereafter in effect,

between the Obligor and the Bank, or any Affiliate of the Bank or their respective successors and assigns, after giving effect to any applicable grace or cure period.

- D. [intentionally omitted]
- E. Any event occurs that would permit the Pension Benefit Guaranty Corporation to terminate any employee benefit plan, if any, of any Obligor or any Subsidiary of any Obligor and the effect thereof would reasonably be expected to have a material adverse effect on the Property, financial condition, business, assets, affairs, prospects, liabilities, or operations of any Obligor or any Subsidiary.
- F. Any Obligor or any of its Subsidiaries: (i) becomes insolvent or unable to pay its debts as they become due; (ii) makes an assignment for the benefit of creditors; (iii) consents to the appointment of a custodian, receiver, or trustee for itself or for a substantial part of its Property; (iv) commences any proceeding under any bankruptcy, reorganization, liquidation, insolvency or similar laws; (v) conceals or removes any of its Property, with intent to hinder, delay or defraud any of its creditors; (vi) makes or permits a transfer of any of its Property, which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or (vii) makes a transfer of any of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid.
- G. A custodian, receiver, or trustee is appointed for any Obligor or any of its Subsidiaries or for a substantial part of their respective Property.
- H. Any Obligor or any of its Subsidiaries, without the Bank's written consent: (i) liquidates or is dissolved; (ii) merges or consolidates with any other Person; or (iii) leases, sells or otherwise conveys a material part of its assets or business outside the ordinary course of its business; or (iv) agrees to do any of the foregoing.
- I. Proceedings are commenced under any bankruptcy, reorganization, liquidation, or similar laws against any Obligor or any of its Subsidiaries and remain undismissed for thirty (30) days after commencement; or any Obligor or any of its Subsidiaries consents to the commencement of those proceedings.
- J. Any judgment or decree is entered against any Obligor or any of its Subsidiaries, or any attachment, seizure, sequestration, levy, or garnishment is issued against any Property of any Obligor or any of its Subsidiaries.
- K. The occurrence or existence of any default, event of default or other similar condition or event (however described) with respect to Rate Management Transactions.
- L. Any Change in Control.
- M. The Borrower or any of its Subsidiaries fails to comply with all applicable statutes, laws, ordinances and governmental rules, regulations and orders to which it is subject or which are applicable to its business, property and assets.

- N. Any material adverse change occurs in: (i) the reputation, Property, financial condition, business, assets, affairs, prospects, liabilities, or operations of any Obligor or any of its Subsidiaries; or (ii) any Obligor's or Pledgor's ability to perform its obligations under the Related Documents.
- 7.2. **Remedies.** At any time after the occurrence of a default, the Bank may do one or more of the following: (a) cease permitting the Borrower to incur any Liabilities; (b) terminate any commitment of the Bank evidenced by any of the Notes; (c) declare any of the Notes to be immediately due and payable, without notice of acceleration, presentment and demand or protest or notice of any kind, all of which are hereby expressly waived; (d) exercise all rights of setoff that the Bank may have contractually, by law, in equity or otherwise; and (e) exercise any and all other rights pursuant to any of the Related Documents, at law, in equity or otherwise.
- A. **Generally.** The rights of the Bank under this agreement and the other Related Documents are in addition to other rights (including without limitation, other rights of setoff) the Bank may have contractually, by law, in equity or otherwise, all of which are cumulative and hereby retained by the Bank. Each Obligor agrees to stand still with regard to the Bank's enforcement of its rights.
- B. **Expenses.** To the extent not prohibited by applicable Legal Requirements and whether or not the transactions contemplated by this agreement are consummated, the Borrower is liable to the Bank and agrees to pay on demand all reasonable out-of-pocket costs and expenses of every kind incurred in connection with the negotiation, preparation, execution, filing, recording, modification, supplementing, waiver and enforcement of this agreement and the other Related Documents, and the making, servicing and collection of the Credit Facilities and any other amounts owed under the Related Documents, including without limitation reasonable and attorneys' fees and costs and court costs. These costs and expenses include without limitation any costs or expenses incurred by the Bank in any bankruptcy, reorganization, insolvency or other similar proceeding involving any Obligor or Property of any Obligor. The obligations of the Borrower under this section shall survive the termination of this agreement. Notwithstanding anything to the contrary, with respect only to the negotiation, preparation and execution of this agreement and the other Related Documents prior to and through the initial closing of this agreement, the Borrower shall not be liable for attorneys' fees of counsel for the Bank exceeding \$7,500 in the aggregate.
- C. **Bank's Right of Setoff.** The Borrower grants to the Bank a security interest in all Deposits, Securities and Other Property, and Bank Debt to secure any and all Liabilities, and the Bank is authorized to setoff and apply all Deposits, Securities and Other Property, and Bank Debt against any and all Liabilities. This right of setoff may be exercised at any time from time to time after the occurrence of any default, without prior notice to or demand on the Borrower and regardless of whether any Liabilities are contingent, unmaturing or unliquidated. In this paragraph: (a) the term "Deposits" means any and all accounts and deposits of the Borrower (whether general, special, time, demand, provisional or final) at any time held by the Bank or any other subsidiary or Affiliate of JPMorgan Chase & Co. (each hereafter referred to as a "Bank Affiliate") and all other obligations at any time by the Bank or any Bank Affiliate to Borrower (including all Deposits



held jointly with another, but excluding any IRA or Keogh Deposits, or any trust Deposits in which a security interest would be prohibited by any Legal Requirement); (b) the term "Securities and Other Property" means any and all securities and other personal Property of the Borrower in the custody, possession or control of the Bank or any Bank Affiliate (other than Property held by the Bank in a fiduciary capacity); and (c) the term "Bank Debt" means all indebtedness at any time owing by the Bank or any Bank Affiliate, to or for the credit or account of the Borrower and any claim of the Borrower (whether individual, joint and several or otherwise) against the Bank or any Bank Affiliate now or hereafter existing.

## 8. Miscellaneous.

- 8.1. **Notice.** Any notices and demands under or related to this agreement or the Notes shall be in writing and delivered to the intended party at its address stated in this agreement, and if to the Bank, at its main office if no other address of the Bank is specified in this agreement, by one of the following means: (a) by hand; (b) by a nationally recognized overnight courier service; or (c) by certified mail, postage prepaid, with return receipt requested. Notice shall be deemed given: (a) upon receipt if delivered by hand; (b) on the Delivery Day after the day of deposit with a nationally recognized courier service; or (c) on the third Delivery Day after the notice is deposited in the mail. "Delivery Day" means a day other than a Saturday, a Sunday or any other day on which national banking associations are authorized to be closed. Any party may change its address for purposes of the receipt of notices and demands by giving notice of the change in the manner provided in this provision.
- 8.2. **No Waiver.** No delay on the part of the Bank in the exercise of any right or remedy waives that right or remedy. No single or partial exercise by the Bank of any right or remedy precludes any other future exercise of it or the exercise of any other right or remedy. The making of an advance during the existence of any default or subsequent to the occurrence of a default or when all conditions precedent have not been met shall not constitute a waiver of the default or condition precedent. No waiver or indulgence by the Bank of any default is effective unless it is in writing and signed by the Bank, nor shall a waiver on one occasion bar or waive that right on any future occasion.
- 8.3. **Integration.** This agreement, the Notes, and the other Related Documents embody the entire agreement and understanding between the Borrower and the Bank and supersede all prior agreements and understandings relating to their subject matter. If any one or more of the obligations of the Borrower under this agreement or the Notes is invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining obligations of the Borrower shall not in any way be affected or impaired, and the invalidity, illegality or unenforceability in one jurisdiction shall not affect the validity, legality or enforceability of the obligations of the Borrower under this agreement, the Notes and the other Related Documents in any other jurisdiction.
- 8.4. [intentionally omitted]
- 8.5. **Governing Law and Venue.** This agreement will be governed by and interpreted in accordance with federal law and the laws of the State of Michigan. The Borrower agrees that any legal action or proceeding with respect to any of its obligations under this agreement may be brought by the Bank in any state or federal court located in the State of Michigan. The Borrower waives any claim that the State of Michigan is not a convenient forum or the proper venue for any such suit, action or proceeding.

- 8.6. **Survival of Representations and Warranties.** The Borrower understands and agrees that in extending the Credit Facilities, the Bank is relying on all representations, warranties, and covenants made by the Borrower in this agreement or in any certificate or other instrument delivered by the Borrower to the Bank under this agreement or in any of the other Related Documents. The Borrower further agrees that regardless of any investigation made by the Bank, all such representations, warranties and covenants will survive the making of the Credit Facilities and delivery to the Bank of this agreement, shall be continuing in nature, and shall remain in full force and effect until such time as the Liabilities shall be paid in full.
- 8.7. **Non-Liability of the Bank.** The relationship between the Borrower on one hand and the Bank on the other hand shall be solely that of borrower and lender. The Bank shall have no fiduciary responsibilities to the Borrower. The Bank undertakes no responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower's business or operations.
- 8.8. **Indemnification of the Bank.** The Borrower agrees to indemnify, defend and hold the Bank, its parent companies, Subsidiaries, Affiliates, their respective successors and assigns and each of their respective shareholders, directors, officers, employees and agents (collectively, the "Indemnified Persons") harmless from any and against any and all loss, liability, obligation, damage, penalty, judgment, claim, deficiency, expense, interest, penalties, attorneys' fees (including the fees and expenses of any attorneys engaged by the Indemnified Person) and amounts paid in settlement ("Claims") to which any Indemnified Person may become subject arising out of or relating to the Credit Facilities or the Liabilities under this agreement or any other Related Documents, except to the limited extent that the Claims are proximately caused by the Indemnified Person's gross negligence or willful misconduct. The indemnification provided for in this paragraph shall survive the termination of this agreement and shall not be affected by the presence, absence or amount of or the payment or nonpayment of any claim under, any insurance.
- 8.9. **Counterparts.** This agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts, taken together, shall constitute one and the same agreement.
- 8.10. **Advice of Counsel.** The Borrower acknowledges that it has been advised by counsel, or had the opportunity to be advised by counsel, in the negotiation, execution and delivery of this agreement and any other Related Documents.
- 8.11. **Recovery of Additional Costs.** If the imposition of or any change in any Legal Requirement, or the interpretation or application of any thereof by any court or administrative or governmental authority (including any request or policy not having the force of law) shall impose, modify, or make applicable any taxes (except federal, state, or local income or franchise taxes imposed on the Bank), reserve requirements, capital adequacy requirements, Federal Deposit Insurance Corporation (FDIC) deposit insurance premiums or assessments, or other obligations which would (A) increase the cost to the Bank for extending, maintaining or funding the Credit Facilities, (B) reduce the amounts payable to the Bank under the Credit Facilities, or (C) reduce the rate of return on the

Bank's capital as a consequence of the Bank's obligations with respect to the Credit Facilities, then the Borrower agrees to pay the Bank such additional amounts as will compensate the Bank therefor, within five (5) days after the Bank's written demand for such payment. The Bank's demand shall be accompanied by an explanation of such imposition or charge and a calculation in reasonable detail of the additional amounts payable by the Borrower, which explanation and calculations shall be conclusive in the absence of manifest error. Nothing herein shall be deemed to preclude the Borrower from contesting such amounts on the basis of manifest error.

8.12. [intentionally omitted]

8.13. **Reinstatement.** The Borrower agrees that to the extent any payment or transfer is received by the Bank in connection with the Liabilities, and all or any part of the payment or transfer is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid or transferred by the Bank or paid or transferred over to a trustee, receiver or any other entity, whether under any proceeding or otherwise (any of those payments or transfers is hereinafter referred to as a "Preferential Payment"), then this agreement and the Notes shall continue to be effective or shall be reinstated, as the case may be, even if all those Liabilities have been paid in full and whether or not the Bank is in possession of the Notes and whether any of the Notes has been marked, paid, released or cancelled, or returned to the Borrower and, to the extent of the payment, repayment or other transfer by the Bank, the Liabilities or part intended to be satisfied by the Preferential Payment shall be revived and continued in full force and effect as if the Preferential Payment had not been made. The obligations of the Borrower under this section shall survive the termination of this agreement.

8.14. **Information Waiver; Assignments.** The Borrower agrees that the Bank may provide, without any limitation whatsoever, to any one or more purchasers, potential purchasers, or Affiliates of JPMorgan Chase & Co., any information or knowledge the Bank may have about the Borrower or any matter relating to this agreement and the Related Documents, and the Borrower hereby waives any right to privacy the Borrower may have with respect to such matters. The Borrower agrees that the Bank may at any time sell, assign or transfer one or more interests or participations in all or any part of its rights and obligations in the Notes and the other Related Documents to one or more purchasers whether or not related to the Bank.

8.15. **Waivers.** Each Obligor waives (a) any right to receive notice of the following matters before the Bank enforces any of its rights: (i) any demand, diligence, presentment, dishonor and protest, or (ii) any action that the Bank takes regarding any Person, any Property or any of the Liabilities, that it might be entitled to by law or under any other agreement; (b) any right to require the Bank to proceed against the Borrower, any other Obligor or any Property, or pursue any remedy in the Bank's power to pursue; (c) any defense based on any claim that any Obligor's obligations exceed or are more burdensome than those of the Borrower; (d) the benefit of any statute of limitations affecting liability of any Obligor or the enforcement hereof; (e) any defense arising by reason of any disability or other defense of the Borrower or by reason of the cessation from any cause whatsoever (other than payment in full) of the obligation of the Borrower for the Liabilities; and (f) any defense based on or arising out of any defense that the Borrower may have to the payment or performance of the Liabilities or any portion thereof. Each Obligor consents to any extension or postponement of time of its payment without limit as to the number or period, to any substitution, exchange or release of all or

any part of any collateral for any of the Liabilities that the Bank may have at any time, to the addition of any other party, and to the release or discharge of, or suspension of any rights and remedies against, any Obligor. The Bank may waive or delay enforcing any of its rights without losing them. Any waiver affects only the specific terms and time period stated in the waiver. No modification or waiver of any provision of the Notes is effective unless it is in writing and signed by the Person against whom it is being enforced.

8.16. **Time is of the Essence.** Time is of the essence under this agreement and the Notes and in the performance of every term, covenant and obligation contained herein.

8.17. **Purpose.** The Borrower agrees that no advances under the Credit Facilities shall be used for personal, family or household purposes and that all advances under the Credit Facilities shall be used solely for business, commercial or similar purposes.

9. **USA PATRIOT ACT NOTIFICATION.** The following notification is provided to the Borrower pursuant to Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Borrower: When the Borrower opens an account, if it is an individual the Bank will ask for its name, taxpayer identification number, residential address, date of birth, and other information that will allow the Bank to identify it, and, if it is not an individual the Bank will ask for its name, taxpayer identification number, business address, and other information that will allow the Bank to identify it. The Bank may also ask, if the Borrower is an individual, to see its driver's license or other identifying documents, and if it is not an individual, to see its Organizational Documents or other identifying documents.

10. **WAIVER OF SPECIAL DAMAGES.** THE BORROWER WAIVES, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT THE UNDERSIGNED MAY HAVE TO CLAIM OR RECOVER FROM THE BANK IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

11. **JURY WAIVER.** THE BORROWER AND THE BANK (BY ITS ACCEPTANCE HEREOF) HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) BETWEEN THE BORROWER AND THE BANK ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OF THE OTHER RELATED DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE BANK TO PROVIDE THE FINANCING DESCRIBED HEREIN.

**Address for Notices:**

620 Leshar Place  
Lansing, Michigan 48912  
Attn: Chief Financial Office

**Address for Notices:**

620 S. Capitol Ave., Flr. 3  
Lansing, Michigan 48933

**Borrower:**

**NEOGEN CORPORATION**

By: /s/ Richard R. Current  
Richard R. Current, Vice President, CFO, and Secretary

Date Signed: May 20, 2010

**Bank:**

**JPMORGAN CHASE BANK, N.A.**

By: /s/ Joshua M. Tudor  
Joshua M. Tudor, Vice President

Date Signed: May 20, 2010

### Stock Purchase Agreement

This **Stock Purchase Agreement** ("**Agreement**") is made as of March 31, 2010 among (i) **Neogen Corporation**, a Michigan corporation whose address is 620 Leshar Place, Lansing, Michigan 48912 ("**Buyer**"), (ii) **GeneSeek, Inc.**, a Nebraska corporation whose address is 4665 Innovation Drive, Lincoln, Nebraska 68521 ("**Company**"), and (iii) the **shareholders of the Company** listed on attached **Exhibit A** (collectively, "**Sellers**", and individually, a "**Seller**").

#### Recitals

A. Sellers own the number of shares opposite their names on **Exhibit A**, the aggregate number of which shares is all of the Company's issued and outstanding shares. The aggregate Company shares owned by all Sellers is referred to as the "**Sellers' Shares**". The number of Company shares owned by a Seller listed on **Exhibit A** is referred to as the "**Seller's Shares**". Each share of the Company's stock outstanding is referred to as a "**Share**".

B. Company is engaged in the business of genomic research, testing and analysis related to food, agriculture and veterinary applications including but not limited to genotyping, SNP discovery and DNA sequence analysis, and services associated with providing these analyses (collectively, "**Business**").

C. Buyer desires to purchase, and Sellers desires to sell, the Sellers' Shares upon the terms, conditions and covenants contained in this Agreement.

#### The parties agree as follows:

1. **Purchase and Sale.** Based upon the representations, warranties and agreements contained in this Agreement and subject to the terms and conditions set forth in this Agreement, at the Closing Date, as defined in Section 3, Sellers agree to sell, transfer and deliver to Buyer, and Buyer shall purchase and accept from Sellers, the Shares.

2. **Purchase Price; Method of Payment.** Sellers agree to sell the Shares, and Buyer to purchase the Shares, for the total consideration provided in this Section 2, subject to all limitations and adjustments provided in this Agreement, which total consideration shall be paid pro rata to the Sellers based on their share ownership as provided in this Section ("**Price**").

(a) **Cash Price.** Buyer shall pay Sellers, in proportion to their relative stock holdings as listed on Exhibit A, Twelve Million Five Hundred Forty Five Thousand Three Hundred Four and XX/100 Dollars (\$12,545,304) in immediately available funds to Sellers at Closing ("**Cash Price**"), subject to adjustment as provided in this Agreement.

(b) **Adjustment of Cash Price.** The Cash Price payable at Closing shall be adjusted as follows:

(1) Not less than two business days prior to the Closing Date, Seller will prepare and deliver a certificate ("**Net Assets Certificate**") containing Seller's best estimate, as of the Closing Date, of the Company's estimated total assets ("**Estimated Closing Total Assets**") and the Company's estimated total liabilities ("**Estimated Closing Total Liabilities**"). The Estimated Closing Total Assets and Estimated Total Liabilities shall be determined in accordance with GAAP (as defined in Section 4.(c)(3)) consistent with the Company's past practices; provided (i) no tax refunds in excess of income taxes payable shall be included in the calculation; (ii) there shall be no tax refund, credit or reduction in Taxes forming part of the Total Assets or Total Liabilities (as these terms are defined in the next sentence), as applicable, or the Final Closing Total Assets or Final Closing Total Liabilities (as these terms are defined in Section 13) attributable to any payments pursuant to the Option Grantee Documents (as defined in Section 6.(c)); and (iii) Sellers shall be entitled to treat \$101,665, associated with the Nebraska Advantage, as a part of the Total Assets and Final Total Assets. Total assets and total liabilities of the Company determined pursuant to this Section 2.(b)(1) are referred to as "**Total Assets**" and "**Total Liabilities**", respectively. Representatives from Seller and Buyer shall jointly take a physical inventory on or about the Closing Date using a mutually acceptable procedure from which the estimated Inventories (as defined in Section 4.(h)) as of Closing Date shall be calculated and using such counts the final Inventories shall be computed.

(2) On the Closing Date, the Cash Price shall be adjusted by the amount ("**Closing Purchase Price Adjustment Amount**") which shall equal the Estimated Closing Total Assets minus the Estimated Closing Total Liabilities. If the Closing Purchase Price Adjustment Amount is greater than Eight Hundred Forty Five Thousand Dollars (\$845,000) ("**Target Net Assets**"), then the Cash Price payable at Closing shall be increased dollar for dollar by 90.9% of the Closing Purchase Price Adjustment Amount in excess of the Target Net Assets. If the Closing Purchase Price Adjustment Amount is less than the Target Net Assets, then the Cash Price payable at Closing shall be decreased dollar for dollar by 90.9% of the deficiency compared to the Target Net Assets.

(3) After the Closing Date and pursuant to the procedure set forth and as defined in Section 12, the Cash Price shall be adjusted by the amount ("**Post-Closing Purchase Price Adjustment Amount**") which shall equal the Final Closing Net Assets Value minus the Closing Purchase Price Adjustment Amount. If the Post-Closing Purchase Price Adjustment Amount is a positive number, then the Cash Price shall be increased by the Applicable Percentage (as defined in Section 2.(d)(8)) times the Post-Closing Purchase Price Adjustment Amount ("**Upward Adjusted Post-Closing Purchase Price Adjustment Amount**") and Buyer shall immediately (and in any event within five business days) after the final determination thereof pay to Sellers the Upward Adjusted Post-Closing Purchase Price Adjustment Amount by wire transfer

of immediately available funds to an account designated in writing by Sellers. If the Post-Closing Purchase Price Adjustment Amount is a negative number, then the Cash Price shall be decreased by the Applicable Percentage times the Post-Closing Purchase Price Adjustment Amount (“**Downward Adjusted Post-Closing Purchase Price Adjustment Amount**”) and Sellers shall immediately (and in any event within five business days) after the final determination thereof pay to Buyer the Downward Adjusted Post-Closing Purchase Price Adjustment Amount by wire transfer of immediately available funds to an account designated in writing by Buyer. The party that owes the other any amount pursuant to this Section 2.(b)(3) agrees to pay that party interest at the prime rate published in the *Wall Street Journal* plus 6% between the date on which the amount was due and the date on which the amount due is paid in full.

(c) **Contingent Price.** Buyer shall pay Sellers the following amounts (“**Contingent Price**”) within 30 days of the end of applicable Counting Year (as defined in Section 2.(d)(1)) and provide Sellers with a statement showing the computation by which the amount payable was determined:

(1) The Applicable Percentage times 50% of the excess, if any, of the sum of the Gross Profit (as defined in Section 2.(d)(2)) minus Applicable Depreciation (as defined in Section 2.(d)(5)) minus the Base (as defined in Section 2.(d)(6)) for the first Counting Year (as defined in Section 2.(d)(1)) after the Closing Date; provided in no event shall the amount payable by Buyer (i) pursuant to Section 2.(a), (b) and (c)(1) exceed the Cap (as defined in Section 2.(d)(7)); and (ii) unless the Principal Shareholders are employed by or consultants to the Company in an active management role during the entire first Counting Year; provided further the requirement of Section 2.(c)(1)(ii) shall not be applicable if (A) either of the Principal Shareholders’ employment or consultancy is terminated during the first Counting Year by Buyer for reasons other than Cause (as defined in Section 2.(d)(9)); (B) either of the Principal Shareholders dies (and the remaining Principal Shareholder remains employed or consulting as applicable unless he too dies or is Disabled during the first Counting Year); or (C) either of the Principal Shareholders is Disabled (as defined in Section 2.(d)(10)) (and the remaining Principal Shareholder remains employed or consulting as applicable unless he too dies or is Disabled during the Counting Year).

(2) The Applicable Percentage times 50% of the excess, if any, of the sum of the Gross Profit minus Applicable Depreciation minus the Base for the second Counting Year after the Closing Date; provided in no event shall the amount payable by Buyer (i) pursuant to Section 2.(a), (b), (c)(1) and (c)(2) exceed the Cap; and (ii) unless the Principal Shareholders are employed by or consultants to the Company in an active management role during the entire second Counting Year; provided further the requirement of Section 2.(c)(2)(ii) shall not be applicable if (A) either of the Principal Shareholders’ employment or consultancy is terminated by Buyer during the second Counting Year for reasons other than Cause; (B) either of the Principal Shareholders dies (and the remaining Principal Shareholder remains employed or consulting as applicable unless he too dies or is Disabled during the second Counting Year); or (C) either of the Principal Shareholders is Disabled (and the remaining Principal Shareholder remains employed or consulting as applicable unless he too dies or is Disabled during the second Counting Year).



(3) The Applicable Percentage times 50% of the excess, if any, of the sum of the Gross Profit minus Applicable Depreciation minus the Base for the third Counting Year after the Closing Date; provided in no event shall the amount payable by Buyer (i) pursuant to Section 2.(c)(3) exceed One Million Five Hundred Thousand Dollars (\$1,500,000); (ii) pursuant to Section 2.(a), (b), (c)(1), (c)(2) and (c)(3) exceed the Cap; and (iii) unless the Principal Shareholders are employed by or consultants to the Company in an active management role during the entire third Counting Year; provided further the requirement of Section 2.(c)(3)(ii) shall not be applicable if (A) either of the Principal Shareholders' employment or consultancy is terminated by Buyer during the second Counting Year for reasons other than Cause; (B) either of the Principal Shareholders dies (and the remaining Principal Shareholder remains employed or consulting as applicable unless he too dies or is Disabled during the third Counting Year); or (C) either of the Principal Shareholders is Disabled (and the remaining Principal Shareholder remains employed or consulting as applicable unless he too dies or is disabled during the third Counting Year).

(d) **Definitions.** The following terms are defined as follows:

(1) The term "**Counting Year**" shall mean each full 12 month period after the Closing for the period April 1<sup>st</sup> to March 31<sup>st</sup>.

(2) The term "**Gross Profit**" shall mean the Net Sales (as defined in Section 2(d)(3)) minus Cost of Goods Sold (as defined in Section 2.(d)(4)) with the computation of Gross Profit and Cost of Goods Sold made in accordance with GAAP consistent with Company's past accounting practices.

(3) The term "**Net Sales**" shall mean, with respect to all products and services sold by the Company, the total gross invoices for such items less (i) trade, quantity or cash discounts actually allowed and taken, (ii) freight costs, customs duties, use, tariff, import/export duties, excise taxes and sales taxes, if any, related to the sale of such items, and (iii) amounts allowed by reason of rejections and reasonable allowances for return of goods.

(4) The term "**Cost of Goods Sold**" shall mean, with respect to all products and services sold by the Company, the invoice cost of raw material (exclusive of freight, special handling insurance charges, and applicable sales/use tax) and labor and fringe benefit cost determined in the same manner as to the Company's 2009 costs of goods sold. The wages, payroll taxes, simple IRA and health and dental insurance for the Principal Shareholders, Keller, Dronova and Martin are excluded from 2009 costs of goods sold. Any new employees hired in a Counting Year under the job title as Laboratory Technician, Laboratory Assistant, Laboratory Manager, or Diagnostics Laboratory Technician will be included in the definition of Costs of Goods Sold. All other new employees hired in a Counting Year will be excluded from the

definition of Costs of Goods Sold unless there is a written agreement between the Sellers and Buyer to include other positions. Cost of Goods Sold will be determined according to the definition contained in this Section 2.(d)(4) in determining the Contingent Price regardless of how cost of goods sold is computed by Buyer for financial reporting or other purposes.

(5) The term “**Applicable Depreciation**” shall mean the Company’s depreciation for financial statement purposes during the Counting Year consisting of the depreciation of (i) depreciable assets reflected in the Company’s books at Closing; (ii) assets relating to the Contribution as provide in Section 9; and (iii) other capital investments.

(6) The term “**Base**” shall mean Three Million and XX/100 Dollars (\$3,000,000).

(7) The term “**Cap**” shall mean Nineteen Million Ninety One Thousand One Hundred and XX/100 Dollars (\$19,091,100).

(8) The term “**Applicable Percentage**” shall mean either (i) 90.91% if all the Option Grantees (as defined in Section 4.(a)(5)) are employed by Buyer on the last day of the applicable Counting Year (“**Employed Option Grantees**”); or (ii) the percentage determined by a fraction, the numerator of which is Sellers’ Shares and the denominator of which is the sum of the (A) the Sellers’ Shares; plus (B) the sum of the Option Shares of each of the Employed Option Grantees (as defined in Exhibit 4.(d)(5)).

(9) The term “**Cause**” shall mean (i) conviction of or a judgment against by either of the Principal Shareholders for an employment related offense of dishonesty and fraud; (ii) material breach of the terms and conditions of Buyer’s work rules; (iii) failure of either of the Principal Shareholders to reasonably perform their assigned duties (after the Principal Shareholder has been given notice of the deficiency and afforded ten days opportunity to cure); (iv) gross negligence or willful or wanton misconduct; or (v) commission of a crime that might adversely affect the business or reputation of the Company or its affiliates or a Principal Shareholder’s suitability or acceptability to the employees, suppliers or customers of the Company or its affiliates.

(10) The term “**Disability**” or “**Disabled**” shall mean a Principal Shareholder’s inability to perform his normal duties for a six month continuous period.

(e) **Sellers Review of Calculation.** Sellers who owned at least 80% of the Company’s stock prior to Closing, as a group, may ascertain compliance with Buyer’s obligations under Section 2.(c) by notifying Buyer in writing within thirty days after receipt of Buyer’s notification under Section 2.(c) of Sellers’ desire to verify such information. Within twenty business days from such notification, Buyer shall provide to Sellers or as the case may be, to Sellers’ representative, such books and records, possibly in an electronic form, as may be reasonably required to verify such information. Receipt of such copies

shall not preclude Sellers from the right to perform a more extensive audit at Buyer's office during normal business hours to verify further such information. Buyer shall allow such audit to be performed so that it can be completed within thirty days after the date on which Sellers notified Buyer that it desired to verify such information.

(1) If Sellers disagree with Buyer's calculations under Section 2.(c), they shall notify Buyer within thirty days from the date on which Sellers notified Buyer that it desired to verify such information ("**Sellers' Contingent Price Objections**").

(2) If Buyer disagrees with Sellers' Contingent Price Objections, it shall notify Sellers and the parties shall attempt to resolve the disagreement. If Buyer fails to so notify Sellers in writing within thirty days of the Sellers' Contingent Price Objections, then Buyer shall be deemed to have accepted the findings set forth in the Sellers' Contingent Price Objections and Buyer shall have waived all claims to the contrary. If the parties fail to agree on the Sellers' Contingent Price Objections, Buyer shall pay the undisputed portion of Sellers' Contingent Price Objections within 75 days after the end of the applicable Counting Year and the remainder of such disagreement shall be resolved in accordance with the principles set forth in Section 12.

(3) Each such audit shall be at Sellers' expense; provided, that if it is finally determined Buyer has breached its payment obligation by an amount in excess of \$50,000 under Section 2.(c), then Buyer shall pay the reasonable costs of such audit.

(4) If Buyer agrees with Sellers' Contingent Price Objections or the findings of the audit has been confirmed under Section 12, Buyer shall pay within ten business days the due amount pursuant to Section 2.(c).

(f) **Seller Releases.** In consideration for payment of the Price, as of and following the Closing Date, each Seller (on each Seller's own behalf and on behalf of each Seller's heirs, personal representatives, officers, directors, successors and assigns, as applicable) knowingly, voluntarily and unconditionally releases, forever discharges, and covenants not to sue Buyer or the Company, their respective predecessors, successors, parents, subsidiaries and affiliates, and all of their respective current and former officers, directors, employees, agents, and representatives from and for any and all claims, causes of action, demands, suits, debts, obligations, liabilities, damages, losses, costs, and expenses (including attorneys' fees) of every kind or nature whatsoever, known or unknown, actual or potential, suspected or unsuspected, fixed or contingent, that each Seller has or may have, now or in the future, arising out of, relating to, or resulting from any act of commission or omission, errors, negligence, strict liability, breach of contract, tort, violations of law, matter or cause whatsoever from the beginning of time to the Closing Date, with respect to the Company, to the extent permitted by law except to the extent arising under the transaction contemplated by the Agreement; provided each Seller who is an officer or director shall remain entitled to indemnification by the Company for all claims as to which they would have been so entitled prior to Closing for actions or inaction within the scope of Seller's duties.

(g) **Buyer Restrictions.** Buyer agrees that, until the determination of the Contingent Price and the passage of the Counting Years, Buyer shall conduct the Business in a commercially reasonable manner and shall (i) not dissolve or liquidate the Company; (ii) not make any transfers of assets or liabilities outside the ordinary course of business which would have the result of negatively impacting the Contingent Price; (iii) not charge the Company with any of Buyer's expenses in connection with this transaction; (iv) not delay receipt of Net Sales, or accelerate Costs of Goods Sold, to a period outside the Counting Year; or (v) not change the business solely for the purpose of reducing the Contingent Price. Buyer agrees that (I) any changes made to the Company's accounting methods which are inconsistent with those used by the Company before Closing shall be disregarded in calculating the Contingent Price; and (ii) any transactions between the Company and its affiliates shall be at arm's length.

(h) **Buyer Sale of Business Assets.** In the event Buyer or Company consummates or enters into an agreement regarding a sale of all or substantially all of the Business assets at any time prior to the final determination of the aggregate Contingent Price, Buyer shall, as part of such sale, require the purchaser to fulfill the terms of this Agreement.

3. **The Closing.** The closing of the purchase and sale of the Shares as provided in this Agreement shall be no later than March 31, 2010 at the offices of Buyer, or at such other place as may be fixed by mutual agreement of Buyer and Sellers. The date and event of closing are respectively referred to in this Agreement as the "**Closing Date**" and "**Closing**." The Closing shall be deemed to occur at 5:00 p.m. EST on the Closing Date, with Buyer responsible for income and expenses of Company properly recorded after 5:00 pm EST on the Closing Date. At the Closing:

(a) Each Seller shall deliver to Buyer stock certificates representing all of the Shares owned by that Seller, accompanied by stock powers, duly endorsed to Buyer or other duly executed instruments of transfer approved by Buyer and the certificates and other items required by Section 6; and

(b) Buyer shall deliver to each Seller that Seller's portion of the Price payable at Closing as provided in Section 2, certificates and other items required by Section 7.

4. **Representations and Warranties of Sellers.** In order to induce Buyer to enter into this Agreement, each of the Sellers makes the following representations and warranties to Buyer:

(a) **Organization and Qualification, Subsidiaries and Ownership.**

(1) The Company is validly existing and in good standing under the laws of Nebraska. No failure on the part of Company to be qualified as a foreign corporation in any jurisdiction materially and adversely affects the Business or financial position or results of the operation of the properties of Company by reason of

any disability affecting its right to own property, collect receivables, enforce contracts or otherwise. Company has the requisite corporate power and authority to own or hold under lease or similar agreement all of its properties and to carry on the Business as it is now being conducted. Company is duly qualified to do business and is in good standing as a foreign corporation in the state and jurisdiction as a foreign corporation is required in connection with the conduct of its business, a true and complete list of which is set forth on **Exhibit 4.(a)(1)**. Company has previously delivered to Buyer complete and correct copies of Company's Articles of Incorporation and Bylaws and all amendments to them and all organizational documents of the Subsidiary. Company has delivered to Buyer a complete and accurate copy of the Company minute book from 1996 through 2010 in which there is accurate records of all meetings, and consents in lieu of meetings, of the Company's board of directors and shareholders held or executed since the incorporation of Company,. The stock books and ledgers of Company have been delivered to Buyer for its inspection, and such books and records are accurate and complete. No preferred shares of the Company are or were issued and outstanding.

(2) Company has no subsidiaries or other divisions or operations and neither owns nor has a right or obligation to acquire any equity interest (or option) of any other entity. Company neither participates nor has an interest in any joint venture or similar agreement.

(3) The Shares constitute all of the issued and outstanding shares of capital stock of, and other voting, equity or other ownership interest in, Company. Other than the Sellers, no person or entity is or will be entitled to receive any payment from Buyer with respect to the transfer of the Shares to Buyer. The authorized capital stock of the Company is 100,000 shares of voting common stock of which 22,727 are issued and outstanding. All Shares have been validly authorized and issued, are fully paid and non-assessable and have not been issued in violation of any preemptive right or of any securities laws. Other than the 2009 Non-Qualified Stock Option Plan, adopted on November 23, 2009 ("**GeneSeek Option Plan**"), there is no security, option, warrant, right, call, subscription, agreement, commitment or understanding of any nature whatsoever, fixed or contingent, that directly or indirectly (i) calls for the issuance, sale, pledge, or other disposition of any shares of Company stock or any securities convertible into, or other rights to acquire, any Company shares; (ii) obligates Company or any other entity to grant, offer or enter into any of the forgoing; or (iii) relates to the voting or control of any such capital stock, securities or rights.

(4) Each Seller owns of record and beneficially the Seller's Shares. Each Seller has, and shall transfer to Buyer at Closing, good, valid and marketable title to the Seller's Shares free and clear of any security interest, pledge, lien, charge, claim, option, equity, right, proxy, voting or other agreement, restriction on transfer or encumbrance of any nature.

(5) Company has provided Buyer with a true copy of the GeneSeek Option Plan. The GeneSeek Option Plan has been or will be terminated as of the Closing Date. Attached **Exhibit A** sets forth the names of all persons to whom

grants were made by the Company pursuant to the GeneSeek Option Plan (“**Option Grantees**”) and the number of shares each of the Option Grantees received an option to purchase (“**Option Shares**”). The Option Shares were granted to the Option Grantees in conformity with the GeneSeek Option Plan. The fair market value of each share of the Company’s stock on the date of adoption of the GeneSeek Option Plan was Three Hundred Sixty Seven Dollars (\$367). Each of the Option Grantees and the Company entered into a Nonstatutory Stock Option Agreement (collectively, “**Option Agreements**”), true copies of which have been provided to Buyer. None of the Option Grantees exercised their rights to purchase the Option Shares and no Company shares have been or are required to be issued pursuant to the Option Agreements.

(6) The Company has a registered office located at c/o Dr. Glenn Crocker, Biocity Nottingham Ltd., Pennyfoot Street, Nottingham NG1 1GF, United Kingdom (“**UK Office**”). The Company, through the UK office (i) has not engaged in any business activities, (ii) has never had and does not now have any assets located at the UK Office; (iii) has never had and does not now have any employees at the UK Office; and (iv) has no liabilities associated with the UK Office.

(b) **No Violation.** Except as disclosed in **Exhibit 4.(b)**, the execution and delivery of this Agreement by the Company and the consummation of the transactions contemplated by it will not violate any provision of law, order, or regulation of any governmental authority applicable to Company or the corporate charter or by-laws of Company or constitute a default under any judgment, order or decree of any court of governmental agency or instrumentality, or conflict or constitute a breach or a default under any agreement to which Company is a party or by which it is bound. The execution and delivery of this Agreement by each Seller and the consummation of the transactions contemplated by it will not violate any provision of law, order, or regulation of any governmental authority applicable to such Seller or constitute a default under any judgment, order or decree of any court of governmental agency or instrumentality, or conflict or constitute a breach or a default under any agreement to which such Seller is a party or by which such Seller is bound.

(c) **Financial Information.** Company has provided in **Exhibit 4.(c)** Company’s (i) unaudited balance sheet and profit and loss statement and cash flows as of and for the period ended December 31, 2009 and 2008 (“**Unaudited Financial Statements**”); and (ii) interim financial statements as of and for the period ended February 28, 2010 (“**Interim Financial Statements**”) (collectively, “**Financial Statements**”) all in reasonable detail. The Financial Statements:

(1) Have been prepared in accordance with the books of accounts and records of Company.

(2) Fairly present and are, in all material respects, fair, complete and correct statements of Company’s financial position, the results of its operations, changes in stockholder’s equity and cash flows of Company as of and for the periods specified in the Financial Statements.

(3) Except as set forth on Exhibit 4.(c)(3), have been prepared in accordance with generally accepted accounting principles (“**GAAP**”) consistently applied.

(4) Do not include or omit to state any fact that renders them misleading in a material respect.

(5) Make full and adequate disclosure of all Company’s obligations and liabilities (fixed or contingent, known or unknown) as of the dates thereof.

(6) Do not contain any items of special or non-recurring income or expenses except as expressly stated in the Financial Statements.

**(d) Title to Assets.**

(1) **Exhibit 4.(d)(1)i** is a list of all of Company’s non-real estate assets used in the Business categorized in the following groups: machinery and equipment, receivables, inventories, intangible property and other (collectively, “**Assets**”). Company owns and has corporate power to own, and has good and marketable title to the Assets free and clear of liens, security interests, mortgages, pledges, claims or encumbrances of any kind whatsoever, except as shown in **Exhibit 4.(d)(1)(ii)**. Company has delivered to Buyer true and complete copies of all written leases, contracts, agreements, options, purchase orders, instruments and commitments relating to Company or the Business and written summaries of all oral contracts binding on Company, as evidenced in **Exhibit 4.(d)(1)(iii)** (collectively, “**Contracts**”). All Contracts are legally valid and binding and in full force and effect, and there are no defaults or breaches by Company or counterclaims or defenses against it. Company has received no notice of any default, breach, counterclaim or offset by any other party to any of the Contracts, nor do Company or Sellers have any knowledge thereof. All Contracts will continue in full force and effect on the same terms as currently exists, notwithstanding the consummation of the sale contemplated by this Agreement.

(2) **Exhibit 4.(d)(2)** contains a complete and correct description of all real property, including buildings and other real property improvements, leased by Company (“**Leased Property**”). Company has the exclusive use of the Leased Property. There are no latent defects or conditions with respect to the Leased Property. All the buildings and structures included in the Leased Property currently have (A) all necessary or appropriate occupancy certificates and all other occupancy or other permits for the use for which they are or are intended to be used, (B) public roads or valid easements over private streets or private property for such ingress to and egress from all such plants, buildings and structures and (C) water supply, storm and sanitary sewer facilities, telephone, gas and electrical connections, fire protection, drainage and other public utilities, as are necessary for the conduct of the Business as it is presently conducted. The current use of the Leased Property complies with all applicable zoning ordinances, building codes, health and safety laws and other laws and regulations. Company does not now and never has owned any real estate.

(3) Company has a valid leasehold interest as to all Leased Property. Company has provided Buyer with a true and complete copy of the lease for the Leased Property ("**Lease**"). The Lease is legally valid and binding and in full force and effect, and there are no defaults or breaches by Company or counterclaims or defenses against it. Company has received no notice of any default, breach, counterclaim or offset by the landlord of the Leased Property, nor do Company or Primary Stockholder have any knowledge thereof. The Lease will continue in full force and effect on the same terms as currently exists, notwithstanding the consummation of the sale contemplated by this Agreement. The Lease has not been modified since it was entered into initially.

(4) There are no assets owned by the Company other than those that are used in the Business. The Company owns all assets necessary to carry on the Business after the Closing in substantially the same way as the Company conducted the Business during the past five years (including but not limited to machinery and equipment, furniture and fixtures, product formulations, assay methods, validation data, trade secrets, patents, trademarks, licenses, computer hardware and software, telephone and facsimile numbers, URLs, website, domain names, registrations, customer lists, customer records, salesmen's report, marketing studies, payroll records and manufacturing records). All registrations, customer lists, customer records, salesmen's reports, marketing studies, payroll records and manufacturing records related to the Business are located the Company's main office.

(e) **Condition of Assets.** Except as disclosed in **Exhibit 4.(e)**, all properties utilized in the Business conform in all material respects with all health and safety rules and other rules and regulations. All properties utilized in the Business, including all their components and parts, are ready for operation, and, taking into account their ages, are in normal operating condition and good order and repair. There are no conditions or events, except for normal wear and tear, proper use and the age of the properties, which would prevent their continued normal operation or would otherwise materially and adversely affect their operation or use by Buyer after the Closing as currently used by Company.

(f) **Intellectual Property.** Company owns, or is licensed to use, or otherwise has the right to use all patents, trademarks, service marks, trade names, trade secrets, franchises, and copyrights, and all applications for any of the foregoing, and all technology, know-how and processes necessary for the conduct of the Business as now conducted (collectively, "**Proprietary Rights**"). With respect to Company's Proprietary Rights:

(1) All license arrangements relating in any manner to any of the Proprietary Rights (whether or not in writing) are set forth on **Exhibit 4.(f)(1)**. Except as disclosed in **Exhibit 4.(f)(1)**, Company is in compliance with and is not in default under any of such license agreements, and all other parties to any of such license agreements are in full compliance with and are not in default under any of the license agreements.



(2) **Exhibit 4.(f)(2)** sets forth a complete list of all patents, trademarks, service marks, and copyrights used by Company in the conduct of the Business that are currently registered in any jurisdiction, and Company has good and marketable title to all such assets free and clear of all liens, charges and encumbrances (except for such license agreements listed in **Exhibit 4.(f)(1)**) and all filing or maintenance fees that are required to maintain such registrations that are due and payable as of the date of this Agreement have been paid and all associated maintenance filings have been made.

(3) **Exhibit 4.(f)(3)** sets forth a complete list of all unregistered trademarks, service marks, and trade names used by Company in the conduct of the Business, and Company has good and marketable title to all such assets free and clear of all liens, charges and encumbrances (except for such license agreements listed in **Exhibit 4.(f)(1)**).

(4) For each trademark, service mark, copyright or trade name listed in **Exhibits 4.(f)(2)** and **4.(f)(3)**, **Exhibit 4.(f)(4)** sets forth the dates of first use and the geographic territory of use for each trademark, service mark, or trade name, and the Company and Primary Stockholder represent that such marks and trade names have been in continuous use in their respective territories since the listed dates of first use.

(5) **Exhibit 4.(f)(5)** sets forth a complete list of all software that the Company has had written or developed by any person or entity not an employee of Company, lists the current owner of the copyright interest in such software, and if Company is the current owner, lists the date of the written assignment of the copyright interest to Company.

(6) Company, except as disclosed in **Exhibit 4.(f)(6)**, has not infringed, misappropriated, or otherwise used in an unauthorized manner the proprietary rights (including but not limited to the patent, trade secret, trademark, trade dress, or copyright rights) of any third party.

(7) Company has not granted or committed to grant any rights in Company's Proprietary Rights of any nature whatsoever to any third party except as disclosed in **Exhibit 4.(f)(7)**.

(8) Except as disclosed in **Exhibit 4.(f)(8)**, no claim has been asserted by any person or entity (i) to the effect that any action by Company infringes on the intangible or intellectual property rights of any other person or entity; or (ii) that challenges or questions the right of Company to use any of the Proprietary Rights being used by it; or (iii) which asserts the right of any third party to use such Proprietary Rights.

(9) Except as disclosed on **Exhibit 4.(f)(9)**, there is no basis for any claim against Company that any of its operations, activities, products, or publications infringes on any patent, trademark, service mark, trade name, copyright, or other proprietary right of a third party, or that it is illegally or in any unauthorized manner using the trade secrets or any proprietary rights of others.

(10) To Sellers' knowledge, no person or entity is infringing upon or has misappropriated any of Company's Proprietary Rights. No person or entity other than Company has any right to use any Proprietary Rights.

(g) **Receivables.** All accounts receivable arise from the sale of products or the provision of services solely with respect to the Business in the ordinary course of business determined in accordance with GAAP ("**Receivables**"). The Receivables are collectible, without resort to litigation or extraordinary collection activity within 90 days, and are subject to no defenses, setoffs or counterclaims other than normal cash discounts in the ordinary course of business.

(h) **Inventories.** Subject to the last sentence, the inventories including, but not limited to, merchandise, materials, component parts, manufacturing and packaging supplies, raw materials, work in process and finished goods, relating to the Business on hand as of the Closing Date are determined in accordance with GAAP on the actual cost basis of accounting consistently applied ("**Inventories**"). The Inventories, in the aggregate, are usable and saleable in the ordinary course of the Business and have a remaining shelf life of more than 90 days. No Inventories have been consigned to others. The parties agree (i) Inventories shall exclude all expired items; and (ii) any Inventories that have a remaining shelf life of less than or equal to 90 days but are actually used during the 60 day period immediately following the Closing shall be included as an asset in the post Closing adjustment pursuant to Section 12.

(i) **Contracts.** **Exhibit 4.(d)(1)(iii)** describes all Contracts to which Company is a party or to which it is bound and which arose out of, or relate to, the Business that extend beyond the Closing Date. Company has delivered true and correct copies of all such documents evidencing the Contracts to Buyer. All Contracts shall remain vested with Company without change or the occurrence of any default following the consummation of the transactions contemplated by this Agreement, except as described on **Exhibit 4.(d)(1)(iv)**.

(j) **Litigation.** Except as disclosed in **Exhibit 4.(j)**, there are no actions, suits, proceedings or investigations pending or to Sellers' knowledge threatened against Company at law or in equity, or before any federal, state or municipal or other governmental department, commission, board, agency or instrumentality, domestic or foreign, which involves a demand for any judgment or liability and which could materially affect the Business or the transactions contemplated by this Agreement. The matters disclosed in Exhibit 4.(j) against the Company are baseless and will not result in any payments by or restrictions on the Company.

Company is not in default with respect to any order, writ, injunction or decree of any court of federal, state, or municipal or other governmental department, commission, board, agency or instrumentality, domestic or foreign, and that there are no such orders, decrees, injunctions or regulations issued specifically against Company which may affect, limit or control the method or manner of the Business or any transactions contemplated by this Agreement.

(k) **Compliance with Law.** Company has complied in all material respects with all applicable laws, orders and regulations of any federal, state or municipal or other governmental department, commission, board, agency or instrumentality, domestic or foreign, having jurisdiction, including, but not limited to, laws, orders and regulations thereof relating to antitrust, employment, terms and conditions of employment, occupational safety, wage, hours, collective bargaining, environmental protection, employee safety, or legislation pertaining to illegal bribes or kickbacks.

(l) **Taxes.** Without regard as to which party is responsible for preparation of Tax Returns (as defined in Section 4.1(18)), Sellers warrant and represent as follows:

(1) Other than those Taxes specifically listed in **Exhibit 4.1(1)**, each of the Company and the Subsidiary has duly and timely filed all required Tax Returns with foreign, federal, state and local taxing authorities with respect to Taxes for which Company or the Subsidiary may be liable which are due and required to be filed by any applicable tax law. All taxes, interest and penalties owed (whether or not shown on the Tax Returns) have been paid. There is no tax audit or examination now pending or to Sellers' knowledge threatened with respect to the Business.

(2) As of the Closing Date, Company and the Subsidiary did not have any liability for Taxes due and payable of any sort other than Taxes for which full provision has been made in the Interim Financial Statements.

(3) Neither Company nor the Subsidiary has waived any statute of limitations in respect of any Taxes or agreed to any extension of time with respect to any Tax assessment or deficiency. Neither the Company nor the Subsidiary has filed for any extension of time within which to file any Returns.

(4) No Company property subject to a tax benefit transfer lease subject to the provisions of former Section 168(f)(8) of the Internal Revenue Code of 1986, as amended ("**Code**"), and no Company property is "**tax-exempt use property**" within the meaning of Section 168(h) of the Code.

(5) Neither the Company nor the Subsidiary is a party to any tax sharing, tax allocation, or tax indemnity agreement which would require it to make any payment to any other person by reason of any tax imposed on any such person. Company will not be liable for the taxes of any person as a "**transferee**" within the meaning of Section 6901 of the Code.

(6) No Seller is a foreign person subject to withholding under Section 1445 of the Code and the regulations promulgated thereunder, and certification to that effect will be delivered to Buyer at the Closing, except as otherwise set forth on **Exhibit 4.1(6)**.

(7) Company has complied in all material respects with all applicable laws, rules and regulations relating to information reporting with respect to payments made to third parties and the withholding of and payment of withheld taxes and has timely withheld from employee wages and other payments and paid over to the proper taxing authorities all amounts required to be so withheld and paid over for all periods under all applicable laws.

(8) There are no pending audits, judicial proceedings, or assessments or deficiencies asserted with respect to taxes of Company or Subsidiary. There is no pending claim by any taxing authority in any jurisdiction in which Company or the Company does not pay taxes or file Returns that Company or Subsidiary is required to pay taxes or file Returns.

(9) Company has not made an election under Section 341(f) of the Code or agreed to have Code Section 341(f)(2) (and corresponding state, local and foreign tax law provisions) apply to the disposition of any asset owned by it. Company has not been a personal holding company under Section 542 of the Code and has not participated in an international boycott within the meaning of Section 999 of the Code.

(10) Company has not agreed nor is required to make any adjustment under Section 481(a) or 263(A) of the Code or any comparable provision of state, local or foreign tax laws for any reason.

(11) Company has made no payments, is not obligated to make any payments, and is not a party to any agreement that under any circumstances could obligate it to make any payments that will not be deductible under Section 280G of the Code. Section 409A of the Code does not apply to any payments made to the Company's employees before Closing or payable to Company's employees after Closing based on agreements that existed prior to Closing.

(12) The Company is in compliance with all material transfer pricing requirements in all jurisdictions in which they do business. All compensation and other payments to employees, officers, and any other party (related or unrelated to Sellers) are on an arm's length basis. All intercompany loans are on an arm's length basis.

(13) The Company has no liability for any taxes of any entity (other than the Company) under Treasury Regulation 1.1502-6 (or any corresponding provision of state, local or foreign income tax law), as transferee or successor, by contract or otherwise.

(14) The Company is not a party to any joint venture, partnership, or other arrangement or contract that could be treated as a partnership for federal income tax purposes.

(15) Except as set forth in Exhibit 4.1(15), (i) neither the Company nor the Subsidiary has been a party to any transaction that presents a material risk of being recharacterized by any taxing authority or any other entity entitled to collect compulsory payments in a way that could result in the imposition of any additional penalties, additions to tax, or like charges; and (ii) all documents that are subject to registrations have been duly and timely registered and the related taxes have been duly and timely paid.

(16) The compensation payable to each of the Option Grantees (including but not limited to the Option Grantee Documents (as defined in Section 6.(c)) is reasonable compensation fully deductible under the Code by Company to the extent paid prior to Closing and will be fully deductible under the Code by Company to the extent paid after Closing.

(17) The term “**Tax**” or “**Taxes**” means any tax imposed of any nature, including federal, state, local or foreign net income tax, alternative or add-on minimum tax, profits or excess profits tax, franchise tax, gross income, adjusted gross income or gross receipts tax, employment related tax (including employee withholding or employer payroll tax or FICA or social security or payroll), real or personal property tax or ad valorem tax, sales or use tax, excise tax, stamp tax, any withholding or backup withholding tax, unemployment tax, license tax, windfall profits tax, environmental tax, estimated tax, abandoned property tax, custom duties, capital stock tax, disability tax, value added tax, severance tax, prohibited transaction tax, premiums tax, occupation tax, together with any interest, penalty, or addition to the tax or additional amount imposed by any Governmental Entity responsible for the imposition of such tax.

(18) The term “**Tax Return**” means any return, declaration, report or similar statement required to be filed with respect to any Taxes (including any schedules or other attachments), including any information return, claim or refund, declaration of estimated Tax, or report or statement relating to Taxes, and any amendment to any of the foregoing.

(m) **No Adverse Changes.** Since December 31, 2009 (“**Reference Date**”), there has been no material adverse change in the condition, financial or otherwise, of Company or in the Business other than changes (not in the aggregate either material or adverse) occurring in the ordinary course of business.

(n) **Warranties and Product Liability.** Company has previously delivered to Buyer true, correct and complete copies of all outstanding standard product

warranties and guaranties given by Company with respect to the Business and true, correct and complete copies of all other product warranties and guaranties now in effect with respect to products manufactured or sold by Company. Except as fully described in **Exhibit 4.(n)**, there are no pending, or to the Company's knowledge, threatened claims or actions against the Company for breach of warranty or based upon product liability (whether based on tort or contract principles).

(o) **Contingent and Undisclosed Liabilities.** Except as to the Permitted Liabilities (as defined in the next sentence), Company has no debts, obligations or liabilities, whether known or unknown, fixed or contingent, of any nature whatsoever, relating to the Business not disclosed in writing to Buyer. The term "**Permitted Liabilities**" shall mean those liabilities expressly disclosed in the Interim Financial Statements, the Lease and the unfulfilled portion of all customer purchase orders. Company knows of no basis for assertion of any claim against the Company or Buyer for any liability relating to the Business except those disclosed in **Exhibit 4.(o)** or those of a similar type and amount as reflected in the Permitted Liabilities and incurred in the ordinary course of business between the date of the Interim Financial Statements and the Closing Date.

(p) **Performance of Contracts.** Except as disclosed in **Exhibit 4.(p)**, Company is not in default, nor has it breached any provision of, any contract, agreement, lease, obligation, license or permit (including the Contracts) with regard to all agreements relating to the Business to which it is a party or by which it is bound. Except as disclosed in **Exhibit 4.(p)**, Company has fully performed each material term, condition and covenant of each such contract, agreement, lease, obligation, license or permit required to be performed on or prior to the date of this Agreement (including the Contracts). Except as disclosed in **Exhibit 4.(p)**, Company knows of no state of facts which, with or without the giving of notice or the passage of time, or both, would give rise to any default or revocation. Except as disclosed in **Exhibit 4.(p)**, Company is neither subject to any penalty, discount or liquidated damages due to the delayed delivery of products, goods or services of the Business, nor has it received any notice that any of the Business's customer relations are in jeopardy because of such late deliveries or otherwise

(q) **Events Subsequent to Reference Date.** Except as disclosed in **Exhibit 4.(q)**, Company has not since the Reference Date:

(1) **Incurred Liabilities.** Incurred any obligation or liability (absolute, contingent, accrued or otherwise) or guaranteed or become a surety of any debt, except in connection with the performance of this Agreement or in the ordinary course of business;

(2) **Discharged Debt.** Discharged or satisfied any lien or encumbrance, pertaining to the Business, or paid or satisfied any obligation or liability (absolute, contingent, accrued or otherwise) other than (i) liabilities shown on Company's accounting records on Reference Date or (ii) liabilities incurred since the Reference Date in the ordinary course of business;

(3) **Encumbrances.** Mortgaged, pledged or subjected to any lien, charge, security interest or other encumbrance any of the properties utilized in the Business, outside the ordinary course of business;

(4) **Disposition of Assets.** Sold or transferred any of the properties utilized in the Business, or canceled any debts or claims or waived any rights, except in the ordinary course of business or as part of the transfer of assets in anticipation of the sale of the Shares, outside the ordinary course of business;

(5) **Sale of Business.** Entered into any contract for the sale of the Business, or any part thereof, or for the purchase of another business, whether by merger, consolidation, exchange of capital stock or otherwise (other than negotiations with respect to this Agreement);

(6) **Accounting Procedure.** Changed or modified the accounting methods or practices relating to the Business including but not limited to acceleration of sales into a pre-Closing period or the delay in recognition of expenses into a post-Closing period;

(7) **Capital Expenditure.** Purchased or made a commitment for the purchase of capital assets for use or employment in the Business, in excess of \$5,000;

(8) **Compensation and Fringe Benefits.** Increased or promised to increase the wages or fringe benefits of employees or independent contractors;

(9) **Dividends.** Paid any dividends to Sellers, except as permitted hereunder;

(10) **Other Payments.** No payments to shareholders or others outside the ordinary course of business consistent with past practice except as permitted hereunder; or

(11) **Bank.** Borrowed any money from a bank or financial institution.

(r) **Customer Relations.** Except as disclosed on **Exhibit 4(r)** Company knows of no state of facts, nor have any communications been made to it, which would indicate that (i) any current customer of Company which accounted for more than 5% of Company's sales relative to the Business for the most recent fiscal year ending, or (ii) any current supplier of Company (if such supplier could not be replaced by Company at comparable cost), will terminate its business relations with Company.

(s) **Brokerage and Selling Expenses.** The Company has made a commitment for a brokerage fee in connection with the transactions contemplated by this Agreement. Except as noted in the preceding sentence, Company (i) has not made a commitment for a brokerage fee in connection with the transactions contemplated by this Agreement, and (ii) will not pay any brokerage fee, legal fees, accounting fees or other expenses related to the sale of all or substantially all of Company's assets or the Shares (collectively, "**Selling Expenses**"). Sellers agree to repay the Company any Selling Expenses paid by it related to the transactions contemplated by this Agreement.

(t) **Books and Records.** The books and accounts of Company and Subsidiary relating to the Business are true, complete and correct in all material respects and fully and fairly reflect all of the transactions entered into by or on behalf of Company or Subsidiary, as applicable, to which it is a party or by which it is affected.

(u) **Transactions with Insiders.** There are no agreements between Company, Subsidiary and Sellers, other than employment agreements disclosed in Section 4.(x) and the Lease.

(v) **Binding Effect.** The Agreement and all related documents have been duly executed, made and delivered by the Company and constitute legal, valid and binding obligation of the Company, enforceable against it in accordance with their respective terms, subject to the laws of equity and laws of general application affecting creditors' rights. The Agreement and all related documents have been duly executed, made and delivered by each Seller, and constitute legal, valid and binding obligation of each Seller enforceable against each Seller in accordance with their respective terms, subject to the laws of equity and of general application affecting creditors' rights.

(w) **Authorization.** The transactions contemplated by this Agreement have been duly authorized by the Board of Directors of the Company and each Seller that is an entity and on the Closing Date all of the necessary corporate action to authorize the consummation of this Agreement will have been taken. Each Seller has the power and authority to enter into this Agreement and all documents related to the transactions contemplated by the Agreement.

(x) **Employee Relations.** Exhibit 4.(x) sets forth a list of all of the officers, employees and agents of Company as of the Reference Date and, for each individual, indicates his or her position, salary or wage rate and respective fringe benefits and any other remuneration paid or payable. Except as disclosed on Exhibit 4.(x):

(1) There is not now in existence or pending, nor has there been within the last three years, any grievance, arbitration, administrative hearing, claim of unfair labor practice, wrongful discharge, employment discrimination or sexual harassment or other employment dispute of any nature pending or, to the Company and Sellers' knowledge, threatened against Company.



(2) Company has no collective bargaining agreements and is not a party to any written or oral, express or implied, other contract, agreement or arrangement with any labor union or any other similar arrangement that is not terminable at will by Company without cost, liability or penalty.

(3) Company is not a party to any written or oral contract, agreement or arrangement with any of its present or former directors, officers, employees or agents with respect to length, duration or conditions of employment (or the termination thereof), salaries, bonuses, percentage compensation, deferred compensation or any other form of remuneration, or with respect to any matter not disclosed on **Exhibit 4.(x)(4)**.

(4) There is no pending claim or, to the best of Company and the Sellers' knowledge, threatened or existing but unasserted claim, against Company for violation of any contract, agreement or arrangement described in **Exhibit 4.(x)(4)**, nor to the best of Company's knowledge, is there any factual basis upon which such a claim could be asserted.

(5) Upon termination of the employment of any of the Company's employees prior to Closing, Buyer shall not incur any liability except as listed on **Exhibit 4.(x)(4)**; provided the Company has no obligation to pay any employee any amount on the purchase or sale of the Shares arising out of the items disclosed in Exhibit 4.(x)(4).

**(y) Employee Benefit Plans.**

(1) **Exhibit 4.(y)(1)** sets forth all "**employee welfare benefit plans**", "**employee pension benefit plans**" and "**multi-employer plans**" within the respective meanings of Sections 3(1) and 3(2) and 3(37) of the Employment Retirement Income Security Act of 1974, as amended ("**ERISA**"), all incentive compensation plans, benefit plans for retired employees and all other employee benefit plans maintained by Company, or to which Company has made payments or contributions on behalf of its employees since 1974, including, without limitation, all plans or contracts providing for bonuses, pensions, profit-sharing, stock options, stock purchase rights, deferred compensation, insurance and retirement benefits of any nature, whether formal or informal and whether legally binding or not (each such plan is referred to individually as a "**Plan**", collectively as the "**Plans**").

(2) Except for any multi-employer plans, all Plans covered by the Code and ERISA are, and during all applicable limitation periods have been, in compliance with the Code and ERISA, and all retirement or pension Plans and welfare benefit plans are qualified plans under the Code and each Plan is in compliance with the applicable provisions of the Code.

(3) There has been no transaction in connection with which Company or any of its directors, agents, officers, or employees could be subject to either a civil penalty assessed pursuant to Section 502(i) of ERISA or a tax imposed by Section 4975 of the Code or any similar provision of foreign law.

(4) No Plan that is a qualified plan under Section 401(a) of the Code and no trust created thereunder has been terminated, partially terminated, curtailed, discontinued or merged into another plan or trust, except in compliance with notice and disclosure to the Internal Revenue Service (“**IRS**”), the Department of Labor and the Pension Benefit Guaranty Corporation (“**PBGC**”); and any such termination, partial termination, curtailment, discontinuance or merger has been accompanied by the issuance of a current favorable determination letter by the IRS and, where applicable, has been accompanied by plan termination proceedings with and through the PBGC.

(5) There are no payments that have become due from any Plan, the trusts created thereunder, or from Company that have not been paid through normal administrative procedures to the Plan participants or beneficiaries entitled thereto.

(6) Company has made full and timely payment of all required and discretionary contributions to the Plans, and no unfunded liability exists with respect to any Plan.

(7) There has been no “**reportable event**” as defined in Section 4043 of ERISA with respect to any Plan or any trust created thereunder.

(8) None of the Plans are a “**defined benefit plan**” within the meaning of Section 3(35) of ERISA and none is subject to Title IV of ERISA.

(9) Neither Company nor any of its directors, officers, employees, or agents has any outstanding liabilities of any nature to the PBGC, the IRS, or the Department of Labor in any way relating to the Plans, and all annual returns required to be filed with respect to the Plans have been timely filed.

(10) Company is not a party to or otherwise subject to any express or implied agreement or plan to provide health coverage or other benefits to retired or current employees except as set forth in **Exhibit 4.(y)(10)**.

(11) Company is not a party to or otherwise subject to any express or implied agreement or plan to provide any employee benefits, wages, deferred compensation, or any other form of benefit or remuneration beyond the date of Closing, except as listed in **Exhibit 4.(y)(11)**.

(12) With respect to all “**covered employees**” as defined in Section 4980B(f)(7) of the Code and Section 607(2) of ERISA and “**qualified**

**beneficiaries**” as defined in Section 4980B(g)(1) of the Code and Section 607(3) of ERISA as of the Closing Date, Company has complied with all applicable health care continuation requirements under the Code, ERISA and current and proposed Federal Regulations. Company agrees to use its best efforts expeditiously to provide Buyer with all information that Buyer deems necessary to determine whether there have been any failures to comply with the continuation health care requirements of Section 4980B of the Code and Sections 601 through 609 of ERISA as such requirements have applied to any group health plan maintained by or for Company which failure occurred with respect to any covered employee or qualified beneficiary on or prior to the Closing Date. Company further agrees to use its best efforts expeditiously to provide to Buyer all information that Buyer deems necessary to correct any failures to comply with such continuation health care coverage requirements. Attached as **Exhibit 4(y)(12)** is a schedule containing the following information regarding each covered employee and qualified beneficiary (excluding all employees who will become covered employees by virtue of termination of their employment contemplated by this Agreement) : (i) the identification of all covered employees and qualified beneficiaries, (ii) the identification of all qualifying events, including the qualifying date, with respect to such covered employees or qualified beneficiaries (as defined in Section 4980B(f)(3) of the Code, (iii) the payment schedule for all covered employees and qualified beneficiaries currently receiving continuation health care coverage, (iv) the date the Notice of Right to Elect Continuation Coverage was provided to the covered employee and qualified beneficiaries, and (v) the date the Continuation Election Form was provided to Company by the covered employee or qualified beneficiary if continuation coverage was elected. For purposes of this provision, references to the Code and ERISA shall include references to any provisions of such statutes as they may be amended from time to time.

(z) **Environmental Matters.** Except as disclosed on **Exhibit 4.(z)**:

(1) Company has never conducted or operated any business from any location other than the Premises (as defined below).

(2) Company and the Premises comply in all material respects with all applicable Environmental Laws.

(3) No Hazardous Substances have been or are currently generated, stored, transported, utilized, disposed of, managed, released or located on, under or from the Premises or any other parcel of real estate (collectively, “**Company Properties**”) (whether or not in reportable quantities) by Company or its agents or invitees, or in any manner introduced onto the Company Properties by Company or its agents or invitees, including, without limitation, the septic, sewage or other waste disposal systems serving the Premises and all Hazardous Substances disclosed on **Exhibit 4.(z)** have been generated, stored, transported, utilized, disposed of, managed, released or located on, under or from the Company Properties only in accordance with all applicable Environmental Laws.

(4) Sellers and Company have no knowledge of any threat of Release of any Hazardous Substances on, under or from the Premises. There is no threat of Release of any Hazardous Substances which Company or any of its agents or invitees generated, stored, transported, utilized, disposed of, managed or owned.

(5) Company has no liability for response or corrective action, natural resource damage, or other harm pursuant to any Environmental Laws; Company is not subject to, has no notice or knowledge of, and is not required to give any notice of any Environmental Claim involving Company or the Company Properties; there are no conditions or occurrences at the Company Properties which could form the basis for an Environmental Claim against the Company.

(6) Company has not received any notice from the United States Environmental Protection Agency or any other Governmental Authority claiming that (i) the Company Properties or any use thereof violates any of the Environmental Laws, or (ii) Company or any of its employees or agents have violated any of the Environmental Laws.

(7) Company has not incurred any liability to the State of Nebraska, the United States of America or any other Governmental Authority under any of the Environmental Laws.

(8) The Company Properties are not subject to any, and Company and Sellers have no knowledge of any imminent, restriction on the ownership, occupancy, use, or transferability of the Premises in connection with any (i) Environmental Laws or (ii) Release, threatened Release, or disposal of Hazardous Substances.

(9) To Company's knowledge, the Premises do not contain and have not contained any: (i) underground storage tanks, (ii) any amount of asbestos-containing building material, (iii) any landfills or dumps, (iv) Hazardous Substances resulting in its classification as a hazardous waste management facility as defined pursuant to RCRA or any comparable state law, or (v) Hazardous Substances resulting in its classification as a site on or nominated for the National Priority List promulgated pursuant to CERCLA or any state remedial priority list promulgated or published pursuant to any comparable state law.

(10) There are no Environmental Enforcement Actions pending or, to the best of Company's knowledge, threatened.

(11) There are no conditions or circumstances at or migrating from the Premises which pose a risk to the environment or the health or safety of persons.

(12) There are no environmental reports, investigations and audits relating to the Company Properties (whether conducted by or on behalf of

Company and Sellers or a third party, and whether done at the initiative of Company and Sellers or directed by a governmental or other third party) (collectively, “**Reports**”). A true, complete and accurate copy of each of the Reports has been provided to Buyer.

(13) The following definitions apply to this paragraph.

(A) “**CERCLA**” shall mean the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorizations Act of 1986, 42 USC 9601 *et seq.*, and future amendments;

(B) “**Environmental Claim**” shall mean any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding, or claim (whether administrative, judicial, or private in nature) arising (i) pursuant to, or in connection with, an actual or alleged violation of, any Environmental Laws, (ii) in connection with any Hazardous Substances, (iii) from any abatement, removal, remedial, corrective, or other response action in connection with Hazardous Substances, Environmental Laws or other order of a Governmental Authority or (iv) from any actual alleged damage, injury, threat, or harm to health, safety, natural resources, or the environment;

(C) “**Environmental Enforcement Actions**” means actions or orders instituted, threatened, required or completed by any Governmental Authority and all claims made or threatened by any person against Company with respect to the Premises arising out of or in connection with any of the Environmental Laws or the assessment, monitoring, clean-up, containment, re-mediation or removal of, or damages caused or alleged to be caused by, any Hazardous Substances (i) located on or under the Premises, (ii) emanating from the Premises or (iii) generated, stored, transported, utilized, disposed of, managed or released by Company on, under or from the Premises;

(D) “**Environmental Laws**” means federal, state and local laws, statutes, ordinances, rules, regulations, codes, orders, judgments, orders and the like applicable to (i) environmental conditions on, under or emanating from the Premises including, but not limited to, (I) laws of Nebraska; and the associated rules and regulations promulgated in connection with any of these laws, and (II) laws of the federal government commonly known as CERCLA, RCRA, the Toxic Substance Control Act, as amended, the Federal Water Pollution Control Act, as amended, and the Federal Clean Air Act; and the associated rules and regulations promulgated in connection with any of these laws; and (ii) the generation, storage, transportation, utilization, disposal, management or release of Hazardous Substances by Company (whether or not on, under or from the Premises) or Company (on, under or from the Premises);

(E) “**Governmental Authority**” means agencies, authorities, bodies, boards, commissions, courts, instrumentalities, legislatures and offices of any nature whatsoever for any government unit or political subdivision, whether federal, state, county, district, municipal, city or otherwise, and whether now or later in existence;

(F) “**Hazardous Substances**” shall mean, collectively, (i) any “**hazardous material,**” “**hazardous substance,**” “**hazardous waste,**” “**oil,**” “**regulated substance,**” “**toxic substance,**” “**restricted hazardous waste,**” “**special waste**” or words of similar import as defined under any of the Environmental Laws; (ii) asbestos in any form; (iii) urea formaldehyde foam insulation; (iv) polychlorinated biphenyls; (v) radon gas; (vi) flammable explosives; (vii) radioactive materials; (viii) any chemical, contaminant, solvent, material, pollutant or substance that may be dangerous or detrimental to the environment or the health and safety of occupants of the Premises or of the owners or occupants of any other real property nearby the Premises, and (iv) any substance, the generation, storage, transportation, utilization, disposal, management, Release or location of which on, under or from the Premises is prohibited or otherwise regulated pursuant to any of the Environmental Laws;

(G) “**Premises**” shall mean all locations listed on **Exhibit 4.(z)(13)(G).**

(H) “**RCRA**” shall mean the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 USC 6901 *et seq.*, and any future amendments; and

(I) “**Release**” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the indoor or outdoor environment, including, without limitation, the abandonment or discarding of barrels, drums, containers, tanks, and other receptacles containing or previously containing any Hazardous Substances.

(aa) **Bank Accounts.** Attached as **Exhibit 4.(aa)** is a complete and accurate list of all banks, brokerage firm or other financial intermediaries or institutions in which Company has an account or safety deposit box (collectively, “**Accounts**”) and the names of all individuals authorized to draw on these Accounts, have access to the Accounts or otherwise give instructions regarding the Accounts.

(bb) **Insurance.** **Exhibit 4.(bb)** lists all policies of liability, property damage, fire, workers’ compensation/employer’s liability, title or other forms of insurance owned or carried by Company (“**Policies**”) and insurance agents or brokers providing such insurance coverage. Company has received no notice from any insurance carrier regarding the possible cancellation of or premium increase with respect to the Policies. Company has no claim pending or anticipated against any of the insurance carriers under any of the Policies and there has been no actual or alleged occurrence of any kind that may give rise to any such claim.

(cc) **Permits and Licenses.** Attached **Exhibit 4.(cc)-1** is a complete and accurate list of all licenses, permits, authorizations and approvals required by any Governmental Entities (as defined below) (collectively, “**Licenses**”) as are necessary to own, lease or operate Company’s Business. All of the Licenses are valid and in full force and effect. Except as disclosed in **Exhibit 4.(cc)-2**, Company is in compliance in all material respects with all obligations under all Licenses, and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination of any Licenses. The execution, delivery or performance of this Agreement and the consummation of the transactions contemplated by it will not require or permit (with or without notice or lapse of time, or both), and no event has occurred and is continuing which requires or permits, or after notice or lapse of time or both would require or permit, any modification or termination of any Licenses. No Licenses would have to be obtained, secured or made by Buyer or Company (except for normal renewals of existing Licenses) to enable Company to operate the Business after the Closing in a manner which is consistent with that in which it is presently conducted. Company has not received any notice that any Licenses will not be renewed in the ordinary course without the imposition of additional materially adverse conditions (except as may be caused by or related to actions of Buyer after Closing). The term “**Governmental Entities**” shall mean any federal, state, local, foreign or supranational court, commission, governmental body, regulatory agency, authority or tribunal. Company has not received any notice asserting noncompliance with any applicable law, rule or regulation which if enforced would have a material adverse effect on the Business. No Governmental Entities have indicated any intention to initiate any investigation, inquiry or review involving Company, any Plans or any of Company’s rights or properties.

(dd) **Termination of Employees.** Company has terminated all of its employees effective no later than immediately before Closing. All payments due Option Grantees pursuant to the Option Grantee Documents shall have been paid prior to Closing. All other liabilities associated with termination of the employees are identified on attached **Exhibit 4.(dd)** and will have been paid by Company prior to Closing or will be accrued and be part of the Final Closing Total Liabilities (as defined in Section 12(e)).

(ee) **Representations and Warranties True and Correct.** The representations and warranties contained in this Agreement, and all statements or information disclosed by any of the Exhibits, do not include any untrue statement of a material fact nor omit to state a material fact required to be stated herein or therein or necessary in order to make the statements herein or therein, in light of the circumstances under which they are made, not misleading.

**5. Representations and Warranties of Buyer.** In order to induce Sellers to enter into this Agreement, Buyer makes the following representations and warranties:

(a) **Organization.** Buyer is, and on the Closing Date shall be, a corporation validly existing and in good standing under the laws of the State of Michigan.

(b) **Authorization.** The execution and delivery of this Agreement and the transactions contemplated by it have been duly authorized by the Board of Directors of Buyer and on the Closing Date all of the necessary corporate action to authorize the execution and delivery of this Agreement will have been taken.

(c) **No Violation.** The execution and delivery of this Agreement by the Buyer and the consummation of the transactions contemplated by it will not violate any law, order or regulation of any governmental authority, or corporate charter or bylaws of Buyer or constitute a default under any judgment, order or decree of any court or governmental agency or instrumentality, or conflict with or constitute a breach or default under any agreement to which Buyer is a party or by which it is bound.

(d) **Brokerage.** Buyer has not made a commitment for a brokerage, finders or similar fees in connection with the transactions contemplated by this Agreement.

(e) **Binding Effect.** The Agreement and all related documents have been duly executed, made and delivered by Buyer and constitute legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms, subject to the laws of general application affecting creditors' rights.

(f) **Purchase For Investment.** Buyer is acquiring the Shares for its own account for investment purposes and not with a view to distribution or resale.

(g) **Representations and Warranties True and Correct.** The representations and warranties contained in this Agreement do not include any untrue statement or material fact nor omit to state a material fact required to be stated herein or therein or necessary in order to make the statements herein or therein, in light of the circumstances under which they are made, not misleading.

(h) **Financing.** Buyer has sufficient funds available to satisfy its obligations hereunder.

6. **Conditions of Buyer's Obligation To Close.** The obligations of Buyer pursuant to this Agreement are subject to the following conditions having been met, or waived in writing by Buyer, at or prior to the Closing Date:

(a) **Representations and Warranties.** The representations and warranties made by Sellers contained in this Agreement and in any exhibit, document or instrument delivered by any of them pursuant to this Agreement shall be true and correct in all material respects on and as of the Closing Date.

(b) **Approvals and Consents.** All necessary approvals and consents with respect to the transactions contemplated by this Agreement, the absence of which would have a material adverse effect on Buyer's rights under this Agreement, or which



would result in the forfeiture or breach of any material rights pursuant to the provision of any material contract or agreement of Buyer or Company, or without which the Company would be precluded or materially impeded from conducting the Business, shall have been received.

(c) **Delivery of Instruments of Conveyance of the Shares.** Each Seller shall have delivered to Buyer, satisfactory to Buyer in form and substance, (i) conveyancing documents to transfer title to the Seller's Shares to Buyer; and (ii) each of the Option Grantees shall have entered in to a Stock Option Termination Agreement and a Bonus Agreement. (collectively, "**Option Grantee Documents**").

(d) **No Litigation.** No investigation, suit, action or other proceedings shall be threatened or pending before any court or governmental agency in which it is sought to restrain, prohibit or obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by the Agreement.

(e) **No Adverse Change.** There shall have been no change or development related to the Business, the Shares, results of operations or in the condition, financial or otherwise, of the Business or Company, which has had or would have a material adverse effect on the condition, financial or otherwise, of the operation of the Business or ownership of the Shares.

(f) **Retention of Certain Employees.** Buyer is able to enter into satisfactory employment or consulting agreements with key employees (including but not limited to Abraham Oommen ("**Oommen**") and Daniel H. Pomp ("**Pomp**") (individually referred to as "**Principal Shareholder**" and collectively referred to as "**Principal Shareholders**") that include, among other provisions, compensation, fringe benefits, non-compete, non-solicitation of employees and confidentiality.

(g) **Acquisition of All Shares.** All Sellers shall have entered into this Agreement and delivered the Shares at Closing.

(h) **Termination of GeneSeek Option Plan.** The GeneSeek Option Plan shall have been terminated all Option Grantees shall have executed the Option Grantee Documents.

**7. Conditions to Sellers' Obligation to Close.** The obligations of each Seller pursuant to this Agreement are subject to the following conditions having been met, or waived in writing by Sellers, at or prior to the Closing Date:

(a) **Representations and Warranties.** The representations and warranties of Buyer in this Agreement and in any exhibit, document or instrument delivered by Buyer pursuant to this Agreement in all shall be correct in all material respects on and as of the Closing Date.

(b) **Payment of Price.** Buyer shall have delivered to Sellers the cash portion of the Price as provided in Section 2.

(c) **No Litigation.** No investigation, suit, action or other proceedings shall be threatened or pending before any court or governmental agency in which it is sought to restrain, prohibit or obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by this Agreement.

(d) **Related Documents.** The Option Grantee Documents are executed at or prior to Closing.

(e) **Employment Agreements.** The Principal Shareholders shall have entered into employment agreements with Buyer or the Company on terms satisfactory to them.

#### 8. Survival of Representations and Indemnification.

(a) **Survival of Representations.** Buyer and Sellers agree that all representations, warranties and covenants of Sellers, Principal Shareholders, the Company and Buyer ("**Representations**") shall survive the execution, delivery of this Agreement, any investigation made by Buyer and the Closing and the Closing Date. The Representations given in (i) Sections 4.(a), (b), (d) and (f), (v) and (w) and in Sections 5.(a), (b), (c) and (e) and Section 9.(a)(2) shall continue indefinitely; (ii) Sections 4(i), (j), (k), (l), (n), (o), (s), (x), (y), (z), (cc) and (ee) to the extent that it relates to one or more of the preceding items and Sections 5.(d) and (f) shall continue until three months after the expiration of the applicable statute of limitation; and (iii) all others shall expire upon the second anniversary of the Closing Date.

(b) **Indemnification by Sellers.** Subject to the limitations set forth in Section 8.(f), each Seller agrees, severally, to indemnify and hold Buyer harmless from and against any and all Damages (as defined in Section 8.(d)) incurred by Buyer or which Buyer may sustain at any time arising out of or by reason of the following, to the extent not taken into account in determining the Post-Closing Purchase Price Adjustment Amount or to the extent the item constitutes a Permitted Liability:

(1) The inaccuracy or breach of any of the Representations made by the Seller or the Company in or pursuant to this Agreement (in each case without giving effect to any disclosure of matters contained in the Exhibits and without giving effect to any materiality qualification);

(2) Any failure by any Seller to perform any obligation or comply with any covenant or agreement of such Seller specified in this Agreement or in any other document executed at Closing;

(3) Any claim (i) for wages or fringe benefits made by any employee of Company with respect to the period ending immediately preceding the Closing Date; (ii) for severance payments or other liabilities with respect to the termination of any employees of Company; or (iii) with respect to the injury or death of any such employee arising out of events occurring prior to the Closing Date;

(4) Any claim (including, without limitation, claims alleging death or injury to persons or damage to property), whether based in tort, contract or otherwise resulting from or caused by any product sold, or service provided, by Company prior to the Closing Date;

(5) Any Company debt, obligation or liability, whether known or unknown, fixed or contingent, of any nature whatsoever before the Closing Date, including but not limited to all Taxes and environmental liabilities of any nature, other than Permitted Liabilities;

(6) Any of the matters disclosed on any of the Exhibits;

(7) Any liability or obligation arising out of (A) the conduct of any trade, business or transactions by Company prior to the Closing, (B) the termination of employment of any employee by Company on or prior to the Closing, (C) any Benefit Plan; or (D) the ownership, lease, use, occupation or operation of any facility or property at any time owned, leased, used, occupied or operated by Company;

(8) Any liability of the Company under Treasury Regulation Section 1.1502-6 promulgated by the Department of Treasury ("**Treasury Regulation**") or any under any comparable or similar provision under state, local or foreign tax laws or regulations for any period ending on or before the Closing Date;

(9) Any Tax, interest or penalty payable by the Company or Buyer after Closing arising out of any transactions related to the termination of the GeneSeek Option Plan (including but not limited to Code Section 409A) other than as a result of improper actions or omissions by Buyer after Closing;

(10) Any Taxes associated with all transactions occurring in all tax years ending on or before the Closing Date in excess of the provision for income taxes included in the determination of Final Closing Total Liabilities (as defined in Section 12.(e)).

Any claim that an item breaches more than one provision of Section 8.(b) shall be deemed to fall into the preceding category that has the longest survival period.

Sellers agree that they shall not have any claim or right of indemnification or contribution or any other right of recourse against Company with respect to Damages. Sellers waive and release any and all such claims and right. Sellers agree that the indemnities set forth in clauses (3) – (10) above shall not be affected by disclosures which relate thereto and are contained in the Exhibits.

(c) **Indemnification by Buyer.** Buyer agrees to defend, indemnify and hold harmless Sellers from and against any Damages incurred by reason of any breach of any representation, warranty or covenant of Buyer. Buyer agrees to cause Company to defend, indemnify and hold harmless Sellers from and against any Damages incurred by reason of (i) any liabilities arising from the operation or conduct of Company subsequent to the Closing Date; (ii) any product manufactured by or any services provided by Company subsequent to the Closing Date; and (iii) any failure by Buyer to perform any obligation or comply with any covenant or agreement of Buyer specified in this Agreement or in any other document executed at Closing.

(d) **Damages.** An Indemnified Party (as defined in Section 8.(e)(1)) shall be entitled to recover the full amount of any liabilities, losses, debts, obligations, monetary damages, fines, fees, penalties, deficiencies, expenses (including amounts paid in settlement, interest obligations, court costs, the reasonable costs of investigators, the reasonable fees and expenses of attorneys, accountants, financial advisors or other experts, and other reasonable expenses of litigation or administrative proceedings) incurred due to the matter for which indemnification is sought, but any recovery shall be net of any economic benefit to which the Indemnified Party is entitled due to such liabilities, expenses, costs or loss, including, without limitation, (i) any tax refund, reduction or benefit, (ii) any insurance proceeds to which the Indemnified Party is entitled and (iii) any warranty reimbursements (collectively, "**Damages**").

(e) **Assertion and Defense of Indemnification Claims.**

(1) **Assertion of Claim.** Buyer or Sellers ("**Indemnified Party**"), as applicable, shall give notice to the other ("**Indemnifying Party**") as soon as reasonably possible after the Indemnified Party has actual knowledge of any claim to which the Indemnifying Party has an obligation to indemnify, including the amount, if known, and shall promptly supply any other information in possession of the Indemnified Party supporting the claim. The omission by the Indemnified Party to give Notice as soon as reasonably possible will not relieve the Indemnifying Party of its indemnification obligations, unless the failure to give notice to the Indemnifying Party materially prejudices the Indemnifying Party or notice is given after the end of the survival period of the applicable representation of warranty or other basis of the claim. All indemnification claims must be asserted by giving notice within the survival period of the applicable representation or warranty or other basis for the claim. Buyer shall have the right to set off any Damages it may incur against the amount it owes Sellers. This right of set off shall be in addition to any other rights or remedies Buyer may have against Sellers.

(2) **Defense of Undisputed Claim.** The Indemnified Party will permit the Indemnifying Party (at its expense) to assume the defense of any third party claim in any litigation. The Indemnifying Party may settle or compromise any third party claim or litigation only with the consent of the Indemnified Party, which consent shall not be unreasonably withheld. The Indemnified Party shall have the right at all times to participate in the defense, settlement, negotiations or litigation relating to any third party

claim or demand at its own expense. If the Indemnifying Party does not assume the defense of any matter which it has an obligation to indemnify, then the Indemnified Party shall have the right to defend any such third party claim or demand, and will be entitled to settle any such claim or demand in its discretion, all at the expense of the Indemnifying Party. In any event, the Indemnified Party will cooperate in the defense of any such action at the expense of the Indemnifying Party and the pertinent records of each party shall be available to the other with respect to the defense.

(3) **Defense of Disputed Claim.** Should an Indemnifying Party provide Notice to the Indemnified Party regarding a claim or action by a third party for which the Indemnifying Party denies liability, the Indemnified Party shall give the Indemnifying Party a reasonable opportunity: (1) to conduct any proceedings or negotiations in connection therewith; (2) to take all other required steps or proceedings to settle or defend any third party action; or (3) to employ counsel to contest any third party claim or action in the name of the Indemnified Party or otherwise. If the Indemnifying Party desires to assume the defense of the third party claim or action, it shall promptly give Notice to the Indemnified Party. The Indemnifying Party and the Indemnified Party may participate in the defense at their own expense.

(f) **Limitation on Recovery.** Anything in this Agreement to the contrary notwithstanding, there shall be no recovery under (I) Section 8.(b)(1) or the first sentence of Section 8.(c), as applicable, until the total claims for indemnification under those provisions exceed Fifty Thousand Dollars (\$75,000); or (II) Section 8 for Damages in excess of the Price.

(g) **Sole Remedy.** Each party agrees that its sole remedy in respect to breach of any warranty or representation by the other party shall be limited to indemnification pursuant to this Section 8.

## 9. Covenants.

### (a) Covenants of Sellers and Principal Shareholders.

(1) Prior to any Option Grantees executing any of the Option Plan Termination Documents, (i) the Company shall have provided full disclosure to all Sellers of the terms and conditions on which the Company proposes to terminate the GeneSeek Option Plan; and (ii) all of the Sellers shall have approved all payments to the Option Grantees pursuant to the Option Grantee Documents.

(2) Principal Shareholders warrant, represent, covenant and agree that (i) they each own 50% of the shares in Geneseek Biosciences Ltd. ("**Indian Corp Shares**"), a corporation organized under the laws of India ("**Indian Company**"); (ii) the Indian Company has never had any shareholders other than the Principal Shareholders, has never conducted business, has never had any employees or consultants, has no liabilities and has no cash other than a modest bank account; (iii) the Indian Corp. Shares were validly authorized and issued, are fully paid and non-

assessable and were not issued in violation of any applicable laws; (iv) they each own the Indian Corp Shares free and clear of all claims, liens and encumbrances of any kind; (v) they have the authority to transfer the Indian Corp Shares to Buyer; (vi) they shall determine promptly the necessary steps and associated costs to transfer the Indian Corp Shares to Buyer and so advise Buyer; (vii) they shall take no action with respect to the Indian Company without first obtaining the prior written approval of Buyer; (viii) they shall hold the Indian Corp Shares in trust for Buyer and (A) immediately deliver or assign the Indian Corp Shares as directed by Buyer without any additional consideration; or (B) take such actions as directed by Buyer without additional consideration.

(3) Oommen agrees not to engage in any business that competes, directly or indirectly, with a product or service of the Company, individually or as an owner, officer, director, manager, employee, consultant or independent contractor of any other firm or organization (“**Competitive Activity**”) related to the fields of Genomics (as defined below) or Bioinformatics (as defined below) in the United States of America and every foreign county in which Company is doing business on the Closing Date (“**Territory**”) for a period of sixty (60) months following the Closing Date. Oommen acknowledges that the Company’s Genomic and Bioinformatic products and services are marketed throughout the United States of America and numerous countries.

(4) Pomp is presently a full time employee (defined as 9 months effort or greater) at the University of North Carolina at Chapel Hill (“**UNC**”) and the parties wish to acknowledge Pomp’s right to continue his academic work. While Pomp is a full time employee at UNC or any other academic institution or at any not-for-profit institution outside the field of agribusiness in the food and animal industries, Pomp agrees that he shall not, individually or as an owner, officer, director, manager, employee, consultant or independent contractor of any other firm or organization (including without limitation UNC or any other academic institution or at any not-for profit outside the field of agribusiness in the food and animal industries), provide Genomic or Bioinformatic products or services to commercial agribusiness in the food or animal industries for any reason in the Territory, regardless of whether Pomp will be entitled to receive compensation or any other consideration in exchange therefor, for a period of sixty (60) months following the Closing Date. The period of time between the Closing Date and the date on which Pomp is no longer a full time employee of UNC or of any academic or not-for-profit institution outside the field of agribusiness in the food and animal industries (“**End Date**”) is referred to as the “**Covered Period**”. Pomp acknowledges that the Company’s Genomic and Bioinformatic products and services are marketed throughout the United States of America and numerous countries.

Notwithstanding anything herein to the contrary, while Pomp is employed full time at UNC or any other academic institution or at any not-for-profit institution outside the field of agribusiness in the food and animal industries, Pomp shall not be prohibited in connection with such employment from conducting any research, or from working with any collaborators, with any rodent and/or human populations, samples, DNA or data.

(5) Subject to the last paragraph of Section 9.(a)(4), after the End Date, Pomp agrees not to engage in any Competitive Activity related to the fields of Genomics or Bioinformatics in the Territory for a period of sixty (60) months following the Closing Date minus the number of days in Covered Period, if any.

(6) The term “**Genomic**” or “**Genomics**” includes but is not limited to genotyping, SNP discovery, and DNA sequence analysis, and services associated with providing these analyses.

(7) The term “**Bioinformatic**” or “**Bioinformatics**” shall mean the use of computer science, mathematics, and information theory to model and analyze biological systems, especially systems involving genetic material.

(b) **Buyer’s Covenants.** Buyer covenants and agrees with Sellers that within one year following Closing, Buyer shall cause the Company to spend an aggregate of One Million Dollars (\$1,000,000) for purchase of equipment for use in the Business. Sellers shall be entitled to injunctive remedies for breach of this provision.

#### 10. **Transactions Subsequent to Closing.**

(a) **Further Assurances.** Buyer and each Seller agree that, from time to time after Closing, and upon request, they shall execute, acknowledge and deliver such other instruments as reasonably may be required to more effectively transfer and vest in Buyer the Seller’s Shares or to otherwise carry out the terms and conditions of this Agreement.

#### 11. **Tax Matters.**

(a) **Tax Sharing Agreements.** Sellers will cause any tax sharing or other allocation agreement with respect to Taxes between Company and Sellers (or any affiliates) to be terminated as of the Closing Date so that they have no further effect for any taxable period. This Section 11 and Section 4(1) above shall control all of the parties’ respective obligations for Taxes affecting Company and supersedes any and all prior agreements, contracts or understandings regarding Company’s Taxes. Section 11 shall control any conflict between Sections 11 and 4.(1).

##### (b) **Tax Returns.**

(1) **Income Tax Returns.** Buyer shall cause Company to consent to join, for all Tax periods of Company ending on or before the Closing Date for which Company is eligible to do so, in any consolidated or combined federal, state or local Income Tax Returns of Sellers. Buyer and Sellers shall make any available election that will cause the taxable year of the Company to end on the Closing Date. Buyer shall cause to be prepared and timely filed any and all consolidated or combined federal, state or local Income Tax Returns as well as any separate federal, state, local or foreign Income Tax Returns for Company for all Tax periods of Company ending

before, on or after the Closing Date. Sellers shall have the right to approve all income tax Returns of Company that are prepared by or at the direction of Buyer that covers a tax period ending on or before the Closing Date and any period beginning before and ending after the Closing Date (a "**Straddle Period**"), which approval shall not be unreasonably withheld, conditioned or delayed. Sellers shall pay on a timely basis all income Taxes in respect to the period ending on or before the Closing Date ("**Pre-Closing Period**") shown as due on such Returns except to the extent included in Final Closing Liabilities (as defined in Section 12.(e)). Buyer shall pay on a timely basis all income Taxes in respect to tax periods of Company ending after the Closing Date ("**Post Closing Period**"). The parties shall make available to each other copies of the portions of such Returns relating to Company for taxable years ending before or including the Closing Date.

(2) **Non-Income Tax Returns.** Buyer shall cause to be prepared and timely filed all non-Income Tax Returns of Company for all Tax periods ending before, on or after the Closing Date. Seller shall have the right to approve all non-Income Tax Returns of Company that are prepared by or at the direction of Buyer that covers a tax period ending on or before the Closing Date or for any Straddle Period, which approval shall not be unreasonably withheld or delayed. Except to the extent included in Permitted Liabilities, Sellers shall pay on a timely basis all non-Income Taxes in respect of the Pre-Closing Period as shown as due on such returns; provided, that Buyer shall pay or cause Company to pay on a timely basis the portion of such Pre-Closing Period non-Income Taxes which are part of the Closing Liabilities. Buyer shall cause Company to pay all non-Income Taxes to which such non-Income Tax Returns relate for all periods after the Closing Date. The parties shall make available to each other copies of non-Income Tax Returns of the Companies covering Tax periods ending before or including the Closing Date.

(3) Buyer will make (and Sellers will cooperate in making) any available elections to have the Company's taxable year end on the Closing Date. In order to determine the allocation of taxes for a Straddle Period ("**Straddle Period Taxes**") between the Pre-Closing Period and the Post Closing Period as follows: (i) in the case of any Straddle Period Taxes other than Straddle Period Taxes based upon income or receipts, the Pre-Closing Period Taxes for all Business activities or operations that are related to the passage of time (e.g. income or real estate taxes) shall be determined as the amount of Straddle Period Tax multiplied by a fraction the numerator of which is the number of days in the Tax period ending on the Closing Date and the denominator of which is the number of days in the entire Tax period, and (ii) in the case of any Straddle Period Taxes based upon or related to income or receipts, the Pre-Closing Period Taxes shall be determined as the amount which would be payable if the Straddle Period ended as of the Closing Date; provided however, any Taxes payable as a result of an event or series of events that fixes liability (e.g. payroll taxes) shall be payable by the party who owned GeneSeek on the date the event occurred that fixed liability. Any credits or refunds relating to a Straddle Period shall be taken into account (and allocated between the Parties) as though the relevant Pre-Closing Period of such Straddle Period ended on the Closing Date. All determinations necessary to give effect to the foregoing allocations shall be made in a manner that does not



accelerate deductions or defer income. With respect to any such Straddle Period returns or filings, the non-filing party shall pay to the filing party, upon written notice from the filing party and not later than five Business Days before the due date for payment of such Taxes, an amount equal to the portion of such Straddle Period Taxes for which the non-filing party is liable under this Section, and the filing party shall, promptly following the filing thereof, provide the non-filing party with a copy of such return or other filing and a copy of a receipt showing payment of any such Straddle Period Tax.

(c) **Allocation of Income Tax Benefits.** If any adjustments shall be made to any federal, state, local or foreign Income Tax returns relating to Company for the Pre-Closing Period which result in any Income Tax detriment to Company with respect to such period and any Income Tax benefit to Company for any Tax period ending after the Closing Date (to the extent such Income Tax benefit is realized after the Closing Date), Buyer shall be entitled to the benefit of such Income Tax benefit but an indemnification for the Tax detriment will be reduced by the amount of such Tax benefit. If any adjustment shall be made to any federal, state, local or foreign Income Tax returns relating to Company for any Tax period ending after the Pre-Closing Period which result in any Income Tax detriment to Buyer, Company or any affiliate of Buyer with respect to such period and any Income Tax benefit to Sellers or any affiliate of Sellers for any Pre-Closing Period, Buyer shall be entitled to the benefit of such Income Tax benefits to the extent of the related Income Tax detriment except to the extent Sellers paid such Taxes or it was reflected in Purchase Price.

(d) **Sellers' Tax Indemnity.** Subject to the limitations set forth in Section 8(f), from and after the Closing Date, Sellers shall pay for, and shall indemnify, defend and hold harmless each of the Buyer and Company from and against, any liability for Taxes imposed on Company in respect to the Pre-Closing Period (net of any related corresponding tax benefit) to the extent not included in the Permitted Liabilities.

(e) **Refunds.** Anything in this Agreement to the contrary notwithstanding, any refunds of Taxes received by Company attributable to the Pre-Closing Period shall be for the benefit of Buyer.

(f) **Tax Audits.** Buyer shall promptly notify Sellers in writing upon receipt by Buyer, any affiliate of Buyer, or Company of notice of any pending or threatened federal, state, local or foreign Tax audits, examinations or assessments of Company (other than consolidated or combined Income Tax audits, examinations or assessments), so long as any Taxable year within the Pre-Closing Period remains open. Sellers shall have the sole right to represent Company and its predecessors in any Tax audit or administrative or court proceeding relating to the Pre-Closing Period, and to employ counsel of its choice at its expense; provided Sellers shall not agree or consent to any proposed adjustment that adversely affects Company after the Closing without Buyer's prior written consent, which shall not be unreasonably withheld or delayed. Buyer shall not file any amended Tax Return or take any other action which would have the effect of reducing the Purchase Price, increasing Sellers' liability for Taxes of Indemnification without notifying Sellers in advance and providing Sellers a reasonable opportunity to review and consent thereto, which consent shall not be unreasonably withheld, delayed or conditioned.

(g) **Buyer's Indemnity.** From and after the Closing Date, Buyer shall indemnify, defend and hold Seller and its affiliates harmless from and against, any liability for all Taxes for Tax periods (or portion thereof) of Company which occur or begin after the Closing Date, including, without limitation, any such liability with respect to operations of Company and dispositions of assets by Company after the Closing Date, and Buyer shall pay, indemnify and hold Seller and its affiliates harmless from and against any liability resulting directly or indirectly from any breach or nonfulfillment of any agreement or covenants on the part of Buyer or Company under this Section 11.

## 12. Final Determination of Cash Price.

a. As soon as practicable, but in no event later than sixty days following the Closing, Buyer shall prepare, or cause to be prepared, and deliver to Seller the values, determined in accordance with this Agreement, as of the Closing Date for Total Assets ("**Closing Date Total Assets Statement**") and Total Liabilities ("**Closing Date Total Liabilities Statement**") (collectively, "**Closing Date Statements**").

b. Sellers shall have thirty days following the receipt of complete and accurate data from Buyer regarding computation of the Closing Date Statements to review the Closing Date Statements after their delivery by Buyer. If Sellers determine that any of the Closing Date Statements has not been prepared in accordance with the Agreement, Sellers shall, on or before the last day of such thirty day period, send its objections to Buyer in writing ("**Sellers' Objection**"), setting forth a specific description of the basis of Sellers' determination and the adjustments to such Closing Date Statements to which Sellers object. If no Sellers' Objection is sent to Buyer within such thirty day period, then the Closing Date Statements become the final Total Assets and Total Liabilities as of the Closing Date.

c. Sellers shall have thirty days from its receipt of Sellers' Objection to review and respond to Sellers' Objection ("**Sellers' Review Period**").

d. Buyer and Sellers shall use reasonable efforts to resolve any disagreements with respect to the proposed adjustments set forth in Sellers' Objection. If Buyer and Sellers are unable to resolve such disagreements within the Sellers' Review Period, they shall refer any remaining disagreements ("**Unresolved Items**") to the CPA Firm (as defined below) which, acting as experts and not as arbitrators, shall determine, on the basis set forth in and in accordance with the Agreement, and only with respect to the Unresolved Items, whether and to what extent, if any, the Closing Date Statements require adjustment. Sellers and Buyer shall instruct the CPA Firm to deliver its written determination to Sellers and Buyer no later than thirty days after such disagreements are referred to the CPA Firm. The CPA Firm's determination shall be conclusive and binding upon Sellers and Buyer.

e. The amount of Total Assets and Total Liabilities as of the Closing Date agreed upon or as determined by the CPA Firm as provided in this Section 12, as applicable, shall be the "**Final Closing Total Assets**" and "**Final Closing Total Liabilities**", respectively. The term "**Final Closing Net Assets Value**" shall mean the Final Closing Total Assets minus the Final Closing Total Liabilities.

f. The fees and disbursements of the CPA Firm shall be borne by Sellers and Buyer based on the following formula:  
(i) Sellers shall pay that portion of such fees and expenses equal to the total of such fees and expenses multiplied by a fraction, the numerator of which is the amount of the Unresolved Items resolved in favor of Buyer and the denominator of which is the total amount of Unresolved Items; and (ii) Buyer shall pay that portion of such fees and expenses equal to the total of such fees and expenses multiplied by a fraction, the numerator of which is the amount of Unresolved Items resolved in favor of Sellers and the denominator of which is the total amount of Unresolved Items.

g. Buyer and Sellers shall make readily available to the CPA Firm all relevant books and records and any work papers (including those of the parties' respective accountants, to the extent permitted by such accountants) relating to the Closing Date Statements and to Sellers' Objection and all other items reasonably requested by the CPA Firm in connection with its review. Sellers and their accountants shall have reasonable access to all information used by Buyer in preparing, and employees of the Company and its agents involved in the preparation of, the Closing Date Statements, including, in each case, the work papers of Buyer's accountants, in each case during regular business hours and upon reasonable advance notice. Each party shall have reasonable access to all information used by the CPA Firm in reaching its determination.

h. The term "**CPA Firm**" shall mean an independent certified public accounting firm agreed to by Sellers and Buyer.

13. **Notices.** All notices and other communications required or permitted under this Agreement shall be given if mailed by registered or certified mail, postage prepaid, or otherwise delivered by hand or messenger, fax, nationally recognized overnight courier or telegram to the parties at the following addresses, or to such other changed address as such party may have given by notice:

Buyer: Neogen Corporation  
620 Leshar Place  
Lansing, Michigan 48912  
Attn: President  
Facsimile:  
517-372-0108  
Email: [jherbert@neogen.com](mailto:jherbert@neogen.com)

And a copy to: Lowe Law Firm, P.C.  
Attention: Richard C. Lowe  
2375 Woodlake Drive, Suite 380  
Okemos, MI 48864  
Facsimile:  
517-908-0901  
Email: [dlowe@lowelaw.net](mailto:dlowe@lowelaw.net)

Sellers: To the addresses listed on attached Exhibit A

And a copy

to: David A. Rubenstein  
Drinker Biddle & Reath LLP  
191 N. Wacker Drive  
Chicago, IL 60606  
Facsimile: 312-569-3134  
Email: david.rubenstein@dbr.com

14. **Applicable Law; Venue.** This Agreement has been executed, delivered and accepted at and shall be deemed to have been made at Lansing, Michigan and shall be interpreted and the rights and liabilities of the parties shall be determined in accordance with the laws of the State of Michigan. The parties waive personal service of any and all process upon them and consent that all such service of process be made by registered mail directed to the parties at their addresses set forth on Exhibit A of the Agreement and service so made shall be deemed to be completed five business days after the material shall have been deposited in the mail, postage prepaid. The parties agree that any action shall be brought in the court of appropriate jurisdiction in Ingham County, Michigan or U.S. District Court for the Western District of Michigan. The parties consent to jurisdiction and waive all claims of improper venue and *forum non-conviens*.

15. **Integration.** This Agreement (including attached Exhibits and Schedules) and the Confidentiality Agreement, dated on or about September 30, 2009 sets forth the entire agreement and understanding between the parties as to the subject matter, and supersedes all prior discussions, representations, amendments or understandings of every kind and nature between them.

16. **Amendments.** Any amendment, alteration, supplement, modification or waiver shall be invalid unless it is in writing and signed by all parties.

17. **Severability.** If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without the provision.

18. **Assignability.** This Agreement may be assigned by Buyer without the prior written consent of Sellers; provided, Buyer shall continue to be liable for the performance of all obligations pursuant to the Agreement. Sellers may not assign this Agreement without the prior written consent of Buyer, which consent may be withheld for any or no reason; provided that Sellers may assign rights hereunder to their heirs or personal representatives; provided further that Sellers shall remain liable for all obligations pursuant to this Agreement.

19. **Benefit.** This Agreement shall be binding upon and inure to the benefit of Buyer and its successors and assigns and of Sellers and their respective personal representatives, heirs, successors and permitted assigns.

20. **Captions.** Captions contained in this Agreement are inserted for reference and in no way define, limit, extend or describe the Agreement or the intent of any provision in this Agreement.

21. **Pronouns.** All pronouns and any variation thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the parties may require.

22. **Exhibits.** The parties agree that the Exhibits attached to this Agreement shall be treated for all purposes as part of this Agreement.

23. **Prevailing Party.** The prevailing party in any arbitration or permitted litigation involving this Agreement shall be entitled to recover, in addition to any other relief obtained, the costs and expenses, including reasonable attorney's fees and expenses, incurred by the prevailing party.

24. **Construction of Agreement.** The parties agree that this Agreement has been jointly drafted and that neither party may assert an ambiguity in the construction of this Agreement against another party because the other party allegedly drafted the allegedly ambiguous provision.

25. **Interpretation.** Whenever the words "**include**," "**includes**," or "**including**" are used in this Agreement, they shall be deemed to be followed by the words "**without limitation**." The term "**Company's knowledge**" shall mean the actual knowledge of those individuals set forth on **Exhibit 25**. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant to the Agreement unless otherwise defined in the Agreement. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms. Any agreement, instrument, or statute defined or referred to in this Agreement or in any agreement or instrument that is referred to in the Agreement means such agreement, instrument, or statute as from time to time amended, qualified or supplemented, including (in the case of agreements and instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and all attachments thereto and instruments incorporated therein. References to any person or entity are also to its permitted successors and assigns.

26. **Defined Terms.** Defined terms used in this Agreement have the meanings ascribed to them in the paragraphs contained in attached **Exhibit 26**.

27. **Expenses.** Each party shall pay its own costs associated with the preparation and negotiation of this Agreement; provided, no portion of the costs or fees of this transaction shall be paid for by Company, except to the extent taken into account in calculating the Post-Closing Purchase Price Adjustment Amount.

**28. Appointment of Seller Representative.**

(a) Upon completion of Closing, and without any further action, Sellers appoint Oommen (“**Seller Representative**”) as agent and attorney in fact by and for each Seller (“**Seller Beneficiaries**”) to give and receive notices and communications, to receive payments, to agree to, negotiate, enter into settlements and compromises of claims, and initiate arbitration and litigation and comply with orders of any arbitration panel and court with respect to, such claims, to act on behalf of the Seller Beneficiaries with respect to the determination of all Damages, and to take all actions necessary or appropriate in the judgment of the Seller Representative for the accomplishment of any of the preceding. The Seller Beneficiaries may remove an incumbent representative and designate a successor representative if the designated representative dies, resigns or is removed at any time by approval in writing of Seller Beneficiaries representing at least a majority of the Sellers’ Shares immediately preceding the Closing. Notices or communications by Buyer to the Seller Representative or from the Seller Representative to Buyer shall constitute notice or communication to or from each of the Seller Beneficiaries. The power of attorney granted by Sellers to the Seller Representative shall be irrevocable and coupled with an interest.

(b) The Seller Representative shall not be liable to any Seller for any act done or omitted under this Agreement while acting in good faith and in the exercise of reasonable judgment (including but not limited to making payment to the Seller Representative for all Seller Beneficiaries). The Seller Beneficiaries, as a class, ratably in accordance with their respective ownership percentage interest, shall indemnify the Seller Representative and hold the Seller Representative harmless against any loss, liability or expense incurred.

(c) A decision, act, consent or instruction of the Seller Representative shall constitute a decision by all Seller Beneficiaries and shall be final, binding and conclusive upon each of the Seller Beneficiaries, and Buyer may rely upon such written decision, consent or instruction of the Seller Representative as being the decision, consent or instruction of each of the Seller Beneficiaries. Buyer shall not have any liability to any person or entity for any acts done by it in accordance with such decision, consent or instruction of the Seller Representative.

**[The rest of this page has intentionally left blank.]**

The parties have executed this Agreement as of the date first above written.

**Sellers:**

/s/ Abraham Oommen  
**Abraham Oommen**

/s/ Daniel H. Pomp  
**Daniel H. Pomp**

/s/ Anna M. Oommen  
**Anna M. Oommen**

\_\_\_\_\_

**University of Nebraska Foundation**

**University of Nebraska Technology Park, LLC**

By: /s/ Daniel Morin  
\_\_\_\_\_,  
Its Director of Investments

By: /s/ Stephen Frayser  
\_\_\_\_\_,  
Its President

**Company:**

**GeneSeek, Inc.**

**Buyer:**

**Neogen Corporation**

By: /s/ Abraham Oommen  
**Abraham Oommen, its President  
and Chief Executive Officer**

By: /s/ James L. Herbert  
**James L. Herbert, its Chairman**

**Amendment No. 1  
to Stock Purchase Agreement**

This **Amendment No. 1** ("**Amendment No. 1**") is made on June 28, 2010 between **Neogen Corporation**, a Michigan Corporation, ("**Buyer**"), **GeneSeek, Inc.**, a Nebraska Corporation ("**Company**"), and **all former Shareholders of the Company** ("**Sellers**").

**Recitals**

A. The parties entered into a Stock Purchase Agreement as of March 31, 2010 by which Purchaser purchased all of the Sellers' stock in the Company ("**SPA**").

B. The parties desire to amend the SPA on the terms contained in this Amendment No. 1.

**The parties agree as follows:**

1. **Defined Terms.** Capitalized terms in this Amendment No. 1 shall have the same meaning ascribed to them as in the SPA.
2. **Seller Representative.** Pursuant to Section 28 of the SPA, Abraham Oommen is the incumbent Seller Representative.
3. **Amendment of Sections 2.(c)(1).** Section 2.(c)(1) of the SPA shall be deleted in its entirety and replaced with the following:  
“(1) The Applicable Percentage times 50% of the excess, if any, of the sum of the Gross Profit (as defined in Section 2.(d)(2)) minus Applicable Depreciation (as defined in Section 2.(d)(5)) minus the Base (as defined in Section 2.(d)(6)) for the first Counting Year (as defined in Section 2.(d)(1)) after the Closing Date; provided in no event shall the amount payable by Buyer pursuant to Section 2.(a), (b) and (c)(1) exceed the Cap (as defined in Section 2.(d)(7)).”
4. **Amendment of Section 2.(c)(2).** Section 2.(c)(2) of the SPA shall be deleted in its entirety and replaced with the following:  
“(2) The Applicable Percentage times 50% of the excess, if any, of the sum of the Gross Profit minus Applicable Depreciation minus the Base for the second Counting Year after the Closing Date; provided in no event shall the amount payable by Buyer (i) pursuant to Section 2.(a), (b), (c)(1) and (c)(2) exceed the Cap.”
5. **Amendment of Section 2.(c)(3).** Section 2.(c)(3) of the SPA shall be deleted in its entirety and replaced with the following:  
“(3) The Applicable Percentage times 50% of the excess, if any, of the sum of the Gross Profit minus Applicable Depreciation minus the Base for the third Counting Year after the Closing Date; provided in no event shall the amount payable by Buyer (i) pursuant to Section 2.(c)(3) exceed One Million Five Hundred Thousand Dollars (\$1,500,000); and (ii) pursuant to Section 2.(a), (b), (c)(1), (c)(2) and (c)(3) exceed the Cap.”



6. **Amendment of Sections 2.(d)(9) and (10).** Sections 2.(d)(9) and (10) of the SPA are deleted in their entirety.

7. **Amendment of Section 8.(f).** Section 8.(f) is amended to change the word “Fifty” to “Seventy Five”.

8. **Other Provisions.** Except as expressly modified by this Amendment No. 1, all SPA provisions shall be effective.

9. **Incorporation of Terms.** The parties agree that all of the provisions contained in Sections 13 through 21, 23 through 25 and 27 of the SPA shall be incorporated into this Amendment No. 1.

**[The remainder of this page is intentionally left blank.]**

**BUYER:**

**NEOGEN CORPORATION**

June 28, 2010

By: /s/ James L. Herbert  
James L. Herbert,  
Its Chairman

**COMPANY:**

**GENESEEEK, INC.**

June 28, 2010

By: /s/ James L. Herbert  
James L. Herbert,  
Its: President

**SELLERS:**

July 12, 2010

By: /s/ Abraham Oommen  
Abraham Oommen,  
Seller Representative

**EXHIBIT 21**  
**SUBSIDIARIES OF THE REGISTRANT**  
**NEOGEN CORPORATION AND SUBSIDIARIES**  
**MAY 31, 2010**

	<b>WHERE INCORPORATED</b>	<b>PERCENTAGE OWNED BY NEOGEN CORPORATION</b>
Acumedia Manufacturers, Inc.	Michigan	100%
Centrus International , Inc.	Delaware	100%
Neogen Europe Limited	United Kingdom	100%
Hacco, Inc.	Michigan	100%
Hess & Clark, Inc.	Michigan	100%
International Diagnostic Systems Inc.	Michigan	100%
Ideal Instruments, Inc	Michigan	100%
Neogen Latinoamerica S.A.P.I. DE C.V.	Mexico	60%
Neogen do Brazil	Brazil	98%
Neogen Properties, LLC	Michigan	100%
Neogen Properties, LLC II	Michigan	100%
Neogen Properties, LLC III	Michigan	100%
Neogen Properties, LLC IV	Michigan	100%

**EXHIBIT 23(A)**  
**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statements (Form S-8 No. 333-101638, 333-122110 and 333-148283) pertaining to the stock option and employee stock purchase plans of Neogen Corporation and subsidiaries of our reports dated August 16, 2010, with respect to the consolidated financial statements of Neogen Corporation and subsidiaries and the effectiveness of internal control over financial reporting of Neogen Corporation and subsidiaries included in this Annual report (Form 10-K) for the year ended May 31, 2010.

/s/ Ernst & Young LLP

Grand Rapids, Michigan  
August 16, 2010

**EXHIBIT 24.2**  
**POWER OF ATTORNEY APPOINTING**  
**RICHARD R. CURRENT AND JAMES L. HERBERT**

Power of Attorney

Each of the undersigned, in his capacity as a director, officer, or both, Neogen Corporation, appoints James L. Herbert and Richard R. Current, or either of them, to be his true and lawful attorney to execute in his name, place and stead, a Report on Form 10-K for the year ended May 31, 2010 and to file the same with any exhibits or amendments thereto and other documents in connection therewith, perform in the name and on the behalf of each of the undersigned, in any capacity, every act required or necessary to be done as fully as each of the undersigned might or could do in person.

Date: 08-16-2010    /s/ James L. Herbert  
James L. Herbert, Chairman of the Board of  
Directors & Chief Executive Officer (Principal  
Executive Officer)

Date: 08-16-2010    /s/ Richard R. Current  
Richard R. Current, Vice President & Chief  
Financial Officer & Secretary (Principal  
Accounting Officer)

Date: 08-16-2010    /s/Lon M. Bohannon  
Lon Bohannon, President & Chief Operating  
Officer

Date: 07-28-2010    /s/ Robert M. Book  
Robert M. Book, Director

Date 07-22-2010    /s/Richard T. Crowder  
Richard T. Crowder, Director

Date 07-22-2010    /s/ A. Charles Fischer  
A. Charles Fischer, Director

Date: 07-22-2010    /s/ G. Bruce Papesh  
G. Bruce Papesh, Director

Date: 07-22-2010    /s/ Thomas H. Reed  
Thomas H. Reed, Director

Date: 07-22-2010    /s/Clayton K. Yeutter  
Clayton K. Yeutter, Director

**EXHIBIT 31.1**  
**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER**  
**NEOGEN CORPORATION AND SUBSIDIARIES**

**CEO CERTIFICATION**

I, James L. Herbert, certify that:

1. I have reviewed this Annual Report on Form 10-K for the period ended May 31, 2010 of Neogen Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; and
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles; and
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting to the registrant's auditors and the audit committee of registrant's board of directors:
  - a) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: August 16, 2010

/s/ James L. Herbert  
\_\_\_\_\_  
James L. Herbert  
Chairman & Chief Executive Officer  
(Principal Executive Officer)

**EXHIBIT 31.2**  
**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER**  
**NEOGEN CORPORATION AND SUBSIDIARIES**

**CFO CERTIFICATION**

I, Richard R. Current, certify that:

1. I have reviewed this Annual Report on Form 10-k for the period ended May 31, 2010 of Neogen Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; and
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles; and
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting to the registrant's auditors and the audit committee of registrant's board of directors:
  - a) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: August 16, 2010

/s/ Richard R. Current  
\_\_\_\_\_  
Richard R. Current  
Vice President & Chief Financial Officer  
(Principal Accounting Officer)

**EXHIBIT 32**  
**18 U.S.C. SECTION 1350 CERTIFICATION**  
**NEOGEN CORPORATION**

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

In connection with this Annual Report on Form 10-K of Neogen Corporation (the "Company") for the period ended May 31, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, James L. Herbert, as Chief Executive Officer of the Company and I, Richard R. Current, as Chief Financial Officer, hereby certify pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) This Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) Information contained in this Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Dated: August 16, 2010

/s/ James L. Herbert  
James L. Herbert  
Chairman & Chief Executive Officer  
(Principal Executive Officer)

/s/ Richard R. Current  
Richard R. Current  
Vice President & Chief Financial Officer  
(Principal Accounting Officer)

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.